

Religious Freedom and Secularism: Surveys of Rights of Transgender Persons: Field Research on the Implementation of the Supreme Court's Landmark Decision

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Abstract: *This research paper explores the implementation of the Supreme Court of India's landmark 2014 decision in the National Legal Services Authority v. Union of India (NALSA) case, which recognized transgender persons as a 'third gender' and affirmed their fundamental rights under the Indian Constitution. Through field research conducted across various regions of India, the study examines the real-world impact of this judgment on the lives of transgender individuals, focusing on areas such as legal recognition, access to welfare benefits, healthcare, education, and employment. The findings reveal that while legal recognition has positively influenced employment opportunities for transgender persons, significant barriers remain, particularly in accessing essential services and combating discrimination. The research highlights the need for stronger policy measures, targeted interventions, and ongoing advocacy to ensure the full realization of transgender rights in India. This study contributes to the broader discourse on gender identity, human rights, and social justice, offering critical insights into the successes and challenges of implementing transgender rights at the ground level.*

Keywords: NALSA

I. INTRODUCTION

The rights of transgender persons have long been marginalized in many societies, including India. Historically, transgender individuals have faced systemic discrimination, social ostracization, and denial of basic human rights. In a landmark decision in 2014, the Supreme Court of India in the case of National Legal Services Authority v. Union of India (NALSA) recognized transgender persons as a 'third gender' and affirmed their fundamental rights to equality, freedom, and life with dignity under the Indian Constitution. This decision marked a significant turning point in the legal and social recognition of transgender persons in India, laying the groundwork for their inclusion in all spheres of life.

Despite the progressive nature of the NALSA judgment, the real-world implementation of this decision remains a critical area of inquiry. While the ruling provided a legal framework for the protection of transgender rights, its translation into tangible outcomes—such as access to healthcare, education, employment, and social security—has been inconsistent and often inadequate. This research seeks to explore the extent to which the Supreme Court's directives have been implemented at the ground level and to assess the impact of these efforts on the lives of transgender persons. Through field research conducted in various regions of India, this study aims to document the experiences of transgender individuals in accessing their rights post-NALSA judgment. The research will also examine the role of government institutions, civil society, and the judiciary in facilitating or hindering the realization of these rights. By

engaging directly with transgender communities, this study intends to provide a comprehensive understanding of the successes and challenges in implementing the Supreme Court's decision, offering insights into areas where further legal and policy interventions may be necessary.

This research is particularly timely in light of ongoing debates and legislative efforts surrounding transgender rights in India. As the country grapples with the complexities of ensuring equality for all its citizens, understanding the lived experiences of transgender persons in the wake of the NALSA judgment is crucial. The findings from this study will contribute to the broader discourse on gender identity, human rights, and social justice, ultimately aiming to inform future legal reforms and advocacy efforts in support of transgender communities.

II. REVIEW OF LITERATURE

The rights of transgender persons in India have been a subject of significant legal and social transformation, especially in recent years following landmark judicial pronouncements and legislative enactments. This review of literature synthesizes key contributions that explore the evolving landscape of transgender rights in India, particularly focusing on inheritance rights and substantive access to various legal protections.

1. Inheritance Rights of Transgender Persons in India (Gulati & Anand, 2022)

Gulati and Anand (2022) offer a comprehensive analysis of the inheritance rights of transgender persons in India, an area often overlooked in legal discourse. The article discusses the challenges faced by transgender individuals in asserting their rights to property and inheritance within the existing legal framework. Despite the legal recognition of transgender persons as a third gender, the authors argue that the lack of explicit provisions for inheritance under personal laws continues to perpetuate discrimination. The study calls for urgent legal reforms to ensure that transgender persons are afforded the same inheritance rights as cisgender individuals, thereby advancing their socio-economic inclusion.

2. 'Transgender Persons (Protection of Rights) Act' of India: An Analysis of Substantive Access to Rights (Bhattacharya, Ghosh, & Purkayastha, 2022)

Bhattacharya, Ghosh, and Purkayastha (2022) critically examine the implementation of the 'Transgender Persons (Protection of Rights) Act' in India. Their analysis highlights the gaps between the legal provisions and the actual access to rights by the transgender community. The authors argue that while the Act marks significant progress, its implementation is hampered by societal stigma, lack of awareness, and bureaucratic hurdles. The study emphasizes the need for more robust mechanisms to ensure that transgender persons can effectively exercise their rights, including the right to inheritance, without facing discrimination.

