



Educational Rights For Transgender Communities In India

Baishali Mitram Das*, Dr Mahfuz Alam**

*Research Scholar, Techno India University

**Assistant Professor, Dept. of Education, Rammohan College

Abstract

Gender refers to the range of roles, behaviours, identities, and social expectations linked to being male, female, both, neither, or positioned anywhere along a broad spectrum. Contemporary discussions on gender emphasize its diversity and fluid nature. The lived experiences of transgender individuals, in particular, challenge rigid and traditional understandings of gender and highlight the importance of recognizing and respecting each person's self-defined identity. Ensuring educational rights for transgender persons is essential for providing them with fair opportunities to learn, grow, and participate confidently in environments. In India, awareness and acknowledgment of these rights have increased over time, yet the extent of their implementation differs across regions and institutions. Historically, transgender communities have faced exclusion and marginalization, which have created serious barriers to quality education, including social stigma, discriminatory practices, and inadequate institutional support systems. Recent legal developments and policy initiatives have sought to address these concerns and advance inclusivity. The Transgender Persons (Protection of Rights) Act, 2019, along with related guidelines, calls for equal access to education and explicitly prohibits discrimination within educational institutions. However, despite these progressive measures, practical implementation remains uneven, and many transgender students continue to face significant challenges.

This study explores the present status of educational rights for transgender individuals in India by examining the relevant legal provisions, policy interventions, and persisting issues. It emphasizes the urgent need for comprehensive reforms, consistent enforcement, and proactive institutional strategies to ensure equitable educational access and to cultivate a safe, inclusive, and affirming learning environment for transgender students.

Keywords: Gender, Transgender, Educational right, Equal Opportunities.

Introduction

Education is widely recognized as a basic human right that plays a vital role in individual growth, empowerment, and overall social development. In recent years, India has taken important measures to acknowledge and protect the rights of transgender persons, including their right to access education. These developments reflect both increasing social awareness and significant legal and policy reforms aimed at promoting equality and inclusion. The freedom to determine and express one's gender identity is closely linked to the right to live with dignity, which is protected under Article 21 of the Indian

Constitution. Furthermore, the Constitution guarantees free and compulsory education as a fundamental right for all children between the ages of six and fourteen.

Given India's vast social and cultural diversity, the education system must be adaptable and inclusive in order to address varied needs. However, for many transgender individuals, the promise of education as a fundamental right remains difficult to realize. Despite progressive laws and policy initiatives, substantial barriers continue to limit their meaningful participation in educational institutions. Historically, transgender communities in India have faced deep-rooted marginalization, and their limited access to education reflects broader patterns of social exclusion and discrimination. Prejudice against gender non-conforming identities often creates hostile school environments. Many transgender students experience bullying, harassment, and an absence of institutional support. Such experiences not only hinder their academic progress but also adversely affect their mental health, self-esteem, and long-term opportunities.

Rational of the study

Education is one of the key elements that drives both personal development and the progress of society as a whole. Currently, it has been observed that transgender individuals often receive minimal meaningful education and face challenges in securing appropriate employment. The success of a nation hinges on fully harnessing the potential of the transgender community. Despite progress, issues of acceptance and social recognition in the workplace persist, leading many transgender individuals to resort to begging or sex work for survival. To address these issues, the process of inclusion should start in educational settings and extend into the workplace. Creating inclusive classrooms requires significant effort from educators and administrators. Teachers need specialized training to foster gender inclusivity in their classrooms, and such training should be a part of teacher education programs. It is essential to emphasize that developing policies is not enough; the awareness of these policies and their effective implementation in real-life scenarios are crucial. Research on the awareness of transgender issues among potential teacher educators or current teachers, especially in India, remains limited.

The integration of transgender individuals into mainstream society in India is significantly influenced by demographic factors, suggesting that a court ruling alone is insufficient for full societal acceptance (Roy Choudhury et al., 2016). Within India, access to structured and mainstream educational opportunities for transgender individuals remains extremely limited, a concern that has been consistently emphasized in studies examining the condition and challenges of transgender education in the country (Rajkumar, 2016). According to this study, one of the central problems within the system is the widespread absence of awareness and clarity regarding transgender identities and experiences. Sensitization efforts will be ineffective unless there is a willingness to embrace change, which can only be fostered through education. Consequently, transgender individuals often lack access to advanced educational opportunities (Jayaseelan, 2015).

