

LEGAL FRAMEWORKS FOR TRANSGENDER HEALTHCARE IN INDIA: AN ANALYTICAL AND COMPARATIVE PERSPECTIVE

**Dissertation submitted to the National University of Advanced Legal
Studies, Kochi in partial fulfilment of the requirements for the award of
LL.M. Degree in Constitutional and Administrative Law**



**THE NATIONAL UNIVERSITY OF ADVANCED LEGAL STUDIES
KALAMASSERY, KOCHI – 683 503, KERALA, INDIA**

2024-2025

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DECLARATION

I declare that this dissertation titled, “**LEGAL FRAMEWORKS FOR TRANSGENDER HEALTHCARE IN INDIA: AN ANALYTICAL AND COMPARATIVE PERSPECTIVE**”, researched and submitted by me to the National University of Advanced Legal Studies, Kochi in partial fulfilment of the requirement for the award of Degree of Master of Laws in Constitutional and Administrative Law, under the guidance and supervision of **DR. NANDITA NARAYAN** is an original, bona-fide and legitimate work and it has been pursued for an academic interest. This work or any type thereof has not been submitted by me or anyone else for the award of another degree of either this University or any other University.

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ACKNOWLEDGMENT

It is with immense gratitude and humility that I present this dissertation titled “*Legal Frameworks for Transgender Healthcare in India: An Analytical and Comparative Perspective*.” This work is the culmination of rigorous academic exploration, long hours of reading and reflection, and the support of many individuals whose contributions have been integral to its successful completion. First and foremost, I extend my deepest thanks to my esteemed guide, **Dr. Nandita Narayan**, Assistant Professor of Law, NUALS Kochi, whose patience, knowledge, and persistent encouragement were crucial in helping me bring this research to life. Her timely feedback, academic insight, and personal support helped me stay grounded and confident throughout this journey. I am equally grateful to **Dr. Anil R. Nair**, Associate Professor, Chairperson of the Centre for Post Graduate Legal Studies, and Director of the Centre for Parliamentary Studies and Law Reforms, for his academic direction, constructive criticism, and consistent motivation, which contributed immensely to the refinement of this dissertation.

I also express my heartfelt gratitude to **Hon’ble Mr. Justice S. Siri Jagan (Retd.)**, the respected Vice Chancellor of NUALS, for his continued encouragement and for creating an academic environment where ideas could grow freely and confidently. I acknowledge with sincere appreciation the support of the **library team at NUALS**, especially **Dr. Jeeja V.T., Ms. Sreelakshmi, Mr. Anil Kumar**, and **Mr. Jiss Joseph**, who provided timely assistance and ensured that I had access to the resources I needed without delay. My special thanks go to **Dr. Kavya Salim**, Assistant Professor at the School of Legal Studies and Governance, Vidyashilp University, Bangalore, whose expertise in Human Rights Law and Public Health Law added depth and clarity to the issues I explored in this dissertation. Her academic enthusiasm and warmth were a genuine inspiration. I would also like to express my heartfelt appreciation to **Senior Advocate S. Sreekumar**, High Court of Kerala, for his generous support and moral encouragement. His professional flexibility and compassionate understanding allowed me the space and peace needed to focus on this work during challenging times.

On a more personal note, I am deeply thankful to my dear friend, **Ancilla Maria Issac**, who stood by me with unwavering support, listening to my ideas, calming my anxieties, and encouraging me throughout this academic journey. This dissertation is especially close to my heart as it represents the realization of a dream that was once deeply cherished by my beloved

late father, **Shri Ramakrishnan P.A.** He always wished to see me pursue higher education in law, and though he is no longer here to witness this moment, his love, ideals, and vision remain etched in every step I took to complete this work. I dedicate this dissertation to his memory with profound respect and love. Lastly, I express my sincere gratitude to my **entire family**, who have been my emotional anchor. Their sacrifices, unshakable faith in me, and constant support made it possible for me to reach this academic milestone. This dissertation is not just a scholarly work but also a tribute to the strength and resilience of the transgender community in India, whose lived realities, challenges, and courage inspired every page of this research.

ANJALI KRISHNA

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TABLE OF ABBREVIATIONS

ABBREVIATION	FULL FORM
AAI	Airports Authority Of India
AIDS	Acquired Immune Deficiency Syndrome
AIIMS	All India Institute Of Medical Sciences
ART	Antiretroviral Therapy
BPL	Below Poverty Line
HIV	Human Immunodeficiency Virus
ICD	International Classification Of Diseases
LGBTQIA+	Lesbian, Gay, Bisexual, Transgender, Queer/Questioning, Intersex, Asexual, And Others
MOHFW	Ministry Of Health And Family Welfare
NACO National	AIDS Control Organisation
NALSA	National Legal Services Authority
NCTP	National Council For Transgender Persons
NHRC	National Human Rights Commission
NHP	National Health Policy
NGO	Non-Governmental Organization
PIL	Public Interest Litigation
PM-JAY	Pradhan Mantri Jan Arogya Yojana
RFSL	The Swedish Federation For LGBTQ+ Rights

RTI	Right To Information
SRS	Sex Reassignment Surgery
SMILE	Support For Marginalized Individuals For Livelihood And Enterprise
UIDAI	Unique Identification Authority Of India
UN	United Nations
UNAIDS	Joint United Nations Programme On HIV/AIDS
UNDP	United Nations Development Programme
UNHRC	United Nations Human Rights Council
V	Versus
WHO	World Health Organization

LIST OF CASES

1. Atri Kar v. Union of India & Ors. (2021 SCC OnLine Cal 1797)
2. Arunkumar v. Inspector General of Registration (2019 SCC OnLine Mad 8779)
3. Consumer Education and Research Centre v. Union of India ((1995) 3 SCC 42)
4. Devu G Nair v. State of Kerala (2024 SCC OnLine SC 224)
5. Fred Rogers v. Union of India & Ors. ((2024, unreported, Madras HC))
6. In re KFB (Argentina, Tribunal No. 1 Quilmes (2001))
7. Justice K.S. Puttaswamy v. Union of India ((2017) 10 SCC 1)
8. Kinner Maa Eksamajik Sanstha Trust v. Union of India (W.P.(C) No. 319/2021. SC))
9. Manju v. State of Tamil Nadu (2021 SCC OnLine Mad 279)
10. Mulla Faizal v. State of Gujarat (2021 SCC OnLine Guj 3932)
11. Mugil Anbu Vasantha v. State of Karnataka & Others (2023 SCC OnLine Kar 762)
12. Myra Grace Bandikalla v. Airport Authority of India & Ors. (2021 SCC OnLine Bom 1182)
13. Navtej Singh Johar v. Union of India ((2018) 10 SCC 1)
14. National Legal Services Authority v. Union of India ((2014) 5 SCC 438)
15. Neha Singh v. State of Uttar Pradesh (2023 SCC OnLine All 1982)
16. Paschim Banga Khet Mazdoor Samity v. State of West Bengal ((1996) 4 SCC 37)
17. Pt. Parmanand Katara v. Union of India ((1989) 4 SCC 286)
18. Rakshika Raj v. State of Tamil Nadu (2022 SCC OnLine Mad 4293)
19. Shanavi Ponnusamy v. Ministry of Civil Aviation & Anr. ((2024) 2 SCC 574)
20. Shivani ‘Shivy’ Bhat v. State of NCT of Delhi (2015 SCC OnLine Del 11520)
21. State of Bombay vs. Kesoram Industries (citation not provided)
22. Subi K.V. v. Union of India & Others (2023 SCC OnLine SC 1054)
23. Supriyo & Ors. v. Union of India (2023 SCC OnLine SC 1273)
24. Suchita Srivastava v. Chandigarh Administration ((2009) 9 SCC 1)
25. Sweety v. General Public (2022 SCC OnLine HP 2356)
26. Tharika Banu v. Health & Family Welfare Dept. (2017 SCC OnLine Mad 7724)
27. Veera Yadav v. The Chief Secretary, Government of Bihar & Ors. ((2020, unreported, Patna HC))

28. Vyjayanti Vasanta Mogli v. State of Telangana (2023 SCC OnLine TS 1364)
29. XXX v. The Health Secretary & Ors. ((2023, unreported, Kerala HC))
30. S. Sushma and Ors. v. Commissioner of Police, TN(2021 SCC OnLine Mad 2492)

PREFACE

This dissertation explores the intersection of constitutional rights, healthcare law, and gender identity in the context of transgender healthcare in India. It critically examines the existing legal and policy frameworks to assess their capacity to ensure accessible, inclusive, and affirming healthcare for transgender individuals. Amid evolving judicial recognition and the enactment of the Transgender Persons (Protection of Rights) Act, 2019, the gap between legal entitlements and on-ground realities remains stark. Social stigma, institutional neglect, and bureaucratic obstacles continue to obstruct the realization of health rights for this marginalized community.

The study evaluates key legal provisions, judicial interpretations, policy measures, and systemic challenges that influence transgender healthcare access. It also draws comparative insights from select jurisdictions to identify inclusive models that India may adapt in its journey toward equitable healthcare.

This work is intended for legal researchers, human rights advocates, policymakers, and all those committed to building a healthcare system rooted in dignity, equality, and non-discrimination. It is a small but deliberate step toward advancing the constitutional promise of justice and inclusion for transgender persons.

CHAPTER 1 – INTRODUCTION

1.1. BACKGROUND AND PURPOSE

Human societies have long been structured around the binary concept of gender, classifying individuals strictly as male or female. However, this rigid framework overlooks the existence of diverse identities, including those of transgender individuals and others outside the binary. Civil society, especially in India, has been slow in recognizing and embracing these identities, despite their historical presence. India's ancient texts such as the Ramayana and Mahabharata, along with many other myths, acknowledge the presence of people with non-binary gender identities. These narratives reveal that in traditional Hindu society, transgender persons played recognized roles, often associated with rituals and blessings, particularly during life events like marriages or childbirths. Despite this historical acknowledgment, transgender individuals in contemporary India continue to face significant challenges in securing recognition, respect, and equality.