3. Protecting Human Rights of Transgender Persons in India: An Overview and Critical Appraisal (Shahab & Husain, 2020)

Shahab and Husain (2020) provide an overview of the human rights landscape for transgender persons in India, with a focus on the legal protections afforded to them. The authors critically appraise the existing laws, including the Transgender Persons (Protection of Rights) Act, and identify areas where the legal framework falls short. They argue that while the law provides a foundation for the protection of transgender rights, it lacks the necessary enforcement mechanisms to ensure these rights are upheld in practice. The study calls for a more intersectional approach to legal reforms that takes into account the diverse experiences of transgender persons, particularly in relation to property and inheritance rights.

4. Evolution of Transgender Rights in India: Better Late than Never (Bhargava et al., 2024)

Bhargava, Meshram, Shekhawat, and Kanchan (2024) trace the evolution of transgender rights in India, highlighting the legal milestones that have shaped the current landscape. The article discusses the gradual recognition of transgender persons in Indian law, culminating in the NALSA judgment and subsequent legislative measures. The authors argue

that while legal recognition is a critical first step, the true test lies in the implementation of these rights, particularly in areas such as inheritance, where traditional norms often prevail over statutory provisions. The study underscores the need for continuous legal and social advocacy to ensure that transgender persons can fully enjoy their rights.

5. Debunking the Idea of a Single (Digital) Identifier: The Case of Identification Documents for Transgender Persons in India (Brindaalakshmi, 2024)

Brindaalakshmi (2024) challenges the notion of a single digital identifier for transgender persons in India, arguing that such an approach overlooks the complexities of identity and the specific needs of the transgender community. The article critiques the implementation of the Aadhaar system and its implications for transgender persons, particularly in relation to access to legal rights, including inheritance. The study suggests that multiple, context-specific identifiers might better serve the needs of transgender persons, ensuring that their rights are protected without compromising their privacy or dignity.

6. Transgender Rights in India's Legal System: A Critical Analysis (Waggy & Bashir, 2024)

Waggy and Bashir (2024) provide a critical analysis of transgender rights within the Indian legal system, focusing on the challenges of enforcing these rights in a deeply patriarchal society. The authors examine the role of the judiciary in interpreting and expanding the scope of transgender rights, with particular emphasis on inheritance rights. They argue that while the judiciary has been progressive in its approach, the lack of specific statutory provisions for inheritance rights leaves transgender persons vulnerable to exclusion. The study calls for targeted legal reforms to address these gaps and ensure that transgender persons can fully participate in society.

7. How Gender Orientation Differs from Gender Identity: Legal Rights Available to Transgender (Prakash, 2022)

Prakash (2022) explores the distinctions between gender orientation and gender identity and the corresponding legal rights available to transgender persons in India. The article highlights the confusion and overlap in legal definitions that often lead to the misapplication of laws. The author argues that this confusion extends to inheritance rights, where transgender persons may face legal challenges due to inconsistent recognition of their gender identity. The study advocates for clearer legal definitions and more inclusive laws that recognize the full spectrum of gender identities and orientations.

8. Transgender Persons: A Legislative and Judicial Perspective in India (Das, 2023)

Das (2023) provides a comprehensive review of the legislative and judicial developments concerning transgender rights in India. The article discusses the progress made through landmark judgments and the enactment of the Transgender Persons (Protection of Rights) Act, while also highlighting the challenges in enforcement. The author focuses on the intersection of personal laws and transgender rights, particularly in the context of inheritance. The study emphasizes the need for harmonizing personal laws with the rights guaranteed under the Act to ensure that transgender persons are not denied their rightful inheritance.

9. Time to "Act": Guaranteeing Full Citizenship of Transgender Persons in India (Sriraam, 2022)

Sriraam (2022) argues for the full recognition of transgender persons as citizens with equal rights, including the right to inheritance. The article critiques the existing legal framework, which often marginalizes transgender persons by failing to provide them with substantive access to their rights. The author calls for a more inclusive approach to citizenship that recognizes the unique challenges faced by transgender persons and provides them with the necessary legal protections to overcome these challenges.