Objectives of the study

- To understand the concept of gender and transgender
- To explore the legal provisions and policy framework safeguarding the educational rights of transgender communities in India.
- To assess the educational and social status of transgender in India
- To summarize the challenges and possibilities of educational opportunities of transgender Communities

Methodology

This is an Empirical study. The researchers have used secondary data to meet the requirements.

Gender

The words “sex and gender” are frequently treated as if they mean the same thing, but they represent different concepts.

Sex relates to biological attributes found in humans and other living beings. It includes physical and physiological characteristics such as chromosomes, hormonal patterns, gene expression, and reproductive organs. While sex is commonly classified as male or female, biological variations do exist, and these characteristics may not always fit neatly into two categories.

Gender, in contrast, is shaped by social and cultural factors. It refers to the roles, behaviours, identities, and expressions that societies associate with being male, female, or other gender identities. Gender influences how individuals understand themselves and interact with others, as well as how responsibilities, opportunities, and power are distributed within a community. People’s experiences and expressions of gender vary widely, depending on cultural norms, social expectations, relationships, and institutional structures.

Gender is a complex and multidimensional concept that includes several interconnected aspects, such as gender identity, gender expression, gender roles, and cultural or social influences.

- **Gender Identity:** This refers to a person’s deeply felt and personal understanding of their own gender. It may correspond with, or differ from, the sex assigned to them at birth.
- **Gender Expression:** This describes the outward ways in which individuals communicate or display their gender, including through clothing, mannerisms, speech, and overall appearance.
- **Gender Roles:** These are the norms and expectations established by society about how individuals are supposed to think, act, and behave based on their perceived gender.
- **Cultural and Social Influences:** Interpretations and expressions of gender vary across different societies and cultural contexts. These influences shape how gender identities and roles are defined, accepted, and practiced within a community.

Transgender

The word transgender is commonly used as a broad term to describe people whose gender identity, expression, or behaviour differs from the sex they were assigned at birth (American Psychological Association, 2023). The transgender population includes a wide range of identities, including those who do not identify strictly as male or female. Some individuals who identify outside the traditional gender binary may experience discomfort due to rigid social expectations around gender. This distress can sometimes take the form of body dysphoria, where a person feels a disconnect between their physical characteristics and their deeply held sense of self. In certain cases, medical intervention may be sought to help align their physical attributes with their gender identity (Das, 2018).

As per the Census of India 2011, approximately 4.9 lakh individuals identified as transgender in the country (Office of the Registrar General & Census Commissioner, India, 2011). The data also indicates that literacy levels within this community are significantly lower than the national average. While the overall literacy rate in India stands at about 74 percent, only around 46 percent of transgender persons are reported to be literate (Office of the Registrar General & Census Commissioner, India, 2011).

Under the provisions of the Right of Children to Free and Compulsory Education Act, transgender children are recognized within the category of “disadvantaged groups,” making them eligible for

benefits such as the 25 percent reservation in private unaided schools under the Economically Weaker Sections (EWS) and disadvantaged group quota (Government of India, 2009).

Historical Context

Transgender persons have historically occupied a visible and, at times, respected position within Indian society and cultural traditions. References to gender diversity can be found in ancient Hindu scriptures, and such identities are portrayed in well-known epics like the Ramayana and the Mahabharata. In the Mahabharata, for example, the character Shikhandi is often interpreted as representing a transgender identity. During the medieval period, individuals identified as belonging to the third gender held important roles in the courts of Mughal rulers as well as certain Hindu kingdoms. Many served in positions of trust and authority, and some attained significant political influence. However, their social standing began to decline in the eighteenth century with the onset of British colonial rule, which introduced laws and attitudes that marginalized and stigmatized transgender communities.

In pre-modern India, while there were instances of acceptance and integration of transgender individuals into society, the British colonial period and subsequent societal changes led to increased stigmatization. By the time of India's independence in 1947, there was minimal legislative or policy focus on transgender rights, including education.

