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THE UNFULFILLED PROMISE: EXAMINING THE EFFICACY OF CONSTITUTIONAL GUARANTEES IN SECURING THE HUMAN RIGHTS OF TRANSGENDER PERSONS

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Akanksha Singh**

ABSTRACT

The research article aims to critically analyse the irreconcilable difference between the human rights of transgender persons in India and systemic discrimination in their lived realities. The research article will examine the Supreme Court landmark judgment, National Legal Services Authority (NALSA) v. Union of India (2014), which legally recognised the third gender and asserted a fundamental right to self-identification as an essential part of human dignity. The researcher will analyse the historical trajectory of the coterie from the position of social integration and reverence in pre-colonial India to criminalization under British rule- a legacy that continues to sustain prevalent violence and social stigma. The research article examines the widespread and continuous denial of fundamental rights in various domains like healthcare, employment, education and housing, illustrating how these barriers create a bottomless cycle of disempowerment. The Transgender Persons (Protection of Rights) Act, 2019 states rigorous critique, and the provisions of the Act dilute the mandate of the NALSA judgment by omitting crucial directives on consenting actions, imposing bureaucratic obstacles on self-identification and prescribing inadequate punishment for violence. The transgender regulations failed to recognise the gap

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between the harsh realities faced by the transgender community and the legal promise. Hence, equality remains an evasive goal and requires not only significant laws to reform and align with the fundamental principles but also concerted federal action to address entrenched discrimination and ensure full human rights for transgenders.

Keywords: *Human rights, transgender, discrimination, entrenched discrimination, violence.*

I. INTRODUCTION

The Constitution of India landscapes concern on the rights of transgender persons, a compelling and troubling paradox. On one hand, the judiciary has delivered the world's most progressive and constitutional judgments: affirming the dignity and rights of the transgender citizens. And on the other side, the lived reality experiences the vast majority of the community remains relentless social, brutal violence, ostracism and systemic exclusion. This deep cleft between de facto reality and de jure recognition is not an implementation gap: whereas the gap represents the fundamental failure of the nation to guarantee the most basic human rights to a historically vulnerable and marginalized population.[1] The issue is not a social challenge but a profound crisis of state accountability and constitutional morality.

The transgender persons' legal recognition in India was stated in the monumental judgment of the Supreme Court of India in National Legal Services Authority v. Union of India (NALSAR), 2014. In this landmark case, the Supreme Court stated a simple legal ruling: 'A constitutional moment that sought to rectify centuries of injustice'. The court recognised the 'third gender' category by breaking the male-female binary which had been legally entrenched since the colonial era.[2] The court also stated on the constitutional philosophy about the right to self-perceived gender recognition as not a privilege to be granted by the state but as an intrinsic aspect of personal dignity (Article12) and right to life. The NALSAR judgment concluded that gender identity is core to one's being and violating or forcing an individual is a form of oppression. The court issued a directive to the state and central governments, mandating social welfare schemes, affirmative action and regulation on healthcare for substantive

1 Nyaaya, *Guide on the Rights of Transgender Persons in India*, NYAAYA, https://nyaaya.org/resource/guide-on-the-rights-of-transgender-persons-in-india/ (last visited Jan. 30, 2026).

2 The Legal Sch., *NALSA vs Union of India: Landmark Judgment for Transgender Rights in India*, THE LEGAL SCHOOL, https://thelegalschool.in/blog/nalsa-vs-union-of-india (last visited Jan. 30, 2026).

equality.[3] Therefore, the judgment had been a constitutional beacon, interpreting the Constitution as a living document, representing the judiciary's role and evolving demands of justice. The decision established a vanguard of constitutional values and an unambiguous benchmark against state action and particular legislative efforts. The Transgender Persons (Protection of Rights) Act, 2019 protects the community as the legislation states about different institutional impulses- an individual who prioritises societal status quo over dignity and radical vision and most importantly administrative control articulated by the Supreme Court of India.[4]

The research article aims to dissect the gap between recognition and lived reality of the third gender. Despite the Supreme Court judgment and legislature, the lived reality of transgender persons in our country remains fraught with prejudice and peril. It is not due to social inertia but because of active administrative failure and legislative inadequacies.

