



Safeguarding Transgender Rights in India

For Prelims: [Transgender Persons \(Protection of Rights\) Act, 2019](#), [NALSA Judgement 2014](#), [Transgender Persons \(Protection of Rights\) Rules, 2020](#), [Garima Greh.](#)

For Mains: Indian Society and the Challenges faced by Transgenders, Reforms for Transgender Persons, Transgender Persons (Protection of Rights) Act - Provisions and Associated Concerns

[Source: PIB](#)

Why in News?

The [National Human Rights Commission \(NHRC\)](#) hosted a **National Conference on Transgender Rights** aimed at addressing **systemic discrimination**, **strengthening institutional support**, and **reaffirming constitutional guarantees** for transgender persons in India.

How Does the Legal & Constitutional Framework Uphold the Rights of Transgender Persons in India?

Transgender

- **Definition:** As per the [Transgender Persons \(Protection of Rights\) Act, 2019](#), a transgender person is someone whose **gender identity does not match the gender assigned at birth**.
- **Population:** India has around **4.8 million transgender persons** ([Census 2011](#)).
 - This includes individuals with **intersex variations**, **gender-queer identities**, and socio-cultural identities such as **kinnar**, **aaravani** and **jogta**, etc.
 - **Part of LGBTQIA+:** Transgender persons are represented by the **"T"** in [LGBTQIA+](#), which stands for **Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, and Asexual**.
 - The **"+"** covers other identities like **non-binary** and **pansexual**, reflecting the evolving understanding of **gender and sexuality**.

Legal & Constitutional Framework

- **Transgender Persons (Protection of Rights) Act, 2019:** Created a comprehensive legal structure for the protection and empowerment of transgender persons.
 - Key Provisions Include:
 - **Non-Discrimination Clause:** Prohibits exclusion or unfair treatment in education, employment, healthcare, housing, and access to public services.
 - **Self-Identification:** Recognises the right to self-perceived gender identity, allowing individuals to obtain identity certificates from the District Magistrate without the requirement of medical or psychological assessments.
 - **Healthcare Access:** Mandates provision of gender-affirming medical care, HIV surveillance, and inclusion in public health insurance schemes.

- **Statutory Institutional Mechanism:** Establishes the [National Council for Transgender Persons \(NCTP\)](#) to advise the central government on welfare policies, monitor implementation, and coordinate inter-ministerial efforts.
- **Landmark Judgments:**
 - **NALSA v. Union of India (2014):** Marked a historic shift by recognising transgender persons as the “third gender”.
 - Affirmed that gender identity is integral to dignity, equality, and personal autonomy under [articles 14, 15, 19 and 21 of the Constitution](#).
 - Framed transgender rights as a matter of human rights, not just legal identity.
 - **Karnataka High Court in [Ms. X vs State of Karnataka, 2024](#)** upheld the right of transgender persons to **change name and gender on birth certificates**, as permitted under the [Transgender Persons \(Protection of Rights\) Act, 2019](#) and [Transgender Persons \(Protection of Rights\) Rules, 2020](#).
- **Election Commission Directive (2009)** introduced an “others” option in voter registration forms, allowing transgender individuals to avoid male or female classification.



LGBTQI+

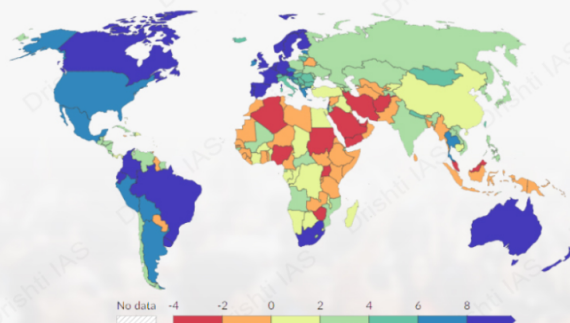
LGBTQI+ refers to a broad category of people, including those who identify as lesbian, gay, bisexual, transgender, intersex, and queer. The terminology used varies widely depending on historical, cultural, and societal contexts.

Discrimination Against LGBTQI+ based on

- Sexual orientation
- Gender expression
- Gender identity
- Sex characteristics

State of LGBTQI+ Rights Globally

- LGBTI+ rights index, 2019: The index captures to which extent lesbians, gay, bisexual, transgender and other people outside traditional sexuality and gender categories have the same rights as straight and cisgender people. It combines 18 individual policies, such as the legality of same-sex sexual acts, marriage, and gender marker changes. Higher values indicate more rights, negative values regressive policies.



SINCE 1982...



TODAY...



- Pride Month: June
- 11th October: National Coming Out Day

History of LGBTQI+ Rights in India

- 1992: First-ever protests demanding rights for gay individuals
- 1994: An NGO challenged the constitutional validity of Section 377 of IPC. Dismissed in 2001
- 1999: India's first pride parade (Also South Asia's first)
- 2009: Naz Foundation vs. Govt. of NCT Delhi Case (In Delhi HC) - Treating gay sex between consenting adults as a crime gross violation of the fundamental right to privacy
- 2013: Suresh Kumar Koushal vs. Naz Foundation- SC overturned Delhi HC ruling
- 2015: A private member's bill in Lok Sabha seeking decriminalizing homosexuality was introduced
- 2017: Justice K. S. Puttaswamy vs. Union of India (UoI)- SC ruled privacy a fundamental right
- 2018: Navtej Singh Johar vs. UoI- SC ruled Section 377 unconstitutional
- 2019: Transgender Persons (Protection of Rights) Act- To provide protection of rights of transgender persons and their welfare.