Legal Framework and Policy Developments

1. Constitutional Provisions:

Chhattisgarh government is working on an action plan to support approximately 3,000 transgender individuals in the state. In **Tripura**, the government has introduced a monthly allowance of ₹500 for transgender people to promote financial independence. Furthermore, the Government of **West Bengal** has undertaken initiatives to promote social inclusion by directing the Kolkata Police to recruit transgender persons into the Civic Police Volunteer Force (CPVF) from October 1, 2015. This measure was intended to foster greater acceptance and help reduce stigma and discrimination against the transgender community.

2. Supreme Court Judgments:

A significant turning point in the recognition of transgender rights in India occurred in 2014 with the Supreme Court's decision in "*National Legal Services Authority v. Union of India*" (commonly known as the NALSA judgment). In this historic ruling, the Court officially acknowledged transgender persons as a "third gender" and upheld their right to determine their own gender identity. The judgment also carried important implications for educational access, directing the State to ensure equal opportunities for transgender individuals and to take concrete steps to eliminate the structural discrimination affecting them.

In 2017, the Supreme Court of India further elaborated in *Navtej Singh Johar v. Union of India* that the right to privacy encompasses the freedom to be acknowledged according to one's self-identified gender. The Court emphasized that this recognition is integral to personal dignity and autonomy, influencing every sphere of life, including access to and participation in education.

3. Right to Education Act, 2009

The Right of Children to Free and Compulsory Education Act, 2009 highlights the importance of providing free and mandatory schooling to all children between the ages of 6 and 14, in accordance with Article 21A of the Constitution of India. Implemented on April 1, 2010, the Act legally recognized elementary education as a fundamental right of every child. Under Section 2(d) of the Act, provisions exist for identifying "disadvantaged groups" to ensure inclusive access to education (Government of India, 2009). In this context, the Lt. Governor of Delhi issued a notification declaring transgender

children as belonging to the “disadvantaged group” category for schools in the National Capital Territory of Delhi. This classification, formalized through an official order by the Directorate of Education (DoE), aims to extend the protections and benefits of the Act to transgender students and promote their inclusion within the educational system.

4. Transgender Persons (Protection of Rights) Act, 2019:

The Transgender Persons (Protection of Rights) Act, 2019 was enacted to grant legal recognition to transgender persons and to protect their rights across different areas of life. The legislation contains specific measures intended to prevent discrimination and to promote equal access to education for transgender students. Despite these objectives, the Act has drawn criticism from sections of the transgender community and human rights advocates, who contend that certain provisions may limit autonomy and fall short of fully protecting the rights and dignity of transgender individuals.

5. NCERT Manual, 2021:

In 2021, the National Council of Educational Research and Training (NCERT) published a manual titled “*Inclusion of Transgender Children in School Education: Concerns and Roadmap*” on its official website. The document identifies transgender children as belonging to the Socially Disadvantaged Group, thereby extending to them benefits comparable to those available to other marginalized communities. This step reflects NCERT’s continued engagement with issues of gender and sexuality, particularly after its Women’s Studies department was renamed as the Department of Gender Studies, a move influenced by the Supreme Court’s decision in National Legal Services Authority v. Union of India.

The 2021 manual clarifies key concepts related to transgender identities, distinguishing between biological sex and gender and explaining terms such as gender incongruence, gender dysphoria, gender-affirming interventions, and culturally specific transgender identities across different regions. It also places strong emphasis on teacher preparation and sensitization. For example, the Facilitator Guide for School Health Program highlights that at the upper primary level, students should develop a foundational understanding of gender identity, including transgender identities, challenge rigid gender stereotypes and harmful notions of masculinity and femininity, and promote principles of gender equality within the family, school, society, and media (Agrawal, 2020).

Education and Social Status:

Educational Status:

Educational Status: In India, access to formal education remains a significant challenge for many transgender individuals. Social exclusion often begins within the family and extends into school settings, forcing many to discontinue their studies at an early stage and limiting their future employment opportunities. Insights drawn from reports, community interactions, and stakeholder discussions indicate that a large proportion of transgender persons are either illiterate or have low levels of educational attainment. Enrolment rates among transgender students are comparatively low, while dropout rates at both primary and secondary levels are notably high. Even those who manage to enter educational institutions frequently face discrimination, bullying, and harassment. Such hostile environments may result in expulsion or compel students to leave voluntarily. Due to restricted access to stable employment opportunities, a number of transgender individuals are pushed toward marginal livelihoods.