II. Historical Antecedents of Transgender Community

The contemporary battle for third gender rights in India is not new but a fight to reclaim dignity and status that were systematically dismantled. The history of the community is a stark narrative of a drop from a position of communal integration and even abject marginalization and reverence to criminalization.

The Pre-Colonial Era: A Time of Reverence and Recognition- Prehistoric Indian society during the period was far from rigidly binary; it demonstrated an inclusive and sophisticated understanding of gender diversity. The spectrum of transgender was acknowledged in the earliest legal, religious and literary texts. The 'Tritiya Prakriti' or 'Third Gender' was well known: referring to the person who existed outside the conventional male-female assortment. The Kama Sutra (C.400 BC- 200 CE) and the Vedas (C.1500-500 BC) both contained references to third gender, stating that it was an integral part of the cultural and social landscape for millennia. During this period, the recognition was not merely illustrative but entwined into a fabric of mythology and practice, by stating transgender individuals as powerful and unique status. In the holy Ramayana, Lord Rama asked 'all men and women to return to

3 Centre for Commc'n Governance at Nat'l L.U. Delhi, *National Legal Serv. Auth. v. Union of India*, Privacy Library (2014), https://privacylibrary.ccgnlud.org/case/national-legal-services-authority-vs-union-of-india (last visited Jan. 30, 2026).

4 Press Info. Bureau, *Rights of Transgender Persons in India – Legal Reforms and Inclusive Progress*, Press Release (Nov. 19, 2025), https://www.pib.gov.in/PressReleasePage.aspx?PRID=2191532&reg=3&lang=2 (last visited Jan. 30, 2026).

the city'. The 'Hijras' after being exiled left unbounded after the statement and remained with Lord Rama out of devotion. Their loyalty impressed Lord Rama and he granted them with privilege; to confer blessings on auspicious occasions.[5] The mythological sacred sanction for the third gender's traditional role in Hinduism, such as their presence at weddings to dance, sing and at the time of birth to bless is highly considered auspicious. In Mahabharata also Arjuna spent his year living as a transgender person, 'Brihannala': the religious and cultural sovereignty that the third gender was not different from society but was a visible, integrated and respected part of it.

The Mughal Period: Positions of Influence and Power- C.1526-1857 was the Mughal ruling period in India, during which there was elevation and continuing respect of the status of Third Gender (Hijra) community. Hijra's engaged in positions of significant influence and power within the Mughal's sophisticated administration. The Hijra's power of blessing were not confined to traditional roles but were for the integral functioning of the state. The transgender maintained historical accounts/ documents of political advisors, military generals, high- rank administrators and the famous royal harems.[6] They were allowed access to both male and female, even in sensitive information such as political matters. Hence, they had reputed roles and were judged as intelligent, loyal and trustworthy which earned the confidence of queens and kings.[7] This period demonstrated Hijra's community deeply embedded and high degree of social mobility within their powers.

The Colonial Rupture: The Imposition of Victorian Morality and Criminalization- The Britisher's colonial rule was a turning point for the third-gender community in India. The British rule had operated a worldview in rigid Christian dogma and Victorian morality administration, let India alone accept gender fluidity. Europeans also expressed a bolt from the blue on the respected position of the Hijras in the society. The western culture bewilderment state sanctioned projects of erasure and persecution. This step went beyond legal subjugation as it constituted a form of systematically dismantling, epistemological violence, indigenous understanding of gender fluidity,

5 IILS Blog, *A Brief History of Transgenders in India*, IILS Blog, https://www.iilsindia.com/blogs/brief-history-transgenders-india/ (last visited Jan. 30, 2026).