The struggles of the transgender community today extend far beyond mere social acceptance. They reflect a battle for basic human rights and legal recognition. Their demand is not for extraordinary privileges but for the fundamental rights that every human being is entitled to enjoy. Society often questions whether individuals should face discrimination for being born with non-conforming gender identities. However, the Constitution of India explicitly prohibits discrimination on the basis of sex and guarantees a range of civil liberties, including the right to equality. Yet, despite these constitutional protections, transgender individuals encounter deep-rooted discrimination across various spheres. Societal discrimination persists in the areas of healthcare, where access to appropriate and respectful care remains inadequate, employment, where opportunities are often limited by biases and stigma, education, where transgender individuals experience exclusion or harassment in academic environments, and sexual orientation, where social prejudices further marginalize transgender individuals, compounding the discrimination they already face. Although legal reforms and court judgments have begun to acknowledge certain rights for transgender persons, such as the right to change legal gender and protection from discrimination, many challenges remain. Issues like inheritance rights, adoption rights, and equitable healthcare services are areas where progress

is still needed. The reality is that being biologically different does not justify exclusion or denial of fundamental rights. Transgender individuals are human beings, deserving of the same dignity, respect, and freedom as any other member of society.

Among these challenges, access to healthcare stands out as one of the most urgent and neglected areas. Health is a fundamental human right, integral to the dignity and well-being of every person. However, transgender individuals in India continue to face widespread discrimination and systemic barriers when accessing healthcare services. Medical practitioners often lack adequate knowledge or sensitivity regarding transgender health needs, including hormone therapy, gender-affirming surgeries, mental health support, and HIV prevention and treatment. This lack of understanding results in transgender persons frequently experiencing stigma, refusal of care, or substandard treatment in medical settings. Consequently, many avoid seeking formal healthcare altogether, resorting instead to unsafe or unregulated alternatives that jeopardize their health.

The legal framework acknowledges these challenges to some extent. The Supreme Court's historic *NALSA* judgment of 2014 recognized transgender persons as a third gender and affirmed their right to access healthcare and live with dignity. Subsequently, the Transgender Persons (Protection of Rights) Act, 2019, enshrined the right to healthcare free from discrimination, including access to gender-affirmative treatments and counseling. Despite these legal protections, implementation remains inconsistent, and many transgender persons continue to suffer due to lack of awareness, social stigma, and infrastructural gaps in the healthcare system. Moreover, healthcare exclusion does not exist in isolation but intersects with wider social factors. Transgender persons often face economic hardship due to discrimination in education and employment, limiting their ability to afford medical care. Social stigma further discourages them from seeking help, contributing to poorer physical and mental health outcomes compared to the general population. The intersection of healthcare discrimination with these social determinants creates a cycle of marginalization that is difficult to break.

It is ironic that in ancient India, transgender individuals were revered during significant life events and sought for blessings, yet today they struggle for access to basic healthcare and social inclusion. This paradox highlights the urgent need for society to move beyond stereotypes and prejudices, aligning with contemporary values of equality, dignity, and human rights. True social inclusion will only be realized when transgender individuals receive equitable healthcare and the opportunity to live healthy, respected lives free from discrimination.

Addressing transgender health comprehensively is essential not only to improve individual well-being but also to fulfill constitutional promises and human rights obligations. It requires concerted efforts from policymakers, healthcare providers, civil society, and the community itself to create an inclusive healthcare environment that respects transgender identities and meets their unique needs. Only then can India move towards a society where every person, regardless of gender identity, can enjoy the right to health, dignity, and social inclusion.

1.2 SIGNIFICANCE OF THE STUDY

In a diverse country like India, where social and legal recognition of marginalized communities is still evolving, addressing the challenges faced by the transgender community holds critical importance. Despite the introduction of laws and policies aimed at protecting their rights, transgender individuals continue to face widespread discrimination. Ensuring meaningful social inclusion requires not only legal reforms but also shifts in societal attitudes. Although India legally recognized a third gender category in 2014 through the NALSA judgment and enacted the Transgender Persons (Protection of Rights) Act, 2019, the gap between policy and implementation remains significant.

The need for this study arises from the lack of consistent enforcement of these legal protections, as well as the societal prejudice transgender persons continue to experience. Despite the 2011 Census estimating that approximately 488,000 individuals identify as transgender, the lack of comprehensive data severely limits their access to essential services and benefits. For instance, during the COVID-19 pandemic, only 5,711 out of this estimated population received financial assistance from the government, highlighting a glaring gap in support mechanisms for this marginalized community. Quantitative data further reveals that societal discrimination manifests in various sectors, including healthcare, education, and employment, while major data sources like the National Family Health Survey fail to include a separate category for transgender individuals, obscuring their specific needs and challenges.

Healthcare access remains a significant concern for the transgender community. The 2014 Supreme Court judgment in *National Legal Services Authority v. Union of India*¹ directed both Central and State Governments to provide medical care to transgender individuals in hospitals and to ensure the availability of separate public toilets and other facilities. However, the implementation of these directives has been inconsistent. The Transgender Persons (Protection

¹ National Legal Services Authority v. Union of India, (2014) 5 SCC 438 (India).

of Rights) Act, 2019, while prohibiting discrimination in healthcare settings, lacks specific provisions for affirmative action or dedicated healthcare services for transgender individuals. Moreover, the Act's requirement for a certificate of identity, contingent upon sex reassignment surgery for recognition as male or female, poses additional barriers to accessing appropriate healthcare services. The cost of gender affirmation procedures in India can range from Rs 2 lakh to Rs 8 lakh, making them unaffordable for many transgender individuals. Furthermore, the lack of standardized guidelines and limited expertise among healthcare providers often results in suboptimal care and post-operative complications. The requirement for a transgender certificate to access certain healthcare services and benefits under schemes like Ayushman Bharat has proven challenging. Delays in the issuance of these certificates, coupled with administrative hurdles and lack of awareness, hinder the community's ability to avail necessary medical care.

Additionally, a significant portion of the transgender population faces barriers to education and employment due to pervasive stigma and discrimination. States like Bihar and Jharkhand report literacy rates among transgender individuals as low as 44.3% and 47.58%, respectively.² Although recent legal reforms have been initiated, many transgender individuals continue to encounter obstacles in claiming their rights due to inadequate implementation of policies designed to protect them. The provisions for rights such as legal gender recognition and protection against discrimination within the 2019 Act are often undermined by societal norms that perpetuate violence and exclusion. Furthermore, a survey indicates that only 28% of transgender respondents reported being employed in formal jobs, while a staggering 60% relied on begging or sex work for survival³. This economic marginalization not only perpetuates cycles of poverty but also reinforces social stigma, further complicating the quest for dignity and acceptance.

The significance of this study lies in exploring the healthcare-related challenges faced by transgender individuals in India and assessing the legal and policy frameworks meant to address these issues. Despite the introduction of various rights-based laws and schemes, transgender persons continue to experience systemic exclusion from mainstream healthcare systems. Discrimination by healthcare providers, lack of gender-affirmative services, insufficient institutional support, and the absence of trained medical personnel create significant barriers to accessing quality and dignified healthcare. By critically examining these

² National Human Rights Commission, Report on the Status of Transgender Persons in India (2018).

³ Ibid

structural gaps and the implementation of healthcare-related provisions under existing laws, this research aims to contribute to the development of a more inclusive, accessible, and accountable healthcare framework for transgender individuals in India.

As Indian society evolves, it is essential to ensure that legal frameworks are not only reflective of progressive ideals but also capable of addressing the lived realities of marginalized communities. The outcomes of this study are expected to enrich the discourse on transgender rights and provide valuable insights for policymakers, legal practitioners, and advocates. Ultimately, this research aims to support the creation of a more inclusive society where transgender individuals are afforded the rights, dignity, and respect they deserve, enabling them to participate fully and equally in all aspects of life.

1.3. HYPOTHESIS

Access to inclusive and gender-affirmative healthcare for transgender individuals in India remains severely limited due to systemic policy failures, weak institutional mechanisms, and inadequate medical sensitization, thereby obstructing the realization of their fundamental right to health and social inclusion.

1.4. RESEARCH METHODOLOGY

This study uses a purely doctrinal research approach, analyzing laws, case laws, and academic writings from countries like Argentina, Brazil, Canada, Spain, and Sweden to understand transgender healthcare and rights. To ensure accuracy and consistency, it follows the 21st edition of the Bluebook citation method, a widely respected standard in legal research. This method helps maintain clarity and reliability in referencing legal materials, making the research thorough and credible. By combining doctrinal analysis with precise citation, the study provides a clear and authoritative examination of transgender healthcare policies and legal frameworks across different countries, offering valuable insights for India.

1.5. LIMITATIONS OF THE RESEARCH

This study encounters a few challenges that may shape its findings and conclusions. Firstly, access to reliable, detailed data specific to transgender individuals in India remains limited. National surveys and data collection efforts often overlook or insufficiently categorize transgender experiences, making it difficult to gather comprehensive statistics on their access to healthcare, education, and employment. Another limitation lies in the rapidly evolving nature of transgender rights, both legally and socially. With ongoing legal reforms and shifts in public

policy, certain findings may risk becoming outdated, even within a short time. Moreover, this study incorporates a comparative analysis of transgender rights across different countries, which, while valuable, comes with inherent challenges. Cultural, legal, and social differences between India and other countries can make it hard to apply global best practices directly to the Indian context.

Societal attitudes, which can deeply impact the lives of transgender individuals, add another layer of complexity. Perceptions of and biases against transgender people vary significantly across India, from urban centres to rural areas, and these nuances are challenging to capture fully in a single study. Additionally, the study is constrained by a five-month timeline, which places limits on the depth of primary research, such as conducting interviews or field studies that might offer richer, firsthand perspectives. Despite these limitations, this study aims to provide valuable insights and recommendations that contribute to ongoing discussions and efforts to promote the rights and social inclusion of transgender individuals in India.

1.6. RESEARCH OBJECTIVES

- To Study the historical progression of transgender rights laws in India.
- To understand the impact of societal attitudes on transgender individual's access to rights and services.
- To examine the adequacy of the healthcare system for transgender individuals.
- To identify gaps in implementing health care policies for transgender individuals.
- To conduct a comparative analysis of effective strategies from other countries for promoting transgender rights.

1.7. RESEARCH QUESTIONS

1. How do societal attitudes and cultural perceptions shape the evolution and implementation of laws concerning transgender rights and access to healthcare services in India?
2. What are the key legal provisions related to transgender healthcare in India, and what practical challenges hinder their effective application?
3. What are the major obstacles in the implementation of transgender healthcare policies in India, and how do these affect the accessibility and quality of services?
4. What are the gaps between legal frameworks and policy provisions regarding transgender healthcare in India, and how have courts interpreted these issues?