Addressing these concerns requires the implementation of genuinely inclusive educational policies, along with targeted support systems within schools. Additionally, adult education and skill development initiatives are necessary to provide learning opportunities for those who were previously excluded from mainstream education.

Social Status:

The transgender community continues to encounter deep-rooted stigma and discrimination, which restricts their access to equal opportunities. Despite these challenges, several transgender individuals in India have achieved remarkable success and broken social barriers. Manabi Bandyopadhyay became one of the first openly transgender college principals in India and is widely recognized for earning a Ph.D. and serving in academia in West Bengal. Joyita Mondal made history by being appointed as a Lok Adalat judge in North Bengal. Amruta Alpesh Sonia has worked as an advocacy officer with the National AIDS Control Organization, contributing to public health and awareness initiatives. Their achievements highlight the potential of inclusive opportunities.

At the policy level, certain Indian states have taken proactive steps toward transgender welfare. Tamil Nadu has been a pioneer in this regard, introducing a comprehensive transgender welfare policy. The state provides free gender-affirming surgeries in government hospitals, housing support, assistance with obtaining identity documents, scholarships for higher education in government institutions, and livelihood opportunities through self-help groups and income-generation schemes. It also established the Tamil Nadu Transgender Welfare Board in 2008, which includes members of the transgender community, and launched the “Manasu” helpline in 2009, an initiative that later contributed to the creation of India’s first LGBTQIA helpline in Madurai in 2011.

Similarly, the government of Chhattisgarh has been developing an action plan aimed at supporting nearly 3,000 transgender persons in the state. In Tripura, a monthly financial assistance scheme of ₹500 has been introduced to encourage economic independence among transgender individuals. The government of West Bengal has also taken steps toward social inclusion by encouraging the Kolkata Police to recruit transgender individuals into the Civic Police Volunteer Force (CPVF) from October 1, 2015, as part of efforts to reduce stigma and promote acceptance.

Challenges in Educational Access

Transgender communities are sexually marginalized group. And they often experience humiliation and discrimination starting within their own homes. They may face rejection from family members, endure physical and emotional abuse, and lack access to educational opportunities that could support their understanding and personal development. As a result, they encounter prejudice and barriers at every stage of their lives.

1. Discrimination and Stigma:

One of the most significant barriers transgender individuals face in accessing education is discrimination. Transgender students often encounter bullying, harassment, and exclusion from peers and educators. Many educational institutions are ill-equipped to handle the needs of transgender students, resulting in a hostile or unwelcoming environment.

2. Safety Concerns: Transgender students often face safety issues in educational settings, including bullying, harassment, and violence. Ensuring a safe environment is a critical challenge.

3. Lack of Representation: Educational materials and curricula frequently do not include transgender individuals or address transgender issues. This omission can negatively impact transgender students' sense of inclusion and their understanding of their own identities.

4. Lack of Inclusive Policies:

Despite legal frameworks, many schools and universities lack policies that explicitly address the needs of transgender students. This includes issues related to gender-segregated facilities, such as restrooms and changing rooms, as well as the use of chosen names and pronouns.

5. Socioeconomic Barriers:

Transgender individuals frequently experience financial difficulties as a result of workplace discrimination and broader social exclusion. Limited access to stable employment opportunities often creates economic insecurity. Moreover, many transgender persons belong to socially and economically marginalized backgrounds, intensifying the obstacles they encounter in accessing educational opportunities and achieving academic progress.

6. Absence of Support Systems:

Educational institutions often do not have adequate support mechanisms in place to respond to the distinct needs and concerns of transgender students. Guidance counsellors, mental health professionals, and student support services often do not have the necessary training to support transgender students effectively.

7. Rest Room/Bath Room Facilities: Transgender students face issues related to personal safety, access to appropriate restroom and healthcare facilities, and the accurate reflection of their gender identity in official documents and institutional records.