6 N. Pautunthang, *Historical Developments, Challenges, Legal Rights, and Current Status of Transgender Communities in India,* 9 Res. Rev. Int'l J. Multidiscip. 32 (2024), https://www.researchgate.net/publication/380124361_Historical_Developments_Challenges_Legal_Rights_and_Current_Status_of_Transgender_Communities_in_India (last visited Feb. 1, 2026).

7 M. Michelraj, *Historical Evolution of Transgender Community in India*, 4 Asian Rev. Soc. Sci. 17 (2015) (last visited Feb. 1, 2026).

criminalizing and pathological framework. The British did not directly discriminate against the transgender community but fundamentally redefined them, renamed them from Hijras to 'Third-Gender'.[8] The redefinition was stated in legislation, firstly under section 377 of the Indian Penal Code, 1860 a transplant of British Buggery Act, leading to rise of an issue targeting special sexual acts, gender expression and non-normative sexualities, making third gender legally precarious. Secondly, under the Criminal Tribes Act, 1871, the legislation was an instrument of immense social engineering that branded the entire transgender (Hijras) community as a 'criminal tribe'. The criminal tribe act did not merely punish but it criminalized the whole identity of the community.[9] The act mandated monitoring and registration of all 'eunuchs' with linked public presence, such as engaging in public singing and dancing or dressing in women's clothing. The legislature stated that taking new born transgender in the community was kidnapping and hence, declared Hijras as criminal.[10] The colonial legacy with independence did not disappear but became more entrenched in the administrative, legal and social fabric in India, which led to systemic injustice till date.

III. Analysis Of The 'Third Gender' Roots For The Violence

The discrimination and violence faced by the transgender community in India were not random acts of prejudice. They were predictable and direct consequences of a society that had been conditioned by colonial-era legacy where third gender was viewed as a profound transgression. The concept of 'third gender' was recognised in pre-colonial times through systematic reframe into a marker of deviance. Thus, this deeply rooted history became the foundation from which violence against the transgender community emerged.

From Identity to 'Other': The British era administration's legal and social project transformed the respect and power of Hijras to recognition as 'other'. In patriarchal society where the social order is predicated on hierarchical and rigid gender roles,

8 Shabnam Bharti, *Transgender Community in India: Historical Perspective*, 5 IJRESS (2023), https://euroasiapub.org/wp-content/uploads/IJRESS5Feb23-Shab.pdf (last visited Feb. 1, 2026).

9 Monika Rajendra Sawant, *Transgenders: Reflections in Indian History*, 7 Gap Bodhi Taru 52 (2024), https://www.gapbodhitaru.org/res/articles/(52-56)%20TRANSGENDERS%20REFLECTIONS%20IN%20INDIAN%20HISTORY.pdf (last visited Feb. 1, 2026).

10 Transgender Community: Historical Perspectives, Legal Progress, and Ongoing Marginalization, 7 Int'l J. Multidiscip. Res. (2025), https://www.ijfmr.com/papers/2025/1/35003.pdf (last visited Feb. 1, 2026).

the other deviation was perceived as a fundamental threat.[11] The Criminal Tribes Act legally cemented the association between criminality and transgender identity. The state sanctioned public consciousness, creating a social perspective of the third gender person as morally corrupt, dangerous and inherently suspect. This led to social justification for violence and exclusion. When the public perspective changed to 'other' the act of discrimination was no longer seen but became a necessary measure for the protection of public morality.[12] This was the reason for violence against transgenders and forfeiting the right to protection for unfair practise.