5. How do judicial interpretations in countries with progressive transgender rights shape the legal status of transgender individuals, and what lessons can India incorporate into its legal system?

1.8.LITERATURE REVIEW

1. ***Constitutionalism and Human Rights: A Critical Analysis of the Rights of Transgender People in India***⁴-the paper highlights the significant challenges that transgender individuals face in achieving social acceptance, despite the legal protections established in India. While the legal framework has made progress through landmark judicial decisions and the Transgender Protection Act 2019, these advancements do not automatically lead to societal acceptance. The ongoing struggle for acceptance is marked by discrimination, stigma, and prejudice in various aspects of life, including employment and healthcare, which hinders transgender individuals from living freely and authentically. The article emphasizes the need for an inclusive and non-judgmental environment, advocating for awareness and education to combat stereotypes and misconceptions about transgender people. Cultural norms and traditional beliefs often contribute to the marginalization of transgender individuals, leading to isolation and a lack of support. Therefore, the paper calls for continued advocacy and support from both governmental and non-governmental organizations to promote acceptance and understanding of transgender rights, highlighting that societal change is essential to complement legal protections and ensure true equality and acceptance for transgender individuals in India.
2. ***Health status of transgender people globally: A systematic review of research on disease burden and correlates***⁵- The article explores the health status of transgender and gender diverse individuals, focusing on the gaps in research regarding their disease burden and health correlates. It highlights the rapid growth of transgender health research and emphasizes the need to understand the unique health challenges faced by these populations. The paper points out the limited community engagement in research, suggesting that studies may not fully reflect the experiences and needs of transgender individuals. The findings of the paper reveal significant variability in health outcomes

⁴ Purnima Khanna, Constitutionalism and Human Rights: A Critical Analysis of the Rights of Transgender People in India, 9 *Lentera Hukum* 369 (2022), <https://doi.org/10.19184/ejlh.v9i3.28631>.

⁵ Scheim AI et al., Health Status of Transgender People Globally: A Systematic Review of Research on Disease Burden and Correlates, 19 *PLoS One* e0299373 (2024), <https://doi.org/10.1371/journal.pone.0299373>.

across different regions, underscoring the importance of context in understanding transgender health.

3. ***Right to Health and Gender-Affirmative Procedure in the Transgender Persons Act 2019 in India***⁶-The article critically examines the healthcare provisions within India's Transgender Persons (Protection of Rights) Act, 2019, highlighting significant gaps between legislative intent and practical implementation. The Act mandates that medical facilities provide care to transgender persons, including gender-affirmative procedures, and calls for a review of medical curricula to address their specific health needs. However, despite these provisions, many transgender and gender-variant individuals in India continue to face substantial barriers in accessing essential healthcare services. argues that the lack of efficient legal criteria for gender-affirming procedures further exacerbates these challenges. The absence of clear guidelines and standards for such procedures leads to inconsistencies in their availability and quality across the country. Moreover, the high costs associated with gender-affirming surgeries and treatments, coupled with limited availability in public healthcare facilities, place them out of reach for many transgender individuals, particularly those from marginalized communities. The article also critiques the Act's failure to address the systemic discrimination and stigma that transgender individuals face within healthcare settings. Despite legal prohibitions against discrimination, transgender persons often encounter prejudice from healthcare providers, leading to reluctance in seeking medical care. This discrimination is compounded by a lack of awareness and sensitivity among medical professionals regarding the unique health needs of transgender individuals. Furthermore, the author highlights the inadequacy of the Act in ensuring accountability and transparency in the delivery of healthcare services to transgender persons. The absence of robust monitoring mechanisms and enforcement provisions means that violations of transgender individual's rights often go unaddressed. This lack of accountability undermines the effectiveness of the Act and perpetuates the marginalization of transgender communities.
4. ***Barriers to Healthcare for Transgender: Analysis on Affirmative Environment in Social-Legal Aspects***⁷-This paper explores the ongoing challenges faced by

⁶ Jain, Dipika. "Right to Health and Gender-Affirmative Procedure in the Transgender Persons Act 2019 in India." *Indian Journal of Plastic Surgery* 55, no. 2 (2022): 205–210. <https://doi.org/10.1055/s-0042-1749137>.

⁷ Dr. G.S. Rajpurohit, *Barriers to Healthcare for Transgender: Analysis on Affirmative Environment in Social-Legal Aspects*, 3 *Int'l J. Legal Sci. & Innovation* 477 (2022), <https://doi.org/10.1000/IJLSI.111274>.

transgender individuals in accessing healthcare in India despite recent legal recognition of their rights. It points out that societal stigma and discrimination from medical staff continue to create hostile environments in hospitals and clinics, leading many transgender persons to avoid seeking medical help altogether. The author highlights that the lack of awareness and sensitivity among healthcare providers results in disrespectful or harmful treatment. Financial barriers also play a major role, as health insurance often excludes gender-affirmative procedures, making necessary treatments unaffordable for most. The paper emphasizes that existing laws are not enough unless accompanied by concrete policies, proper implementation, and institutional support. The healthcare system is seen as ill-equipped to cater to the unique needs of transgender individuals, with very few trained professionals or inclusive facilities. The author stresses the importance of mental health services, nutritional care, and basic preventive health being made more accessible to this community. Transgender persons are often excluded from public health schemes due to the absence of targeted planning. There is a strong call for sensitization and training programs for medical staff to handle cases with dignity and respect. The paper suggests setting up exclusive help desks or transgender-friendly clinics to improve access. It also highlights how the medical system often fails to consider the trauma many transgender individuals face due to repeated exclusion. Administrative delays, lack of awareness, and complicated procedures for gender certificates further limit their ability to benefit from welfare schemes. The absence of a rights-based approach in health policy leads to further marginalization. The author argues that transgender voices should be included in policymaking to ensure the services truly meet their needs. Without meaningful inclusion, reforms risk becoming symbolic rather than effective. The need for consistent funding, monitoring, and community engagement is underlined throughout. The paper concludes by urging a shift from a tokenistic approach to a more affirmative, inclusive, and rights-based healthcare model. It points out that creating safe, accessible, and affordable health services is a crucial step toward social justice. Ultimately, this work stresses that the health rights of transgender persons must be treated as a serious public policy issue, not as an afterthought.

5. *Experiences of Transgender Persons in Accessing Routine Healthcare Services in India: Findings from a Participatory Qualitative Study*⁸This paper investigates the

⁸ Raghuram H, et al., Experiences of Transgender Persons in Accessing Routine Healthcare Services in India:

experiences of transgender individuals in accessing routine healthcare services in India, highlighting the systemic challenges they face and the urgent need for comprehensive healthcare policies that address their unique needs. Employing a community-based participatory research method informed by an intersectionality framework, the paper brings forward the voices and lived realities of transgender people. The thematic analysis reveals four key themes. First, transgender individuals face intersectional challenges in accessing healthcare, beginning outside the health system with societal stigma and continuing within cisgender-binary-normative healthcare environments that often exclude or misunderstand them. Second, these barriers have a negative impact on individuals' health, leading to worsened conditions, reliance on self-medication or alternative therapies, and increased mental health issues like anxiety and gender dysphoria. Third, transgender persons often have to navigate complex obstacles at multiple levels – individual, health system, and societal – sometimes resorting to unsafe or uncomfortable methods just to receive basic healthcare. Finally, the study stresses the importance of expanding healthcare conversations from limited topics like HIV and gender-affirmative procedures to include routine, general healthcare services that recognize the broader health burdens faced by the transgender community. This research fills a critical gap by focusing on diverse gender identities within the transgender population and their access to general healthcare, rather than just specialized services. It underscores the necessity for healthcare systems to move beyond rigid binary gender norms and adopt inclusive, sensitive practices that respect and meet the varied needs of transgender individuals. The paper calls for the creation and enforcement of comprehensive healthcare policies that dismantle structural discrimination, train healthcare providers in gender sensitivity, and ensure equitable access for all transgender persons. By doing so, the study highlights a pathway toward improving health outcomes, reducing disparities, and fostering dignity and respect within healthcare settings. Ultimately, it advocates for systemic changes that will allow transgender individuals to access healthcare without fear of discrimination, stigma, or exclusion, supporting their right to health as a fundamental human right.

6. *Transgenders in India*⁹-the book mainly focuses on the discrimination faced by the transgender community, highlighting several critical aspects. The cultural critique in

Findings from a Participatory Qualitative Study, 4 PLOS Glob. Public Health e0002933 (2024), <https://doi.org/10.1371/journal.pgph.0002933>.

⁹ Veerendra Mishra, *Transgenders in India: An Introduction* (Routledge India, 2024).

“Transgenders in India” addresses the representation and treatment of transgender individuals within Indian society by examining several key elements. It explores how historical texts, particularly Hindu scriptures, have shaped societal perceptions, often marginalizing or misrepresenting the community, which contributes to ongoing discrimination and stigma. The book also discusses the portrayal of transgender individuals in media and popular culture, highlighting how these representations can reinforce stereotypes and perpetuate negative attitudes, thus emphasizing the need for more accurate and positive depictions. Additionally, it debunks prevalent cultural myths surrounding transgender identities, arguing that these misconceptions contribute to societal discrimination and advocating for a more inclusive understanding of transgender lives. The critique delves into the social norms and values that underpin discrimination, illustrating how traditional views on gender and sexuality can lead to exclusion and violence, and calls for a revaluation of these norms to promote acceptance and equality. Furthermore, it incorporates an intersectional perspective, analysing how various identities, such as class, race, and religion, intersect to influence the experiences of transgender individuals, underscoring the complexity of discrimination and the necessity for nuanced solutions that address multiple layers of identity. The author has tried to illuminate the systemic issues contributing to discrimination against transgender individuals, advocating for a shift in societal attitudes and practices to foster greater acceptance and understanding

7. ***Exploring Vedic Traditions and Law: Creating a Holistic Education System for Transgender Inclusivity in India***¹⁰The paper highlights several significant challenges that transgender individuals encounter in India, despite the legal advancements aimed at protecting their rights. One major issue is societal stigma, which leads to discrimination in areas like employment and healthcare, often resulting in social isolation and mental health struggles. The paper highlights that access to essential services remains limited, as many transgender people encounter discrimination from medical professionals and educational institutions that lack supportive policies. The current educational framework often overlooks transgender issues, failing to include their perspectives, which perpetuates ignorance and prejudice. Furthermore, while laws like the Transgender Persons (Protection of Rights) Act, 2019, exist, their

¹⁰ Rashmi Pradhan, Exploring Vedic Traditions and Law: Creating a Holistic Education System for Transgender Inclusivity in India, 6 IJFMR 1, 1 (2024), <https://doi.org/10.36948/ijfmr.2024.v06i04.26215>.

implementation is often weak, leaving many unaware of their rights or facing bureaucratic obstacles. Overall, these challenges highlight the need for a more inclusive approach that combines legal protections with societal acceptance and educational reforms.