8. Lack of Ideal Personality: Transgender youth often experience a sense of isolation within society due to a lack of representation and support. There are limited youth programs that include transgender individuals, and few libraries offer resources on topics such as biological sex, gender identity, or transgender experiences.

Recommendation for Equal Opportunities

1. Strengthening Legal Protections: To ensure effective implementation of educational rights, it is crucial to strengthen legal protections and ensure that policies are enforced. This includes addressing gaps in existing legislation and ensuring that educational institutions comply with anti-discrimination laws.

2. Developing Comprehensive Policies: Educational institutions must establish well-defined and inclusive policies that respond effectively to the unique needs of transgender students. These measures should aim to foster a safe, respectful, and welcoming atmosphere, guarantee access to facilities aligned with students' gender identity.

3. Efforts towards Inclusion: Creating a safe, affirming, and supportive atmosphere for transgender individuals is essential. Teachers, administrators, and community members have a vital role in nurturing acceptance and sensitivity within educational spaces. Given the shortage of skilled professionals in many sectors in India, it is important to provide vocational education and training not only for transgender students but also for teachers and school staff to enhance awareness and competency.

4. Respecting Names and Pronouns: It is important to address young people by the names and pronouns that reflect their self-identified gender. Respecting an individual's chosen name and identity is a fundamental aspect of dignity and inclusion. If an incorrect name or pronoun is used unintentionally, it is appropriate to acknowledge the mistake and offer a sincere apology.

5. Establishment of an Anti-Discrimination Cell: Schools, colleges, and universities should create specialized anti-discrimination bodies to monitor, prevent, and respond to incidents of bias or harassment against transgender individuals. These mechanisms should function with clear procedures and strong accountability, similar to anti-ragging committees, and must uphold a strict zero-tolerance approach toward any form of discrimination or related grievances.

6. Research: It is crucial to establish a dedicated and structured approach to research and academic activities aimed at generating comprehensive data on the difficulties and barriers experienced by

transgenders. This research should inform the development of policies and programs that can bring about meaningful and lasting improvements in their lives.

7. Inclusive Curriculum and Training: Increasingly, there is acknowledgment of the importance of inclusive curricula that cover gender diversity and foster understanding. It is crucial to implement training programs for teachers and school staff focused on gender sensitivity and inclusivity to build supportive educational environments.

8. Providing Financial Support: To address socioeconomic barriers, targeted financial support such as scholarships, grants, and subsidies should be made available to transgender students. This can help alleviate the economic challenges that often accompany educational pursuits.

9. Promoting Community Participation: Involving transgender communities and representative organizations in shaping educational policies and institutional practices can help ensure that the concerns and lived experiences of transgender students are meaningfully reflected. Such collaboration promotes more responsive and inclusive decision-making processes.

10. Role of NGOs: Non-governmental organizations (NGOs) have an important role to play in strengthening educational rights for transgender individuals. Through advocacy, awareness-building, and the provision of supportive resources, these bodies can contribute to creating equal learning opportunities and fostering an environment where transgender students are treated with fairness, dignity, and respect.

Some Important Initiatives:

The Government of India has introduced multiple initiatives aimed at protecting and advancing the rights of transgender persons. One important step is the creation of the National Portal for Transgender Persons, which enables individuals to apply online for a Certificate of Identity and identity card from anywhere in the country.

The Ministry of Social Justice and Empowerment has also launched the “Garima Greh” scheme, establishing shelter homes that provide housing, care, and essential support services to transgender individuals. Financial assistance is extended to community-based organizations to set up and manage these shelters in different parts of the country.

In the sphere of higher education, Indira Gandhi National Open University (IGNOU) has announced free admission for transgender learners nationwide, thereby widening access to flexible learning opportunities and promoting educational inclusion.

- **Initiatives by the Delhi Government:** The Delhi government has implemented policies that allow transgender students to enroll in schools according to their self-identified gender.
- **Inclusive Education Efforts in Kerala:** Kerala has taken progressive steps toward inclusive education by offering scholarships, counselling services, and awareness programs designed to create a more supportive and welcoming environment for transgender students.
- **Role of Private Institutions:** Some private educational institutions have independently adopted inclusive policies to better support transgender students. With greater administrative flexibility, these institutions have implemented progressive measures that can serve as models for broader educational reform.