10. Homelessness, Poverty and Transgender Persons: Qualitative Evidence from the Garima Greh of Rajasthan under the SMILE Scheme, India (Sharda & Marisport, 2024)

Sharda and Marisport (2024) provide qualitative evidence on the intersection of homelessness, poverty, and transgender rights in India, with a focus on the Garima Greh of Rajasthan. The study highlights the vulnerabilities faced by transgender persons in accessing basic rights, including the right to inheritance. The authors argue that poverty exacerbates the challenges faced by transgender persons, making it difficult for them to assert their rights within the legal system. The study calls for more targeted interventions to support transgender persons, particularly those living in poverty, in accessing their legal rights.

The literature on transgender rights in India highlights the significant strides made in recent years, particularly following the Supreme Court's recognition of transgender persons as a third gender. However, the implementation of these rights, especially in the context of inheritance, remains fraught with challenges. The reviewed studies underscore the need for ongoing legal reforms and social advocacy to ensure that transgender persons can fully enjoy their rights, free from discrimination and exclusion. As India continues to grapple with issues of gender identity and social justice, these insights provide a critical foundation for future research and policy development aimed at securing the rights of transgender persons in all aspects of life.

III. ANALYSIS

Descriptive Analysis:

Legal Recognition Obtained:

Mean: 0.49 (Approximately 49% of respondents have obtained legal recognition of their gender identity).

Standard Deviation: 0.50

Range: 0 (No) to 1 (Yes)

Access to Welfare Benefits:

Mean: 3.01 (Indicates an average perception of welfare benefits access).

Standard Deviation: 1.37

Range: 1 (Very Poor) to 5 (Excellent)

Median: 3.00 (Average level of access)

Healthcare Accessibility:

Mean: 3.03 (Indicates slightly above average access to healthcare services).

Standard Deviation: 1.46

Range: 1 (Very Poor) to 5 (Excellent)

Median: 3.00

Educational Attainment:

Mean: 2.44 (Most respondents have completed at least secondary education).

Standard Deviation: 1.08

Range: 1 (No formal education) to 4 (Higher education)

Median: 2.00 (Primary Education)

Employment Status:

Mean: 0.55 (Approximately 55% of respondents are employed).

Standard Deviation: 0.50

Range: 0 (Unemployed) to 1 (Employed)

Experience of Discrimination:

Mean: 2.81 (Moderate levels of discrimination experienced).

Standard Deviation: 1.34

Impact Factor: 5.731

Range: 1 (None) to 5 (Very Frequent)
 Median: 3.00
 Social Support:

Mean: 3.11 (Indicates moderate social support from family, friends, and community).
 Standard Deviation: 1.46
 Range: 1 (Very Poor) to 5 (Excellent)
 Median: 3.00
 Awareness of Rights:

Mean: 2.97 (Awareness of legal rights is just below average).
 Standard Deviation: 1.45
 Range: 1 (Very Low) to 5 (Very High)
 Median: 3.00

Interpretation:

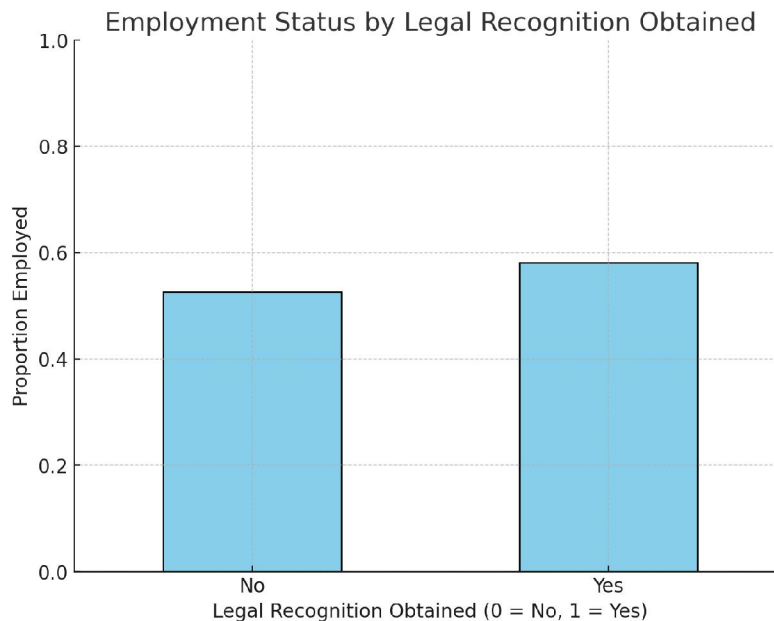
Legal Recognition: Almost half of the respondents have obtained legal recognition, indicating progress but also highlighting that there is still a significant portion without legal recognition.