8. ***Recognition, citizenship and rights: the dilemma of India's gender non-conforming communities in the light of the Transgender Persons (Protection of Rights) Act***¹¹-The paper primarily discusses the complexities surrounding recognition, citizenship, and rights for India's gender non-conforming communities, particularly in the context of the Transgender Persons (Protection of Rights) Act 2019. It emphasizes that citizenship is not merely a legal status but a practice deeply intertwined with individual identities and rights, influencing their sense of belonging and participation in society. The author critically analyses the TG Act, questioning whether it truly provides transgender individuals with the citizenship that ensures representation and equality. The paper highlights the notion that exclusion extends beyond economic and social deprivation; it also encompasses the denial of voice and the right to be unique. Furthermore, it raises important questions about the nature of recognition afforded to transgender individuals and whether the Act allows them to live as equal members of society rather than as subjects of "othering". Ultimately, the conclusion drawn is that recognition transcends citizenship and identity rights; it embodies the fundamental right to be different yet equal in society. The article suggests that true recognition involves not just legal acknowledgment but also the societal acceptance of diversity, advocating for a more inclusive understanding of citizenship that honors the uniqueness of every individual.

¹¹ Ankita Chakrabarti & Bhaswati Das, Recognition, Citizenship and Rights: The Dilemma of India's Gender Non-Conforming Communities in the Light of the Transgender Persons (Protection of Rights) Act, 32 J. Gender Studies 694 (2023), <https://doi.org/10.1080/09589236.2023.2246123>.

1.9. CHAPTERIZATION

1. INTRODUCTION

This chapter defines the scope of the study with special emphasis on transgender healthcare rights and access within the Indian legal framework. It discusses the scope and objectives of the study, formulates the research hypothesis, and outlines the doctrinal research methodology employed to analyze relevant statutes, judicial pronouncements, and policy documents related to transgender healthcare.

2. LEGAL FRAMEWORKS AND DISCRIMINATION AGAINST TRANSGENDER INDIVIDUALS IN INDIA

This chapter analyses the legal frameworks established to prevent discrimination against transgender individuals, with particular emphasis on the Transgender Persons (Protection of Rights) Act, 2019. It critically examines the discrimination faced by transgender persons across various spheres of life, including access to healthcare. The chapter further explores key judicial interpretations that have shaped the legal landscape in these areas, providing a doctrinal understanding of both the protections afforded and the challenges encountered in their enforcement.

3. ACCESS TO HEALTHCARE FOR TRANSGENDER INDIVIDUALS IN INDIA: LEGAL PROVISIONS AND GROUND REALITIES

This chapter examines the legal foundations of healthcare rights for transgender individuals, with a focus on constitutional protections and statutory developments at both national and international levels. It critically analyses the Transgender Persons (Protection of Rights) Act, 2019, particularly in the context of healthcare-related rights and anti-discrimination mandates within medical settings. The chapter further explores the disconnect between legal entitlements and the actual treatment of transgender persons in healthcare institutions. It highlights the systemic challenges in the transgender healthcare services.

4. STRUCTURAL BARRIERS AND SYSTEMIC GAPS IN TRANSGENDER HEALTHCARE ACCESS IN INDIA: A CRITICAL ANALYSIS OF POLICY AND PRACTICE

This chapter examines transgender healthcare policies at both the national and state levels, with a focus on their scope, design, and intended impact. It critically analyses the gaps in implementation that persist despite the existence of a legislative and policy framework aimed at ensuring equitable healthcare access for transgender individuals. The chapter also reviews judicial pronouncements that have clarified the scope of the State's responsibility to ensure

non-discriminatory access to healthcare for transgender individuals. By assessing policy execution and judicial directions, this chapter highlights the structural and systemic challenges that undermine the realization of inclusive healthcare for the transgender community in India.

5. GLOBAL APPROACHES TO TRANSGENDER HEALTHCARE: COMPARATIVE INSIGHTS AND LESSONS FOR INDIA

This chapter examines how countries such as Argentina, Brazil, Canada, Spain and Sweden have developed their healthcare systems to meet the needs of transgender individuals. It looks into the availability and delivery of gender-affirming care, the role of public health funding, the inclusion of mental health services, protections against discrimination in medical settings, and the broader institutional support structures. By studying these international practices, the chapter aims to draw meaningful insights for India to strengthen its own approach to transgender healthcare, particularly in terms of accessibility, affordability and overall quality.

6. SUGGESTIONS AND CONCLUSION

This chapter synthesizes the findings of the study and reflects on the persistent gaps in the legal and healthcare systems with respect to transgender individuals in India. It identifies core areas of concern such as implementation failures, lack of medical sensitization, and the inadequacy of current welfare mechanisms. The chapter also offers focused legal and policy suggestions, informed by both domestic challenges and international best practices. It emphasizes the need for inclusive public health planning, participatory policymaking, and structural reforms to ensure that the right to healthcare is meaningfully realized by the transgender community.

CHAPTER II- LEGAL FRAMEWORKS AND DISCRIMINATION

AGAINST TRANSGENDER INDIVIDUALS IN INDIA

2.1 INTRODUCTION

In India, people of the transgender community have suffered long from institutional discrimination, violence, and exclusion, which in turn hampers their access to opportunities and basic rights. Even with guaranteed legal equality and dignity, various forms of bias and systemic barriers out there discriminate against this particular group and hinder their socioeconomic and political participation.

Since ancient times, transgender individuals such as hijras, kothis, aravanis and jogappas have occupied specific social and religious positions within India. Nonetheless, during British colonial rule, the Criminal Tribes Act of 1871 was enacted, classifying certain communities, including transgender people, as ‘criminals by birth’¹². This resulted in transgender persons being socially outcast and economically impoverished. While the Act was repealed in 1949, its effects are still remained today which causes discrimination in aspects like education, employment, healthcare, and housing.

In the past few years, there have been some major changes to the laws surrounding transgender rights in India. A key moment can be seen the case of *National Legal Services Authority (NALSA) v. Union of India*¹³ in 2014. The Supreme Court held that transgender individuals have the right to choose their own gender and ordered the government to take steps to include them in society. As a result of this significant ruling, the Transgender Persons (Protection of Rights) Act was enacted in 2019.

Even with these legal reforms, there remain issues in implementing the law. Transgender persons are often subjected to violence, social stigma, and discrimination when they try to access public services, and when they encounter difficulties in acquiring identity documents that align with their gender identity. These issues are made worse by unclear anti-discrimination legislation and inadequate training for government and law enforcement personnel. Furthermore, the community remains at a disadvantage because the *Transgender Persons (Protection of Rights) Act, 2019* does not adequately address significant issues like reservations in employment and education. Additionally, the absence of legal recognition for

¹² 2 FREDERICK POLLOCK & FREDERIC WILLIAM MAITLAND, THE HISTORY OF ENGLISH LAW 205-06 (2d ed. 1911).

¹³ National Legal Services Authority v. Union of India, (2014) 5 SCC 438 (India).

transgender marriages, inheritance rights, and adoption only deepens their exclusion from mainstream society.

One particularly critical yet overlooked area is healthcare. Although the right to health is constitutionally protected, transgender persons often experience serious discrimination in hospitals and clinics, where they may be denied services, misgendered, or subjected to humiliation. Gender-affirming care and mental health support are rarely available, and where they exist, they are often unaffordable or poorly regulated. These challenges reflect how social stigma intersects with institutional neglect, making even the most basic healthcare inaccessible for many transgender individuals.

This chapter examines the legal frameworks that aim to protect transgender persons from discrimination. It explores constitutional provisions, landmark judicial rulings, and the scope and shortcomings of the Transgender Persons (Protection of Rights) Act, 2019. It also draws attention to the various forms of discrimination that persist in different sectors of life and the enforcement failures that continue to undermine the full realization of transgender rights in India.

2.2 CONSTITUTIONAL PROTECTIONS AND JUDICIAL DEVELOPMENTS

The fundamental rights outlined in the Indian constitution protect citizens from discrimination and ensure equality. While the Constitution doesn't explicitly mention transgender individuals, there are several interpretive sections that help safeguard their rights. Important constitutional provisions and court rulings have played a crucial role in advancing the recognition and rights of transgender individuals.

2.2.1 Constitutional Provisions

Several constitutional provisions provide a foundation for transgender rights:

- i. **Article 14 (Right to Equality)¹⁴:** Ensures that every individual is treated equally before the law and has the right to equal protection of law. The Supreme Court has affirmed that this right applies to transgender people, barring gender discrimination.
- ii. **Article 15 (Prohibition of Discrimination)¹⁵:** prohibits discrimination on the basis of caste, sex, religion, race, or birthplace. Transgender people are now protected from discriminatory behaviors because courts have construed “sex” to encompass gender identity.

¹⁴ India Const. art. 14.

¹⁵ India Const. art. 15

- iii. **Article 19 (Freedom of Expression)**¹⁶: enables transgender people to express their gender identification without fear of repression by guaranteeing freedom of speech and expression.
- iv. **Article 21 (Right to Life and Personal Liberty)**¹⁷: Encompasses the right to dignity, privacy, and autonomy. The Supreme Court has recognized that the right to self-identify one's gender falls within the ambit of Article 21.

2.2.2 Landmark Judicial Pronouncements

1. In *NALSA v. Union of India (2014)*¹⁸ The Supreme Court recognized the right of transgender individuals to determine their own gender identity as male, female, or transgender without the need for medical or surgical procedures. The Court held that gender identity is a core aspect of personal autonomy and dignity, protected under Articles 14, 15, 19, and 21 of the Constitution. Justice K.S. Radhakrishnan emphasized that *“each person’s self-defined sexual orientation and gender identity is integral to their personality and is one of the most basic aspects of self-determination, dignity, and freedom, and no one shall be forced to undergo medical procedures, including SRS, sterilization, or hormonal therapy, as a requirement for legal recognition of their gender identity.”*¹⁹ The Court further ruled that discrimination based on gender identity is unconstitutional, stating that *“gender identity, in our view, is an integral part of sex and no citizen can be discriminated on the ground of gender identity, including those who identify as third gender.”*²⁰ The government was instructed to officially recognize transgender individuals, offer educational and job reservations, guarantee access to healthcare, and roll out welfare initiatives for the transgender community. This landmark decision marked a significant shift in the fight for transgender rights, paving the way for legal recognition and protections for this community in India.