Interpretation

Ensuring educational rights for transgender communities in India is essential for fostering equality and inclusivity. Addressing the specific challenges faced by transgender students, such as discrimination, lack of representation, and inadequate support, requires a multifaceted approach. Excluding transgender students from educational opportunities constitutes a form of discrimination and undermines the

principles of the Indian Constitution. Schools have a responsibility to foster a safe and supportive environment that upholds these constitutional rights. To achieve this, schools should collaborate with transgender students and their families to develop plans that address the use of their names, access to restrooms, and other facilities in alignment with their gender identity. Additionally, it is crucial that transgender issues and concerns are integrated into the curriculum and textbooks. Ongoing teacher training programs should also be implemented to ensure that educators are well-informed about these topics. By implementing inclusive curricula, establishing dedicated support systems, and providing targeted training for educators, we can create an environment where transgender students are valued and supported. Collaboration among educational institutions, NGOs, and civil society is vital to drive meaningful change and ensure that every student, irrespective of their gender identity, is provided with fair opportunities to achieve success and flourish in their educational pursuits.

Conclusion:

Every human being is distinct and contributes meaningfully to the larger social and natural order. It is therefore unfair to evaluate or exclude individuals simply because they do not conform to socially constructed stereotypes. A progressive society must recognize that all citizens are entitled to equal rights, dignity, and opportunities, embracing the principle of mutual respect and coexistence.

In India, the recognition of educational rights for transgender communities has advanced considerably in recent years; however, many obstacles still persist. While existing legal provisions lay an important groundwork for safeguarding these rights, their true impact depends on effective enforcement and sustained institutional support. Eliminating discrimination, framing inclusive educational policies, and introducing focused assistance mechanisms are crucial steps toward ensuring equal access to learning. Through such collective efforts, India can work toward building a more just and inclusive education system that upholds and affirms the rights of every learner, irrespective of gender identity.

References

- Agrawal, P. (2020). Training Material: Inclusion of Transgender Children in School Education: Concerns and Roadmap. In *Department of Gender Studies*. National Council of Educational Research and Training. https://clpr.org.in/wp-content/uploads/2022/01/Inclusion_of_Transgender_Children_in_School_Education.pdf
- Chandra, S. (2017). Transgender Children's education and their reengagement in society. *International Journal of Educational Research Studies*, 2(13), 875-890.
- Chhotaray, S., & Pathak, P. (2022). Educational Rights of Transgender Children: A Study. In *Children's Rights: Challenges and Prospects* (pp. 199–228). ABS Books, New Delhi.
- Das, P. (2019). Higher education of transgenders in India: Opportunities and challenges. *International Journal of Research in Engineering, Science and Management*, 2(2), 371-375.
- Government of India. (2009). *The Right of Children to Free and Compulsory Education Act, 2009*. Ministry of Law and Justice.
- Hotchandani, K. R. (2017). Problems of transgender in India: A study from social exclusion to social inclusion. *International research journal of Human resources and social sciences*, 4(4), 73-79.
- Meyer, E. J. (2022). Sex, gender, and education research: The case for transgender studies in education. *Educational Researcher*, 51(5), 315-323.
- Mukhuty, S. (2021). Rights of Transgender under Human Rights. *Jus Corpus LJ*, 2, 1142.
- Office of the Registrar General & Census Commissioner, India. (2011). *Census of India 2011: Data on transgender population and literacy*. Government of India.

- Rajkumar, D. (2016). Education of transgenders in India: Status and challenges. *International Journal of Research in Economics and Social Sciences*, 6(11), 15-24.
- Rishel Elias, N. M. (2017). Constructing and implementing transgender policy for public administration. *Administration & Society*, 49(1), 20-47.
- *THE RIGHT OF CHILDREN TO FREE AND COMPULSORY EDUCATION ACT, 2009*. (n.d.). https://www.education.gov.in/hi/sites/upload_files/mhrd/files/upload_document/RTE_Section_wise_rationale_rev_0.pdf
- *What is gender? What is sex?* - CIHR. (2023, May 8). <https://cihr-irsc.gc.ca/e/48642.html>