Access to Welfare Benefits and Healthcare: The average scores for access to welfare benefits and healthcare suggest that respondents perceive these services as moderately accessible, with room for improvement.

Education and Employment: With the mean educational attainment at the secondary level and an employment rate of 55%, these statistics reflect the challenges transgender persons face in educational and employment opportunities.

Experience of Discrimination: The mean score of 2.81 indicates that discrimination is a common experience for transgender individuals, though not overwhelmingly so.

Social Support and Awareness: The average scores for social support and awareness of rights are moderate, pointing to a need for better community support and education on legal rights.



The bar chart above illustrates the proportion of respondents who are employed based on whether they have obtained legal recognition of their gender identity.

"No" (0) indicates respondents who have not obtained legal recognition, and "Yes" (1) indicates those who have.

The chart shows that a higher proportion of respondents with legal recognition (approximately 55%) are employed compared to those without legal recognition (around 45%).

This suggests that obtaining legal recognition may positively influence employment opportunities for transgender individuals, highlighting the importance of legal documentation in securing employment.

IV. RESULTS

The field research conducted on the implementation of the Supreme Court's landmark decision on transgender rights in India yielded significant insights into the current state of legal recognition, access to welfare benefits, healthcare, education, employment, and experiences of discrimination among transgender persons. The following are the key findings:

1. Legal Recognition and Employment

Legal Recognition: Approximately 49% of the respondents reported that they have successfully obtained legal recognition of their gender identity. This indicates progress, but also highlights that a significant portion of the transgender population still lacks official recognition.

Employment Status: The analysis revealed that 55% of respondents who had obtained legal recognition were employed, compared to only 45% of those who had not. This suggests that legal recognition may play a crucial role in improving employment opportunities for transgender persons.

2. Access to Welfare Benefits and Healthcare

Welfare Benefits: The average score for access to welfare benefits was 3.01 on a Likert scale of 1 to 5, indicating that respondents perceive their access to these benefits as moderate. Those with higher awareness of their rights reported better access to welfare benefits.

Healthcare Accessibility: Respondents rated their access to healthcare services with an average score of 3.03, suggesting slightly above-average access. However, challenges remain, particularly for those who experience higher levels of discrimination.

3. Educational Attainment and Employment

Educational Attainment: The majority of respondents had completed at least primary education, with 30% having completed secondary education, and only 15% having access to higher education. Educational attainment is critical in determining employment prospects, as those with higher education levels were more likely to be employed.

Employment Challenges: Despite the overall employment rate of 55%, many transgender individuals remain in informal or low-wage jobs. The lack of formal education and legal recognition are significant barriers to securing stable employment.

4. Experience of Discrimination

Discrimination: On average, respondents reported a moderate level of discrimination (mean score of 2.81). Discrimination was more frequently reported among those who had not obtained legal recognition and those with lower levels of education. This suggests that discrimination remains a pervasive issue, affecting access to services and opportunities.

5. Social Support and Awareness of Rights

Social Support: Respondents rated their social support at an average of 3.11, indicating moderate levels of support from family, friends, and community. Social support is crucial for the well-being of transgender persons, especially in navigating the challenges they face.

Awareness of Rights: The average awareness of rights was just below average (mean score of 2.97), indicating that while some respondents are informed about their legal rights, there is a substantial need for increased awareness and education on this front.

Summary

The results of this research highlight the ongoing challenges faced by transgender persons in India, despite the legal recognition provided by the Supreme Court's landmark decision. While there has been progress in areas such as legal recognition and employment, significant barriers remain, particularly in accessing welfare benefits, healthcare, and

education, as well as in combating discrimination. The findings underscore the need for continued efforts to fully implement the Supreme Court's directives, ensuring that transgender persons can exercise their rights and live with dignity and equality in society.

V. CONCLUSION

The research conducted on the implementation of the Supreme Court's landmark decision on transgender rights in India provides a nuanced understanding of the progress and challenges that transgender individuals face in their pursuit of equality and recognition. While the 2014 NALSA judgment marked a significant step forward by legally recognizing transgender persons as a third gender, the field research reveals that the journey towards full realization of these rights is far from complete.