2. In *Justice K.S. Puttaswamy v. Union of India (2017)*²¹, the Supreme Court unanimously held that the right to privacy is a fundamental right guaranteed by Articles 14, 19, and 21 of the Constitution. The conflict began when retired Justice K.S. Puttaswamy questioned the constitutional validity of the Aadhaar project, arguing that the collection and storage of personal and biometric data infringed on individual privacy rights. The Court highlighted that privacy is essential to human dignity and personal freedom, safeguarding a person's decisions

¹⁶ India Const. art. 19.

¹⁷ India Const. art. 21

¹⁸ *ibid*

¹⁹ *ibid*

²⁰ *ibid*

²¹ *Justice K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1 (per Chandrachud, J., concurring) (India).

regarding intimate issues like marriage, family planning, and sexual orientation.

The judgment cited *NALSA v. Union of India* to emphasize the importance of privacy in promoting equality and dignity. It also criticized the *Suresh Kumar Koushal v. Naz Foundation (2013)*²² decision, which upheld the criminalization of same-sex relationships under Section 377 IPC, claiming that discrimination based on sexual orientation is unconstitutional and that fundamental rights cannot be denied based on majority opinion. This case is very important not just because it upheld the right to privacy, but also it recognized LGBTQ+ rights, laying the groundwork for subsequent ruling that decriminalized homosexuality in India.

3. In *Navtej Singh Johar v. Union of India (2018)*²³ case, the Supreme Court decriminalized same-sex relations between consenting adults by modifying Section 377 of the IPC. The Court held that Section 377, which criminalized sexual acts “*against the order of nature*,” was unconstitutional because it infringed fundamental rights guaranteed by Articles 14 (equality), 19 (freedom of expression), and 21 (right to life and personal liberty). The decision highlighted that consensual same-sex relationships between adults could not be criminalized because they were an expression of personal liberty and dignity.

Chief Justice Dipak Misra, in his judgment held that “*Bigoted and homophobic attitudes dehumanize the 153 transgenders by denying them their dignity, personhood and above all, their basic human rights. It is important to realize that identity and sexual orientation cannot be silenced by oppression. Liberty, as the linchpin of our constitutional values, enables individuals to define and express their identity and individual identity has to be acknowledged and respected. The very existence of Section 377 IPC criminalising transgenders casts a great stigma on an already oppressed and discriminated class of people. This stigma, oppression and prejudice has to be eradicated and the transgenders have to progress from their narrow claustrophobic spaces of mere survival in hiding with their isolation and fears to enjoying the richness of living out of the shadows with full realization of their potential and equal opportunities in all walks of life. The ideals and objectives enshrined in our benevolent Constitution can be achieved only when each and every individual is empowered and enabled to participate in the social mainstream and in the journey towards achieving equality in all spheres, equality of opportunities in all walks of life, equal freedoms and rights and, above all, equitable justice. This can be achieved only by inclusion of all and exclusion of none from the*

²² Suresh Kumar Koushal v. Naz Foundation, (2014), AIR 2014 SC 563

²³ Navtej Singh Johar v. Union of India, (2018) 10 SCC 1 (per Chandrachud, J., concurring) (India).

mainstream.”²⁴

2.3 TRANSGENDER PERSONS (PROTECTION OF RIGHTS) ACT, 2019

The Transgender Persons (Protection of Rights) Act, 2019 is a landmark legislation in India designed to safeguard the rights and well-being of transgender individuals²⁵. Enacted on December 5, 2019, the Act seeks to eliminate discrimination against transgender persons and ensure their full participation in society.

The Act defines a transgender person under Section 2(k)²⁶ as someone whose gender does not match the gender assigned at birth. This includes trans-men, trans-women, persons with intersex variations, genderqueer individuals, and those with socio-cultural identities such as hijras, aravanis, and jogtas. While this broad definition strives to be inclusive, it doesn't quite manage to clearly differentiate between transgender identity and intersex conditions, which are actually two separate concepts. Moreover, Section 4²⁷ grants transgender persons the right to self-perceived gender identity. While it's important to have legal recognition of this identity, the need for an official certification process can lead to worries about excessive government control over personal identity issues.

To combat discrimination, Section 3²⁸ of the Act clearly prohibits any unfair treatment of transgender individuals across various areas, such as education, employment, healthcare, access to public spaces, and the right to live in homes. It guarantees that transgender people won't be denied opportunities because of their gender identity and requires equal access to public goods and services. However, even with these legal protections in place, social stigma and institutional bias still lead to discrimination, especially in workplaces and schools. The lack of strict enforcement measures further diminishes the effectiveness of this provision.

For legal recognition, Section 5²⁹ states that the transgender individuals are required to apply to the District Magistrate for a certificate of identity. This certificate acts as official proof of their gender. Once it has been verified, the certificate will be issued under Section 6³⁰, which officially recognizing them as a transgender individual. If an person undergoes medical procedures to affirm their gender, they are required to apply for a revised certificate under Section 7³¹. This certification process has faced heavily criticism for undermining the concept

²⁴ Navtej Singh Johar v. Union of India, (2018) 10 SCC 1, 248-249 (India) (Misra, C.J.).

²⁵ Shruti Jain, Pride Month 2020: Evaluating the Transgender Persons Act, 2019, ORF Expert Speak (June 25, 2020, 10:00 AM), <https://www.orfonline.org/expert-speak/pride-month-2020-68965/>.

²⁶ Transgender Persons (Protection of Rights) Act, 2019, § 2(k).

²⁷ Transgender Persons (Protection of Rights) Act, 2019, § 4

²⁸ Transgender Persons (Protection of Rights) Act, 2019, § 3

²⁹ Transgender Persons (Protection of Rights) Act, 2019, § 5

³⁰ Transgender Persons (Protection of Rights) Act, 2019, § 6

³¹ Transgender Persons (Protection of Rights) Act, 2019, § 7

of self-identification and erecting bureaucratic barriers that restricting transgender individuals from exercising their rights freely. Instead of a simple self-declaration process, the Act subjected them to administrative examination, which goes against the spirit of the NALSA v. Union of India decision.

In addition to protective measures, Section 18³² of the Act criminalizes offenses against transgender persons, including forced/bonded labor, denial of access to public spaces, eviction from households or villages, and different types of abuse including physical, sexual, verbal, emotional, and economic. These charges can result in prison sentences ranging from six months to two years, along with monetary fines. However, compared to the punishments faced by cisgender individuals, especially in cases of sexual violence, they appear quite lenient. This disparity in legal protection has led to calls for stricter laws to address gender-based violence against transgender individuals.

The Act also mandates welfare measures under Section 8³³, requiring the government to take steps for the full and effective participation of transgender persons in society. This involves creating welfare programs, ensuring that healthcare services like gender-affirming surgeries and hormone therapy are accessible, promoting inclusive education, and boosting social security benefits. However, the Act falls short by not including provisions for job and educational reservations, which are crucial for the socioeconomic progress of transgender individuals. Without these affirmative action measures, many transgender people struggle to secure stable employment, often pushing them into marginalized sectors such as begging and sex work.

To oversee policy implementation, Section 16³⁴ deals with the establishment of the National Council for Transgender Persons (NCTP), which is mainly responsible for advising the government on policies, monitoring the impact of programs, and addressing grievances related to transgender rights. Under Section 17³⁵, the council is responsible for coordinating activities across departments and ensuring the effective implementation of the rights guaranteed by the Act. However, since the council doesn't have the power to enforce these rights, its role is mainly advisory, which means it can't hold authorities accountable for any violations of transgender rights.

³² Transgender Persons (Protection of Rights) Act, 2019, § 18

³³ Transgender Persons (Protection of Rights) Act, 2019, § 8

³⁴ Transgender Persons (Protection of Rights) Act, 2019, § 16

³⁵ Transgender Persons (Protection of Rights) Act, 2019, § 17

2.4 SHORTCOMINGS OF THE TRANSGENDER PERSONS (PROTECTION OF RIGHTS) ACT, 2019

1. **Infringement on the Right to Self-Perceived Gender Identity:** According to the Act, transgender people must get a certificate of identity from a District Magistrate in order for their gender to be acknowledged. The Supreme Court's decision in *NALSA v. Union of India (2014)*³⁶, which upheld the right to self-identify one's gender without administrative or medical interference, is essential for personal dignity and freedom. However, the bureaucratic certification process contradicts this right. Many transgender individuals have faced intrusive questioning and harassment during this procedure, making them feel disrespected and undermining their autonomy.
2. **Compulsory Medical Procedures for Gender Recognition:** Although the Act permits self-declaration of transgender identity, persons who wish to be recognized as male or female must have gender-affirming surgery and have medical documentation. This goes against the autonomy of the body and forces patients to have medical procedures that they may not want. In *Arunkumar v. Inspector General of Registration (2019)*,³⁷ the Madras High Court noted that self-identification should not necessitate medical intervention, yet the Act imposes such conditions.
3. **Absence of Affirmative Action in Education and Employment:** Transgender people are not guaranteed reservations in educational institutions or government posts under the Act. The exclusion contradicts the NALSA judgment's orders, which defined transsexual people as a socially and educationally disadvantaged class for the purposes of affirmative action. Activists like Grace Banu, a Dalit transwoman, have shown how the exclusion to provide for such reservations is a perpetuation of structural discrimination and suppression of socio-economic mobility³⁸.
4. **Economic Marginalization and Lack of Social Security:** The Act does not address transgender people's economic vulnerabilities, which include unemployment and homelessness owing to societal stigma. The Telangana High Court, in *Vyjayanti*

³⁶ *ibid*

³⁷ *Arunkumar v. Inspector General of Registration*, (2019) SCC OnLine Mad 8779 (India).

³⁸ Aditya Tiwari, Meet Dalit Transgender Activist Grace Banu, Who Campaigns for Reservations for Transgender People, Scroll.in (Sept. 26, 2023, 8:30 AM), <https://scroll.in/article/1055658/meet-dalit-transgender-activist-grace-banu-who-campaigns-for-reservations-for-transgender-people>.