Present status of Same-Sex Marriage

- 2023: Supriyo vs. UoI- SC refused to grant legal status to same-sex marriage and denied same-sex marriage as a fundamental right



What are the Key Challenges Faced by Transgender Persons in India?

- Marginalisation:** Historical invisibility continues to impact **social and economic inclusion**, despite progressive laws judgements (**NALSA v. Union of India-2014**).
 - Transgender persons face **stigma, bullying, and rejection**, which leads to their **poor mental health**. A **NALSA survey** found **27% were denied healthcare** due to gender identity.
 - Gender-affirming treatments** cost Rs 2-5 lakh and are often not covered in

insurance. [Ayushman Bharat TG Plus](#) provides medical coverage but its **awareness and accessibility** remain limited.

- The **literacy rate** among transgender persons stands at **56.1%**(2011 Census), significantly lower than the national average of **74%**, highlighting the lack of a **gender-sensitive curriculum** across the country.
- **Economic Exclusion:** Transgenders face **employment bias, workplace hostility, and lack of gender-neutral facilities**, limiting economic opportunities.
 - **92% experience economic exclusion** (NHRC 2018) and **48% are unemployed** (ILO 2022).
 - Despite a **2024 RBI circular** allowing **transgender and queer persons** to **open joint bank accounts** and **nominate partners**, access to **financial services** remains limited due to **institutional gaps** and **low awareness**.
- **Law Enforcement and Social Protection Gaps:** **Garima Greh shelters**, though progressive in intent, face issues like **inadequate funding, poor awareness**, and limited state coverage.
 - Despite the **2019 Act**, challenges in **ID issuance, complex certification processes**, and issues like **police harassment** and **family rejection** continue to **hinder self-identification and timely support** for transgender persons.
 - Institutional mechanisms for child protection and elder care often exclude gender-diverse individuals.



What the students face

- Stigma and bullying in society and at school
- None at home or school to share feelings with
- Homelessness, when parents and siblings disown them
- Lack of gender-neutral washrooms

What can be done

- Adopt school/college policies and activities that prevent bullying
- Expand mental health resources and socio-psychological counselling
- Ensure that they are not subjected to discriminatory discipline

Key Measures For Transgender Welfare in India

- [SMILE Scheme](#) & [Garima Greh](#) provides **rehabilitation, skill development, healthcare, and livelihood support** for transgender persons.
- [Ayushman Bharat TG Plus](#) offers **health insurance coverage** for gender-affirming treatments and healthcare needs.
- [National Portal for Transgender Persons](#) facilitates **access to schemes, services, and grievance redressal**.
- Transgender individuals are included under the **disability pension scheme** with a specific **“transgender” option**.
- The **Ministry of Home Affairs (2022)** directed prisons to ensure **privacy and dignity** for third-gender inmates.
- Under **state-level Initiatives**, **Maharashtra** has set up **transgender cells in colleges**, while **Kerala** provides **university reservations** and **hostel facilities** for transgender students.

What Measures Should be Taken for Transgender Empowerment in India?

- **Legal Framework:** The **Transgender Persons (Protection of Rights) Act, 2019** must be fully implemented by setting up **grievance redressal cells**, a **central digital portal** for applications, conducting **audits**, and training **police, health, and education officials** on transgender rights and **gender sensitivity**.
- **Economic Empowerment:** Promote **gender-inclusive policies, diversity hiring, financial schemes, and entrepreneurship support**, scaling successful corporate models like **Tata Steel's diversity program**.
 - A **World Bank report (2021)** estimates that integrating transgender persons into the workforce could boost India's **GDP by 1.7%**.
- **Access to Social Services :** Schools and colleges should implement **inclusive policies**, provide **teacher training**, prevent **bullying and discrimination**, expand **counselling services**, ensure **gender-neutral washrooms**, and promote **peer and teacher support** for transgender students.
 - Ensure **insurance coverage** for gender-affirming treatments, establish **dedicated clinics**, expand **mental health services**, and provide **sensitivity training** for providers.
- **Awareness Campaign:** Conduct **gender sensitisation programs**, encourage **diverse media representation**, support **cultural events** like the **Koovagam Festival**, and promote campaigns like **"I Am Also Human"** to reduce stigma.

Drishti Mains Question:

Examine the key challenges faced by transgender persons in India despite legal protections, and suggest measures to ensure their social, economic, and legal inclusion.

UPSC Civil Services Examination, Previous Year Questions (PYQs)

Prelims

Q. In India, Legal Services Authorities provide free legal services to which of the following types of citizens? (2020)

1. Person with an annual income of less than Rs. 1,00,000
2. Transgender with an annual income of less than Rs. 2,00,000
3. Member of Other Backward Classes (OBC) with an annual income of less than Rs. 3,00,000
4. All Senior Citizens

Select the correct answer using the code given below:

- (a) 1 and 2 only
- (b) 3 and 4 only
- (c) 2 and 3 only
- (d) 1 and 4 only

Ans: (a)