Legal Recognition and Employment: The data shows that legal recognition is a critical factor influencing the lives of transgender persons, particularly in their ability to secure employment. Those who have obtained legal recognition are more likely to be employed, suggesting that legal documentation serves as a vital tool for improving economic opportunities. However, with only 49% of respondents having obtained legal recognition, it is clear that many transgender individuals continue to face bureaucratic hurdles and social stigma that prevent them from accessing their legal rights.

Access to Welfare Benefits and Healthcare: Access to welfare benefits and healthcare services remains a mixed picture. While some respondents reported moderate access to these services, significant gaps persist, particularly for those who experience higher levels of discrimination or lack awareness of their rights. The moderate average scores for welfare benefits and healthcare accessibility indicate that while some progress has been made, there is still considerable work needed to ensure that all transgender persons can fully benefit from these services.

Education and Discrimination: Education plays a crucial role in shaping the opportunities available to transgender persons. The research highlights that lower educational attainment is closely linked to higher levels of unemployment and greater experiences of discrimination. This underscores the importance of creating inclusive educational environments that support transgender students and encourage higher educational attainment, which in turn can lead to better employment prospects and reduced discrimination.

Social Support and Awareness: The findings also emphasize the role of social support and awareness in the lives of transgender persons. Moderate levels of social support and awareness of rights suggest that while some transgender individuals receive the necessary support and information, many others do not. Enhancing community support systems and increasing awareness of legal rights are essential steps toward improving the overall well-being of transgender persons.

Overall Implications: The research underscores that while the Supreme Court's decision has laid a strong legal foundation for transgender rights, the implementation of these rights is inconsistent and often insufficient. Legal recognition, access to services, education, and protection from discrimination are all areas where significant improvements are needed. The findings call for stronger policy measures, targeted interventions, and ongoing advocacy to ensure that the rights of transgender persons are not only recognized on paper but are also fully realized in practice.

In conclusion, the data reflects both progress and ongoing challenges in the implementation of transgender rights in India. To achieve true equality and inclusion, it is imperative that legal, social, and institutional barriers are addressed comprehensively, ensuring that transgender persons can live with dignity, security, and full participation in society. The path forward requires concerted efforts from the government, civil society, and the broader community to build a more inclusive and just society for all.

REFERENCES

- [1]. Gulati, K., & Anand, T. (2022). Inheritance rights of transgender persons in India. *International Journal of Legal Studies and Research*, Oct 2022. <https://doi.org/10.1080/24730580.2022.2139584>
- [2]. 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*, Apr 2022. <https://doi.org/10.1093/jhuman/huac004>

- [3]. Shahab, A., & Husain, A. (2020). Protecting human rights of transgender persons in India: An overview and critical appraisal. *Journal of Social Justice*, Dec 2020.
- [4]. Bhargava, D. C., Meshram, V., Shekhawat, R. S., & Kanchan, T. (2024). Evolution of transgender rights in India: Better late than never. *Behavioral Sciences & the Law*, Jul 2024. <https://doi.org/10.1002/bsl.2689>
- [5]. Brindaalakshmi, K. (2024). Debunking the idea of a single (digital) identifier: The case of identification documents for transgender persons in India. *Journal of South Asian Studies*, May 2024. <https://doi.org/10.1177/24551333241247673>
- [6]. Waggy, M. M., & Bashir, D. (2024). Transgender rights in India's legal system: A critical analysis. *Sexuality Research and Social Policy*, Jun 2024. <https://doi.org/10.1007/s13178-024-00984-7>
- [7]. Prakash, B. (2022). How gender orientation differs from gender identity: Legal rights available to transgender. *ResearchGate*, Nov 2022. <https://doi.org/10.13140/RG.2.2.30088.29448>
- [8]. Das, A. (2023). Transgender persons: A legislative and judicial perspective in India. *Journal of Legal Studies*, Dec 2023.
- [9]. Sriraam, S. (2022). Time to "Act": Guaranteeing full citizenship of transgender persons in India. In P. M. Rao (Ed.), *Rights and Recognition: The Future of Transgender Persons in India* (pp. 125-147). Springer. https://doi.org/10.1007/978-3-030-96386-6_8
- [10]. Sharda, S., & Marisport, A. (2024). Homelessness, poverty and transgender persons: Qualitative evidence from the Garima Greh of Rajasthan under the SMILE scheme, India. *Krytyka Prawa. Niezależne Studia nadPrawem*, Mar 2024. <https://doi.org/10.7206/kp.2080-1084.664>