The Paradox of Invisibility and Hypervisibility: The transgender community in India existed in a paradoxical state of being concurrently invisible and hyper visible. In public space the transgender person is intensely visible and are identifiable targets for ridicule, violence, mockery and harassment from the public. The high visibility is the constant source of vulnerability, making everyday activities such as walking down a street or using public transport into a dangerous and fraught experience.[13] The transgender in the eyes of the society is rendered as rights bearing citizens. The present scenario is a little in favour of the third gender however, they face problems for being invisible in healthcare protocols, educational curricula, public services and public designs. It has led to ignorance of their specific needs and sometimes denied resources available and protection. For example, police officers view them as guilty and do not write their harassment complaint. The dual paradox was being too invisible or visible to be protected or safe created a storm of vulnerability.

The Self- Perpetuating Cycle of Violence and Marginalization: The violence against the community is not an isolated phenomenon but the outcome of a self-perpetuating cycle generated by systematic exclusion. The function of this cycle is a powerful mechanism that reinforces societal prejudice. The initial stage of the cycle is the starting stage of life; 'child' who when expresses his gender identity is often rejected and a victim of violence by own family. This early act is often compounded

11 L.H. Thompson et al., *Violence and Mental Health Among Gender-Diverse Individuals Enrolled in a Human Immunodeficiency Virus Program in Karnataka, South India*, 4 Transgender Health 316 (2019), https://pmc.ncbi.nlm.nih.gov/articles/PMC6837158/ (last visited Feb. 1, 2026).

12 Kristofer Rhude, *The Third Gender and Hijras, Hinduism Case Study*, Religion & Pub. Life, Harv. Divinity Sch. (2018), https://rpl.hds.harvard.edu/religion-context/case-studies/gender/third-gender-and-hijras (last visited Feb. 1, 2026).

13 Sydney Leigh Smith, *Beyond the Weapon of War: Rethinking Gendered Narratives of Conflict-Related Sexual Violence*, Princeton J. of Pub. & Int'l Aff. JPIA (Apr. 23, 2025), https://jpia.princeton.edu/news/beyond-weapon-war-rethinking-gendered-narratives-conflict-related-sexual-violence (last visited Feb. 1, 2026).

at school by peers and teachers, being harassed or bullied which lack safety and lead to extraordinarily dropout rates.[14] This is the initial step of mainstream society. Deprived of formal education and family support the individual is excluded from the formal employment market. Due to lack of economic opportunity, the individual is forced to rely on the community traditions. They become hyper visible targets due to unregulated public spaces and face daily harassment from the society and become prey for violence by the police and systematic extortion, who often do not see them as citizens.[15] The final stage is public perception of third gender communities as prostitutes, criminals or beggars- the roles where they have been automatically put into due the perception. The legal recognition has little break the cycle but ground reality is different.

IV. Systematic Injustice: Dignity And Life Rights

The constitutional rights under article 14, 15, 19 and 21 remains out of reach for the majority of transgender community in India, though they have been given opportunity in all administrations but still lack in their rights to hold a position. The lived reality is a systemic injustice to lead to de facto annihilation of the third gender rights. The situation is not an isolated prejudice rather a structural failure of the country to protect its citizens. The discriminations are interconnected with failure in one domain exacerbating and causing failure in the next, where constitutional guarantees are rendered incomprehensible.[16]

Violations of Psychological and Physical Integrity: The instinctive violation of the rights of transgenders life and dignity is the physical and sexual violence encountered by the community. Due to their God gifted body they are unnecessarily targeted for mob attack, rape, hate crimes and assault; often with no legal defence. In 2018, an incident took place in Hyderabad where a third gender was killed by a mob action because of false WhatsApp rumours, hence a vulnerability against the community. Bangalore city survey highlighted the alarming prevalence of violence against

14 Indep. Expert on Sexual Orientation & Gender Identity, *The Struggle of Trans and Gender-Diverse Persons*, OHCHR, https://www.ohchr.org/en/special-procedures/ie-sexual-orientation-and-gender-identity/struggle-trans-and-gender-diverse-persons (last visited Feb. 2, 2026).

15 M. Atheeque PP & R. Nishanthi, *Marginalization of Transgender Community: A Sociological Analysis*, 2 Int'l J. App. Res. 424 (2016), https://www.allresearchjournal.com/archives/2016/vol2issue9/PartI/2-9-83-424.pdf (last visited Feb. 2, 2026).