Vasanta Mogli v. State of Telangana (2023)³⁹, while recognizing these challenges, the court directed the government to provide social welfare schemes for transgender individuals. However, since the Act lacks provisions for nationwide support, many transgender people are left without the essential assistance they need.

5. **Limited Representation in Policy-Making Bodies:** The National Council for Transgender Persons, established under the Act, is primarily made up of government nominees with very less representation from the transgender community. The composition inhibits the council's capacity to work effectively toward solving the genuine concerns of transgender persons and formulating policies based on their own life experience.

2.5 DISCRIMINATION FACED BY TRANSGENDER INDIVIDUALS IN INDIA

Even with the legal advancements, transgender individuals in India continue to face pervasive discrimination across various aspects of life, including education, employment, healthcare, and public services. This systemic marginalization often results in social exclusion, economic hardship, and significant barriers to accessing essential resources and opportunities.

2.5.1 Discrimination in Legal Recognition of Change in Name & Gender

Transgender individuals in India face significant challenges when trying to change their name and gender on official documents such as birth certificates, passports, Aadhaar cards, PAN cards, and educational records. Despite legal provisions intended to facilitate this process, many encounter systemic obstacles that hinder their ability to obtain accurate identification, leading to widespread discrimination and marginalization.

The *Transgender Persons (Protection of Rights) Act, 2019*, under Section 7(3)⁴⁰ allows transgender persons to update their name and gender on official documents with a transgender identity certificate. However, many struggle to exercise this right due to uncooperative or uninformed government officials, causing unnecessary delays and outright refusals. As a result, many are left with no choice but to go to court, facing long and exhausting legal battles that take a toll both emotionally and financially.

The lack of proper identification has far-reaching consequences. Without documents that reflect their true identity, transgender individuals face barriers in accessing essential services such as healthcare, education, and employment. For instance, educational institutions may

³⁹ Vyjayanti Vasanta Mogli v. State of Telangana, (2023) SCC OnLine TS 4557 (India).

⁴⁰ Transgender Persons (Protection of Rights) Act, 2019, § 7(3)

refuse to amend certificates, leading to discrepancies that hinder job prospects. Employers, in turn, may be reluctant to hire individuals whose documents do not align with their presented gender, perpetuating cycles of poverty and exclusion.

These challenges are made even worse by deep-rooted social stigma. Transgender individuals often face discrimination and violence in public spaces, and not having proper identification leaves them even more vulnerable to harassment by both authorities and the public. Many avoid going through the complicated legal process out of fear of mistreatment, forcing them to remain invisible and excluded from society.

In some cases, individuals have shared their lived experiences to highlight these systemic issues. For example, the documentary “India’s 1st Best Trans Model Agency”⁴¹ sheds light on the struggles of transgender individuals in the fashion industry, emphasizing the broader societal challenges they face, including legal recognition and acceptance. Transgender sex workers have taken the initiative to educate truck drivers about HIV/AIDS prevention, showing their commitment to spreading awareness and breaking stigma. Despite facing legal and social challenges, they continue to push for understanding and better healthcare access within their communities.

Addressing these issues requires not only legal reforms but also a concerted effort to sensitize government officials and the public. Streamlining the process for legal recognition, providing clear guidelines to authorities, and implementing awareness campaigns can help reduce the discrimination faced by transgender individuals. Empowering the community through education and employment opportunities, coupled with societal acceptance, is essential for fostering an inclusive environment where transgender persons can live with dignity and respect. In the case of *Mulla Faizal v. State of Gujarat*⁴², the Gujarat High Court dealt with the issue of correcting gender designation in official records. The appellant, born with ambiguous genitalia, was initially registered as female. Medical evaluations later confirmed his male identity, and he underwent surgeries to align his physical characteristics accordingly. When he tried to update his birth certificate to reflect his male gender, officials refused, claiming that the law did not allow such a change. The High Court ruled in Favor of the appellant, stating that under Section 15 of the Registration of Births and Deaths Act, 1969, and Rule 12 of the associated rules, registrars are obligated to correct erroneous entries in birth records. The court emphasized that this correction was not a matter of sex change but a rectification of an initial

⁴¹ India's 1st Best Trans Model Agency (Vox 2022).

⁴² *Mulla Faizal v. State of Gujarat*, (2000) 2 GLR 1553 (per Abichandani, J.) (India)

misidentification due to congenital conditions. This landmark decision underscored the legal responsibility to acknowledge and correct gender misassignments in official documents, especially in cases involving intersex individuals

In *Vihaan Peethambar v. Manipal University and Others*⁴³, the Karnataka High Court upheld the right of a transman to change his name and gender in his degree certificate. The university had denied his request, arguing that applications for such changes should be made within a short period. The Court rejected this reasoning, stating that the petitioner had already updated his name and gender in other official records, including his bachelor's degree certificate. Referring to the *NALSA* judgment and the *Christina Lobo* case⁴⁴, the Court affirmed that the right to legal recognition of gender identity is protected under Article 21. It directed the university to process the request within four weeks and emphasized that educational institutions should handle similar applications without forcing individuals to seek judicial intervention.

The Bombay High Court in *Myra Grace Bandikalla v. Airport Authority of India & Ors*⁴⁵, reaffirmed the right to self-identification for transgender persons, ruling that sex reassignment surgery (SRS) is not a prerequisite for gender recognition. The petitioner, a transwoman and an Air Traffic Controller, sought to update her name and gender in employment records and obtain a No Objection Certificate (NOC) for a passport, which her employer denied, arguing that she had not undergone SRS. The Court also held that gender identity is a matter of self-determination and that no one can be compelled to undergo medical procedures for legal recognition. It granted ad-interim relief, directing the respondents to update her records and issue the required documentation. This decision establishes that employers cannot mandate SRS or medical examinations for recognizing a transgender person's identity.

2.5.2 Discrimination in Education

Transgender individuals in India face systemic barriers to education, beginning at the primary level and continuing into higher education. Widespread discrimination, bullying, and lack of institutional support contribute to high dropout rates, depriving them of opportunities for academic and professional growth. Studies, including the UNESCO report on school bullying in Tamil Nadu, indicate that 84% of LGBTQIA+ students face harassment, with 20% reporting mistreatment from teachers⁴⁶. In such an unwelcoming environment, many transgender

⁴³ *Vihaan Peethambar v. Manipal Univ.*, WP No. 12606 of 2023, 2024:KHC:574 (Karn. HC Jan. 5, 2024).

⁴⁴ *Christina Lobo v. State of Karnataka*, MANU/KA/3968/2020 (India)

⁴⁵ *Myra Grace Bandikalla v. Airport Authority of India & Ors.*, MANU/MH/4127/2018 (India).

⁴⁶ New Study on Bullying Based on Sexual Orientation and Gender Identity in Schools in Tamil Nadu, India, UNESCO (Jan. 26, 2024), <https://www.unesco.org/en/articles/new-study-bullying-based-sexual-orientation-and-gender-identity-schools-tamil-nadu-india>.

students are forced to drop out of school, leaving them struggling with financial insecurity and social isolation.

One of the key challenges is the absence of gender-inclusive policies in educational institutions. Many schools and colleges fail to acknowledge transgender identities, leading to difficulties in admission, documentation issues, and a lack of gender-neutral facilities. The absence of gender-sensitive curriculums and teacher training further perpetuates bias and exclusion. Moreover, rigid dress codes, lack of appropriate hostel facilities, and social stigma discourage transgender individuals from continuing their education.

The Transgender Persons (Protection of Rights) Act, 2019, attempts to address these issues by prohibiting discrimination under Section 3 and mandating inclusive education under Section 13. However, its implementation remains ineffective, with most institutions failing to adopt affirmative measures. The historic NALSA judgment (2014) upheld the right of transgender individuals to self-identify their gender and instructed the government to provide them with reservations in education, acknowledging their social and educational disadvantages. However, despite this ruling, no formal reservation policies have been implemented, leaving many transgender students without the support they need to access education and opportunities.

Further, the lack of fee concessions and financial aid schemes tailored to transgender students makes higher education inaccessible for many. Unlike other marginalized communities, transgender individuals do not receive adequate scholarships or relaxation in admission criteria, which could help bridge the educational gap.

In *Tharika Banu v. Health & Family Welfare Department (2017)*⁴⁷, the Madras High Court granted relief to a transgender petitioner who was denied admission to a BSMS course for failing to meet the qualifying marks by a small margin. The Court held that the admission criteria, which specified minimum marks for “males” and “females,” failed to consider transgender applicants. It directed the authorities to admit Tharika Banu and criticized the government for not implementing the Supreme Court’s directive on reservations for transgender persons. The judgment reinforced the need for affirmative action in education and called for a survey of transgender individuals to ensure access to government welfare schemes. In *Mx. Sumana Pramanik v. Union of India & Ors*⁴⁸, The Calcutta High Court intervened in the case of transgender exclusion in the Joint CSIR-UGC NET exam, where there were no provisions for reservations, age relaxations, or fee concessions. The court ruled that denying

⁴⁷ S. Tharika Banu v. The Secretary to Government, Health and Family Welfare Department & Ors., MANU/TN/4046/2017 (India).

⁴⁸ Mx. Sumana Pramanik v. Union of India & Ors., MANU/WB/0053/2021 (India).

these benefits violated the fundamental rights to equality and dignity under Articles 14 and 21 of the Constitution. It emphasized that transgender individuals should receive the same benefits as other reserved categories and ordered authorities to implement these provisions immediately, reinforcing the need for affirmative action in education to ensure equal opportunities.

In the case of *Mugil Anbu Vasantha v. State of Karnataka & Others*⁴⁹, the Karnataka High Court addressed the denial of admission to a transgender individual by the National Law School of India University (NLSIU) for its 3-year LL.B. program. In August 2023, the court issued an interim order instructing NLSIU to provisionally admit the petitioner, stressing that denying admission based on gender identity goes against the principles of equality and non-discrimination in the Constitution. Later, in December 2024, the High Court directed NLSIU to introduce a 0.5% reservation for transgender students in its admissions, in line with the Supreme Court's NALSA judgment. Additionally, the court ordered the university to waive fees for transgender students admitted under this quota and suggested that NLSIU seek financial support from the state or central government to sustain the initiative.