16 P. Tanuja, *Transgender Rights as Human Rights: Equality, Dignity, and Justice*, Lawful Legal (July 2025), https://lawfullegal.in/transgender-rights-as-human-rights-equality-dignity-and-justice/ (last visited Jan. 2, 2026).

them; in survey it was analysed that 46% of emasculated (nirvan) and 42% not emasculated (akwa): Hijras had experience brutality; in which rape is very common with the akwa hijras and 38% reported about the same violence in year 2024.[17] It is systematically carried out by the state and not the public. The law officers on behalf of the state who are appointed for the rights and justice of the third gender are the perpetrators of the maximum egregious abuses. There is immense documentation of illegal detention, sexual assault, custodial torture, routine extortion and police harassment. In a report from Chennai, a police officer ostensibly suspended a trans-woman and penetrated her genitals with a baton at the time of interrogation.[18] Such an act dehumanizes third gender individuals and affects the community people as a whole. The constant discrimination, threat of abuse and violence has devastated the mental health consequences. As transgender faces high rate of anxiety, stress disorder, depression and suicidal ideation compared to the non-trans people. In a survey by an organisation, it was analysed that 82% transgender have attempted to suicide at some points of their lives, the reason being life experience such as assault, no job, bullying, etc leading to one's own identity as a target for hostility.[19]

Denial of Socio- Economic Rights: The exclusion of transgender starts in childhood and avalanche throughout their lives, ensuring marginalization and poverty. The education institute is formally the first stage of cascades, as the trans-child faces verbal abuse, relentless bullying and also physical harassment from both teachers and peers, the reason being lack of sensitivity and awareness. As the educational bodies have lack of inclusive infrastructure and structural hostility such as administrative processes e.g. application form, gender neutral restrooms are rigidly binary. It also results in a majority of dropouts from schools, resulting in insurmountable barriers to employment and unrestrained discrimination in jobs. A study by National Human Rights Commission, 2018 analysed that 96% of third gender candidates were denied job recruitment, though being eligible for the position.[20] The recruiters harbor seated

17 Laura H. Thompson et al., *Violence and Mental Health Among Gender-Diverse Individuals Enrolled in a Human Immunodeficiency Virus Program in Karnataka, South India*, 4 Transgender Health 316, 316–25 (2019), [https://pmc.ncbi.nlm.nih.gov/articles/PMC6837158/]

18 D. Pandey, *Protection of Rights of the Third Gender Persons in India*, 10 Int'l J. Sci. Res. Pub. 133 (2020), https://www.researchgate.net/publication/343489287_Protection_of_Rights_of_the_Third_Gender_Persons_in_India (last visited Feb. 2, 2026).

19 Ashley Austin et al., *Suicidality Among Transgender Youth: Elucidating the Role of Interpersonal Risk Factors*, 37 J. Interpersonal Violence NP2696, NP2696–718 (2022), [https://pubmed.ncbi.nlm.nih.gov/32345113/] (https://pubmed.ncbi.nlm.nih.gov/32345113/)

20 Mahima Jain, *The Painful Road to Corporate Employment for India's Trans Youth*, Queerbeat (July 19, 2024), [https://www.queerbeat.org/stories/the-painful-road-to-corporate-employment-for-

prejudices and the workplace lacks inclusive policies, making the environment hostile. On the other hand if a transgender secures a job, still the trans- employee faces pressure to hide their identity, harassment from colleagues and a situation is created that they are forced to leave the job under pressure.[21] Hence resulting in few options to work for survival and for living are forced to work in disrespectful places which are also dangerous and criminalized by the state, entrenching the trans- person marginalization. Another fundamental need is shelter, the transgender persons act, 2019 state provision on prohibiting discrimination in housing, but the live reality is pervasive prejudice in rental. Brokers, landlords and housing societies generally refuse to rent a transgender person citing discriminatory and arbitrary reasons. Due to which the transgender person lives in precarious conditions, faces homelessness or hides their identities.

Exclusive from Healthcare and Public Life: Firstly, access to public space which states the right to move freely in public space still transgender people face daily struggles being a tenant citizen. Public spaces such as markets, transport and parks are often cited for abuse and harassment. The lack of accessible, safety and gender-neutral washrooms is a major barrier. The transgender is exposed to suspicion, physical violence and verbal abuse, leaving them with no safe option. The second concern is healthcare discrimination, a sector that should mandatory and ethically be neutral for healing and care but coincidentally another site of discrimination and trauma. The trans- person faces a wide array of humiliation, invasive, derogatory remarks from medical staff and non-consensual physical examination.[22] In one case a transgender died in a train accident where the doctor debated whether to consider him male or female. There is a lack of knowledge among the healthcare sectors and due to such ignorance, the community avoids going to hospital for the treatments.

V. Examining the Efficiency of: Transgender Persons (Protection of Rights) Act, 2019

Succeeding the NALSA judgment, Supreme Court observed that there was need of comprehensive constitutional and moral legal framework for the transgender

indias-trans-youth/]

21 Sup. Ct. of India, Circular No. 32 Regarding Demise of Sh. A P Mohanty, Circular (Jan. 22, 2025), https://cdnbbsr.s3waas.gov.in/s3ec0490f1f4972d133619a60c30f3559e/documents/aor_notice_circular/32.pdf (last visited Jan. 7, 2026).

22 T. Roppolo, *Transgender Community's Fight Against Systemic Discrimination*, HIV-HCV Co-Infection Watch (Feb. 2024), https://www.hiv-hcv-watch.com/blog/feb-29-2024 (last visited Jan. 7, 2026).

community, and hence Transgender Person (Protection of Rights) Act, 2019 was introduced.[23] The Transgender Person Act, 2019 was introduced in the Lok Sabha by Mr. Thaawarchand Gehlot and the Ministry for Social Justice and Empowerment on 19th July 2019. The bill was passed by the Parliament on 5th December 2019 and officially came into force on 10th January 2020. The act contains IX Chapters and 23 Sections. The thorough legal analysis of the Act reveals that several critical aspects are mentioned in the representation of the significant principles laid down by the Apex court. The act not only focuses on the legal rights and lived reality but also codifies a regulation that protects dignity and judicial rights. The act is a 'performative legislation' that aims to create progress and appearance of compliance, but the act fails to affect the contemporary reality and the modern changes, it only provides genuine empowerment and political management.

The Right to Self-Identification: Bureaucratized and Diluted: The NALSA judgment concluded about the self determination of transgender. The Supreme Court of India stated that gender identity is psychological perception, innate and that it is against humanity to do sex reassignment surgery (SRS) and biological tests to have recognised gender identity. The Act infringe the principle of right to self-identification with cumbersome, bureaucratic certificate processes. The Act states that the person shall initially inform the District Magistrate (DM) to get Certificate of Identity as a third gender person.[24] This certification for identification itself transforms fundamental right into administrative discretion and has no right to appeal to the authority if the certificate is denied. If the trans-person wishes to have been legally recognised as a male or female then the person has to undergo a second process for which gender affirming surgery would be done on the approval and discretion of the DM. The stated provision does not go parallel with the Supreme Court judgment for not undergoing a test.

Affirmative Action: A Directive Ignored: It is one of the transformative and crucial directives in NALSA case, in which the judgment stated that the state and central government to treat third gender as educationally and socially backward citizen of the country, and provide reservation in very field whether it is education or employment. The legislature contains inclusive policies and welfare schemes

23 Hum. Rts. L. Centre, Indian Supreme Court Recognises Third Gender, Hum. Rts. L. Ctr.,https://www.hrlc.org.au/case-summaries/indian-supreme-court-recognises-third-gender/ (last visited Jan. 9, 2026).