In the case of *Rakshika Raj v. State of Tamil Nadu*⁵⁰, the Madras High Court dealt the issue of reservation for transgender individuals. A transgender nurse challenged a government order in Tamil Nadu that placed transgender individuals under the Most Backward Class (MBC) category, treating their identity as a caste rather than recognizing it as a gender. The court ruled that this classification was unfair and violated the constitutional principles of equality. It directed the state government to introduce a 1% horizontal reservation for transgender persons in education and public employment, ensuring they are acknowledged for who they are and given fair opportunities for representation and inclusion.

Even with legal protections and favorable court rulings, transgender individuals in India continue to face significant obstacles in accessing education. Many schools and colleges fail to adopt inclusive policies, making admission and necessary support difficult. While courts have acknowledged their right to education and recommended reservations, the absence of a nationwide policy leaves many without real opportunities. Financial struggles, lack of mental health resources, and social stigma push many transgender students to drop out. Real progress requires schools and universities to actively implement inclusive policies, offer financial and emotional support, and foster a safe, welcoming environment. Raising public awareness and

⁴⁹ *Mugil Anbu Vasantha v. State of Karnataka & Others*, W.P. No. 14909 of 2023(India).

⁵⁰ *Rakshika Raj v. State of Tamil Nadu & Others*, W.P. No. 6967 of 2022, MANU/TN/3176/2024 (India).

sensitizing communities is equally important in combating discrimination. Without meaningful policy changes and broader social acceptance, transgender individuals will remain at a disadvantage in the education system.

2.5.3 Discrimination in Employment

Transgender individuals in India face many challenges when looking for jobs. Many employers do not want to hire them because of social stigma, prejudice, or a lack of awareness. Even when transgender people get jobs, they often face harassment, lower wages, and fewer chances for promotion. A study by the National Human Rights Commission (NHRC) found that many transgender individuals are forced to work in low-paying or informal jobs because they are not given fair opportunities in regular workplaces.

The Transgender Persons (Protection of Rights) Act, 2019, says that employers cannot discriminate against transgender people and must give them equal job opportunities. However, most companies do not have policies to support transgender employees, and the law is not strongly enforced. Courts have recognized their right to fair employment in several cases.

Many transgender applicants are unable to apply for government jobs because recruitment processes do not recognize their gender identity. In some instances, transgender candidates have been dismissed from service even after being selected, solely based on medical examinations. This unfair treatment has forced many to fight legal battles to secure their rightful place. Courts have intervened to uphold their rights, emphasizing that a person's gender identity should never be a reason for denying them employment. These rulings have reinforced the principle that every individual deserves equal opportunities, free from discrimination.

Another significant concern is the lack of reservation for transgender individuals in public employment. Although the Supreme Court ruled that transgender persons should be included as socially and educationally backward classes, this has not been fully implemented by the central or state governments. While vertical reservations (based on caste) have been proposed, the transgender community has demanded horizontal reservations so that their caste identity is also considered. Karnataka is the only state to provide 1% horizontal reservation for transgender persons in public jobs⁵¹. Many High Courts have directed state governments to implement reservations, but most have failed to act on these orders. Without concrete steps, transgender individuals continue to face barriers to equal employment opportunities.

⁵¹ Mihir Rajamane, Horizontal Reservations for Transgender Persons: Taking Intersectionality Forward, CLPR (Aug. 21, 2021), <https://clpr.org.in/blog/horizontal-reservations-for-transgender-persons-taking-intersectionality-forward>.

In *Shanavi Ponnusamy v. Ministry of Civil Aviation and Another*⁵², the Supreme Court of India examined the right to equal opportunity in public employment for transgender persons. The petitioner had applied for a cabin crew position in Air India under the female category but was not selected after failing to meet the minimum qualifying marks for the Scheduled Caste category. She filed a petition under Article 32 of the Constitution, claiming that she was subjected to discrimination solely because of her gender identity. The Court recognized that the case extended beyond the petitioner's individual grievance and highlighted the systemic discrimination faced by transgender persons in employment. Justice D.Y. Chandrachud, in his judgment, observed that *"Transgender persons routinely face multiple forms of oppression, social exclusion and discrimination, especially in the field of healthcare, employment and education. Gender diverse persons, including transgender persons, continue to face barriers in accessing equal employment opportunities, especially in the formal sector, due to the operation of gender stereotypes. Gender stereotypes in the workplace disproportionately impact transgender persons for not subscribing to societal norms about appropriate 'feminine' and 'masculine' appearances and mannerisms."*⁵³ Referring to *NALSA v. Union of India* and the *Transgender Persons (Protection of Rights) Act, 2019*, particularly Sections 9, 16, and 17, the Court underscored the State's obligation to prevent discrimination and ensure reasonable accommodation for transgender individuals in employment. As a result, the Court instructed the Central Government to work alongside the National Council for Transgender Persons to create a policy that promotes fair employment opportunities for transgender individuals in both public and private sectors. It emphasized the need for a framework that ensures equal treatment in hiring, promotions, and workplace policies. The Court also stressed the importance of consulting transgender communities and other stakeholders to develop a well-rounded and effective plan.

In *Atri Kar v. Union of India & Ors*⁵⁴, the issue was whether a transgender person could participate in SBI's recruitment process when the application form lacked a "third gender" option. The Calcutta High Court held that SBI, as an instrumentality of the State under Article 12, was bound by the *NALSA* judgment and could not discriminate against transgender persons. The Court ruled that denying a separate gender category violated Article 15 and directed SBI to allow Atri Kar to participate in the selection process, affirming that *NALSA*'s directions applied beyond just the Central and State Governments.

⁵² *Shanavi Ponnusamy v. Ministry of Civil Aviation & Anr.*, (2022) 10 SCC 1 (India).

⁵³ *Shanavi Ponnusamy v. Ministry of Civil Aviation & Anr.*, (2022) 10 SCC 1, ¶ 7 (India)

⁵⁴ *Atri Kar v. Union of India & Ors.*, (2017) W.P. No. 6151(W) of 2017 (India).

In *Manju v. State of Tamil Nadu*⁵⁵, The Madras High Court addressed whether a transgender applicant should receive concessions in the physical eligibility test for public employment. The petitioner, a trans woman, had applied for the position of police constable and successfully cleared the written exam. However, she was disqualified after failing to complete the 100-meter sprint within the required time. Arguing that transgender individuals face unique challenges, she sought a relaxation in the physical test criteria. The Court, however, ruled that the recruitment standards could not be altered and noted that the petitioner had already been granted the opportunity to compete under the women's category. It dismissed her petition, stating that no additional concessions were required. While this judgment did not favor the petitioner, subsequent rulings by the Madras High Court have taken a more progressive stance, acknowledging the need for special accommodations for transgender individuals in public employment.

In the case of *Subi K.V. v. Union of India and Others*⁵⁶, the Supreme Court of India addressed a Public Interest Litigation (PIL) concerning the reservation of transgender persons in public employment. The petitioner, Subi K.V., a transgender individual from Kerala, contended that despite the landmark judgment in *NALSA v. Union of India* (2014), which directed the government to consider the transgender persons as socially and educationally backward classes and extend reservations in educational institutions and public employment, there has been a lack of implementation in providing such reservations. The petitioner argued that this omission violates Articles 14 (Right to Equality), 19 (Protection of certain rights regarding freedom of speech, etc.), and 21 (Protection of Life and Personal Liberty) of the Indian Constitution. In response, the Supreme Court recognized the significance of the issue and sought answers from the Central Government, all States, and Union Territories. By issuing notices, the Court acknowledged the socio-economic hardships faced by the transgender community and emphasized the need for their inclusion in mainstream society. It highlighted the importance of affirmative action measures, such as reservations in public employment, to ensure equal opportunities and social justice for transgender individuals.

Even with legal protections and court rulings in place, transgender individuals continue to struggle for fair job opportunities. Deep-seated societal biases, lack of awareness, and poor enforcement of existing laws make discrimination a persistent issue. To bridge the gap between legal rights and real-world challenges, both public and private sectors must take active steps to

⁵⁵ *Manju Devi v. State of Rajasthan*, (2019) 6 SCC 203 (India).

⁵⁶ *Subi K.V. v. Union of India*, (2021) SCC OnLine Ker 3762 (India).

implement inclusive policies, provide necessary support systems, and create workplaces that respect and uphold the dignity of transgender employees.

2.5.4 -Discrimination in Marriage, Family, and Relationships

Transgender individuals in India continue to face significant challenges in marriage and adoption due to legal gaps and societal biases. Personal laws do not explicitly recognize their rights in these areas, making it difficult for them to marry or adopt children. As a result, many are denied the opportunity to build families, further deepening their marginalization. Without clear legal provisions, they are often left fighting for basic rights that others take for granted. Meaningful legal reforms and greater social acceptance are essential to ensuring that transgender individuals have the same opportunities to marry, adopt, and live with dignity.

In *Justice K.S. Puttaswamy v. Union of India*⁵⁷, the Supreme Court held that the right to marry and choose a partner is an essential part of the right to privacy. This judgment affirmed that individuals have the autonomy to make personal decisions regarding their intimate relationships without interference.

Building on this, in *Arunkumar & Other v. The Inspector General of Registration*, the Madras High Court ruled that the term 'bride' under the Hindu Marriage Act includes trans women, ensuring the right of transgender persons to marry according to their self-identified gender. Similarly, in the case *Shivani 'Shivy' Bhat v. State of NCT of Delhi*⁵⁸, the court intervened to protect a transgender individual from violence and coercion by their birth family, reaffirming their right to personal freedom in relationships. In matters of inheritance and succession, courts have also recognized the unique kinship structures within transgender communities, such as the guru-chela system. These rulings mark an important step toward acknowledging the diverse family dynamics of transgender individuals and ensuring their rights are upheld in marriage, family, and personal relationships.

In *Sweety v. General Public*⁵⁹, the case revolved around the inheritance rights of transgender persons within the Guru-Chela system. The appellant, Sweety, claimed to be the Guru of the deceased Rajia alias Ratni Nani and sought to inherit the property left behind by her Chela. The lower courts dismissed the claim, arguing that inheritance should be determined under the Hindu Succession Act, 1956. However, the Himachal Pradesh High Court disagreed, stating that the Act was wrongly applied since the appellant's religion was not specified in the case.

⁵⁷ *ibid*

⁵⁸ *ibid*

⁵⁹ *Sweety v. General Public*, (2016) AIR 2016 HP 148 (India).