24 J. Bhalla, *Examining the Transgender Persons (Protection of Rights) Bill, 2019*, SPRF (Sept. 6, 2019), https://sprf.in/examining-the-transgender-persons-protection-of-rights-bill-2019/ (last visited Jan. 9, 2026).

formulated in favour of third gender but it ignores unambiguous command from the Supreme Court, also no proper regulation with all rights and equality has been introduced.[25] The act also doesn't contain the provision on reservation, which renders the protection in large part of the third gender in all fields.

Discriminatory Penalties and Inadequate Protections: Though the act aims at providing the "protection of rights" but still in reality it has inadequate and discriminatory regulation. For offences such as verbal, physical, sexual and emotional abuse, the act contains provision on punishment that could be imprisonment of not less than six months but can be extended to two years and fine. The penalties are discriminatory because for the same offence against women under Bhartiya Nyaya Sanhita 2023 for rape is rigorous imprisonment of not less than 10 years which can be extended to life imprisonment. Hence crime against third gender is considered a less serious offence, which alongside also violates constitutional guarantee of equal protection in law. Further begging is considered deeply problematic, hence leading transgender people to be in others without dignity activities for survival.

A Violation of Autonomy: The Right to Residence: The provision of the act states that a child who is a transgender cannot be separated from parents/ family on the ground of being a transgender and shall have a right to reside. But the reality is not the same. The transgender are generally rejected by the landlords or owners to rent or hold a possession of the property or are humiliated for being from different communities and are told to live with people of their community, traditionally how it has been for decades.[26] However, the provisions and the reality are very different, not on papers but in real life the situation and mentality of other people have not changed much.

VI. Conclusion

The article aimed to illuminate the profound gap between the legal rights and lived experience for the 'Third-Gender" person in India. The article had analysed that the historical arc that begins with the pre-colonial era of reverence and social integration descends into colonial criminalization and in the 20th Century culminates into deep legislative disappointments of Third-Gender rights. De jure rights and de facto

25 D. Rai, *Critical Analysis of Draft Transgender Persons (Protection of Rights) Rules 2020*, iPleaders (Sept. 20, 2020), https://blog.ipleaders.in/critical-analysis-draft-transgender-persons-protection-rights-rules-2020/ (last visited Jan. 9, 2026).

26 V. Venkatesan, *Beyond the Binary: Supreme Court Reclaims the Promise of Transgender Equality*, Sup. Ct. Observer (Oct. 23, 2025), https://www.scobserver.in/journal/beyond-the-binary-supreme-court-reclaims-the-promise-of-transgender-equality/ (last visited Jan. 9, 2026).

reality remain vast which have been actively reinforced by inadequate regulations of the country. The NALSA judgment had been a landmark case for self- identification, affirming the right of dignity, substantive equality and constitutional idealism. The judgment provides a clear principle in order to rectify decades of injustice with the community. However, the 2019 Act had been a failure to the NALSA judgment as the Act replaced Self Identification right with the medicalized and bureaucratic process, restriction on residential rights, and by prescribing inadequate and discriminatory penalties for violence.

To overcome the gap a muti-pronged and decisive approach is required for performative legislation to lead to significant action. The Transgender Person Act, 2019 must be amended to bring into full alignment with the fundamental principles segmented in the NALSA judgment. The amendment must include firstly, a simple process for medical examination, secondly reservation in sectors such as education and employment and lastly ensure that the penalties are same for transgender abuse that are equal to the other citizens. Along with the amendment in the regulatory framework, it is necessary to understand the true realization of the human rights for the community, which could be overcome by implementing comprehensive police reform, ending the culture of extortion and harassment, introducing social welfare schemes and extensive public awareness campaigns. The goal must be to give full restoration of dignity to the 'Third- Gender', social transformation and legal integrity to the trans-citizens of the country.



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