Referring to the NALSA judgment, the Court upheld the legal and constitutional rights of transgender individuals, reinforcing their right to equality and recognition under the law. Since documentary evidence, such as the ration card and bank details, established the Guru-Chela relationship, the Court held that the property should rightfully devolve to the appellant. This case was significant as it affirmed the inheritance rights of transgender persons within their traditional community structures.

In *S. Sushma and Ors. v. Commissioner of Police, Greater Chennai Police and Ors*⁶⁰, a lesbian couple ran away from home because their families did not accept their relationship. Their parents filed missing person complaints, and the police started harassing the couple. The couple then approached the Madras High Court for protection. The Court ruled that the police must ensure their safety and should not interfere in their lives. It also took this case as an opportunity to raise awareness about LGBTQIA+ rights. The Court said that until there is a law to protect such relationships, LGBTQIA+ people should not be left unprotected. It gave several important guidelines, such as stopping police action in missing person cases if the individuals are in a willing relationship, providing shelters and legal help for LGBTQIA+ people, and conducting awareness programs to educate police, lawyers, judges, doctors, and schools about LGBTQIA+ rights. In this Justice Anand Venkatesh stated that *“A law cannot be effective without it being acknowledged by the society and such an awakening in the society is not going to happen overnight. It requires regular deliberation, and it has to necessarily fall out very strongly from the constitutional institutions and I believe that the judiciary and particularly the constitutional courts have a major role to play in spreading this awareness and awakening the society. I sincerely hope that the legislature also starts evincing more interest on this very important issue. This is more so since people, especially the present generation have started talking more about it and they are desperately wanting to find a solution at least to the extent that persons of the LGBTQIA+ community are left to live peacefully. Till the legislature comes up with an enactment, the LGBTQIA+ community cannot be left in a vulnerable atmosphere where there is no guarantee for their protection and safety.”*⁶¹

In *Supriyo & Ors. v. Union of India*⁶², the Supreme Court had to decide whether people, regardless of their gender identity or sexual orientation, have the right to marry under the law. A group of petitioners contested the Special Marriage Act, 1954 (SMA), arguing that its

⁶⁰ *S. Sushma and Another v. Commissioner of Police, Greater Chennai Police and Others*, (2021) 3 LW (CriL) 833 (India).

⁶¹ *S. Sushma & Anr. v. Commissioner of Police & Ors.*, W.P. No. 7284 of 2021, ¶ 7 (Madras H.C. June 7, 2021).

⁶² *Supriyo & Others v. Union of India*, (2023) 16 S.C.R. 1209 (per Chandrachud, C.J., concurring) (India).

restriction to heterosexual marriages was discriminatory. They contended that the law should be interpreted in a way that recognizes marriage for all individuals, including same-sex and transgender couples, ensuring equal rights and legal recognition for diverse relationships. The Supreme Court, in a 5-judge decision, ruled that there is no fundamental right to marry under the Constitution. The judges agreed that the right to marry is a legal right created by specific laws (like the SMA) and not a fundamental right. However, the judges had different views on whether same-sex couples should be allowed to form legal unions. Chief Justice D.Y. Chandrachud and Justice S.K. Kaul, in their minority opinion, said that same-sex couples should have the right to form civil unions, meaning they should be legally recognized as couples even if they cannot marry. They argued that forming a relationship is part of personal freedom and should be protected under the Constitution. The majority of the judges disagreed, saying that legalizing same-sex unions requires a new law, which only the government can make. The Court acknowledged that while individuals have the freedom to choose their partners, marriage involves legal rights such as inheritance and adoption, which require clear legislative frameworks. A significant outcome of the case was the Court's recognition of the right of transgender and intersex persons to marry. It ruled that if a transgender person identifies as male or female, they have the right to marry someone of the opposite gender under existing marriage laws. Denying them this right, the Court held, would amount to discrimination.

In this case, Chief Justice D.Y. Chandrachud observed that *“The laws governing marriage are framed in the context of a heterosexual relationship. Since a transgender person can be in a heterosexual relationship like a cis- male or cis-female, a union between a transwoman and a transman, or a transwoman and a cisman, or a transman and a ciswoman can be registered under Marriage laws. The transgender community consists of inter alia transgender men and transgender women. A transgender man has the right to marry a cisgender woman under the laws governing marriage in the country, including personal laws. Similarly, a transgender woman has the right to marry a cisgender man. A transgender man and a transgender woman can also marry. Intersex persons who identify as a man or a woman and seek to enter into a heterosexual marriage would also have a right to marry. Any other interpretation of the laws governing marriage would be contrary to Section 3 of the Transgender Persons Act and Article 15 of the Constitution.”*⁶³ This case is significant because it was a major step in the legal recognition of LGBTQIA+ rights in India. While it did not legalize same-sex marriage, it upheld the rights of transgender persons to marry and highlighted the need for legal reforms to

⁶³ Supriyo & Others v. Union of India, (2023) 16 S.C.R. 1209, ¶ 277 (India).

protect same-sex couples.

In the case of *Devu G Nair v. State of Kerala*,⁶⁴ the Supreme Court of India dealt with the rights of same-sex couples in habeas corpus petitions. The case involved a same-sex couple who were separated when one partner (X) was forced to stay with their parents against their will. The other partner (the Appellant) filed a habeas corpus petition in the Kerala High Court, asking for X to be released. However, the High Court ordered X to undergo counseling, leading the Appellant to approach the Supreme Court.

The Supreme Court recognized the concern that counseling could be misused to force someone to change their sexual orientation. To ensure fairness in such cases, the Court issued important guidelines:

1. Any partner, friend, or family member can file a habeas corpus petition, and the Court should not question their relationship with the detained person.
2. If a couple (same-sex, transgender, interfaith, or inter-caste) seeks police protection, the Court must provide immediate temporary protection without waiting for proof of danger.
3. The Court's role is only to determine the will of the detained person. It should not order counseling or force them to stay with their parents.
4. The Court must create a safe and pressure-free environment so the detained person can freely express their wishes.
5. Being a minor should not be a reason to dismiss a habeas corpus petition if the minor is being illegally detained by their family.
6. If the detained person does not want to return to the person who allegedly detained them, they must be released immediately.
7. Courts should acknowledge the social stigma that queer couples face and grant police protection without delay when requested.

Chief Justice D. Y. Chandrachud observed that *“Sexual orientation and gender identity fall in a core zone of privacy of an individual. These identities are a matter of self-identification and no stigma or moral judgment must be imposed when dealing with cases involving parties from the LGBTQ+ community. Courts must exercise caution in passing any direction or making any*

⁶⁴ *Devu G. Nair v. State of Kerala & Ors*, (2024) INSC 228 (India).

*comment which may be perceived as pejorative.*⁶⁵”

The Supreme Court also emphasized that conversion therapy is harmful and that courts must follow a gender-affirming and queer-supportive approach. The judgment also recognized that families are not just limited to heterosexual relationships, and a person’s chosen family (such as friends or partners) can also seek legal protection for them. This case set an important precedent for protecting the rights, dignity, and safety of LGBTQ+ individuals.

Despite progressive judicial pronouncements, the reality for LGBTQ+ individuals in India remains challenging. Despite progressive judicial pronouncements, the reality for LGBTQ+ individuals in India remains challenging. Even though some courts have recognised the rights of transgender persons to marry, adopt, and live with dignity, these rights are not always respected in real life. Many transgender individuals are still not accepted by their own families. When they come out or express their true gender identity, they are often forced to leave home. Some are verbally abused, others face physical violence, and many are thrown out of their houses. This makes it very difficult for them to have a safe and supportive family environment. In terms of marriage, even though the courts have said that a transgender person has the right to marry under certain laws, it is still very hard to get their marriage officially registered. Many government officers do not understand the law properly or are unwilling to help. As a result, transgender persons often find that their marriages are not legally recognised. This creates many problems. For example, if a transgender person’s partner dies, they may not be allowed to inherit property or receive any financial help. In some cases, transgender individuals are not even allowed to live with their partners because of fear of police or public harassment.

When it comes to maintenance, transgender persons face more discrimination. If they separate from a partner or are abandoned, it is difficult for them to claim financial support or maintenance. Most personal laws in India are based on traditional male-female roles and do not clearly include transgender persons. As a result, many transgender individuals are left without any protection or support, even when they are in need.

Adoption is also a major issue. Transgender people often want to adopt children and give them a loving home, but the law does not clearly say whether they can do so. Adoption agencies and officials usually deny them the chance to adopt, either because of social bias or because of gaps in the law. This makes it nearly impossible for many transgender persons to build families in the way they wish. Even when they raise children within their community or care for abandoned kids, they do not get any legal recognition as parents.

⁶⁵ Devu G. Nair v. State of Kerala & Ors., (2024) INSC 228, ¶ 16 (India).

Overall, these challenges show that there is a big difference between what the law says and what happens in real life. Many transgender individuals still suffer from loneliness, poverty, and lack of support because their basic rights in family life are not fully protected. While court judgments are a step in the right direction, there is still a long way to go to ensure that transgender persons can truly live with dignity, love, and equality within Indian society.

2.5.5-Discrimination by Law Enforcement

Transgender individuals in India still experience widespread discrimination and violence, often at the hands of law enforcement agencies. Although legal protections exist, deep-rooted biases and a lack of awareness among police personnel continue to fuel harassment and mistreatment. Without proper sensitization and accountability, these systemic issues remain unaddressed, making it difficult for transgender people to seek justice and live with dignity.

A 2018 report by the National Human Rights Commission (NHRC) highlighted that 92 percent of transgender individuals have faced physical or verbal abuse, often at the hands of law enforcement officials themselves⁶⁶. This alarming statistic underscores the deep-seated prejudices within the police force, which deter transgender persons from seeking justice and contribute to their social exclusion.

Instances of police misconduct towards transgender persons are alarmingly frequent. For example, in Tripura, four transgender individuals reported that police officers detained them without cause and subjected them to invasive and humiliating procedures to “verify” their gender identity⁶⁷. They were allegedly forced to strip in the presence of both male and female officers, an act that not only violated their dignity but also underscored the deep-seated prejudices within the law enforcement system. In one notable incident in Hyderabad, a hijra was detained by police for questioning related to a murder case. During detention, she was allegedly stripped naked and verbally abused without any female police officers present, highlighting a blatant disregard for her dignity and rights. Such incidents are not isolated, reflecting a broader pattern of mistreatment by law enforcement.⁶⁸

The Indian judiciary has acknowledged the challenges faced by transgender individuals and has taken steps to address these issues. In the case of *Shivani Bhat v. State of NCT of Delhi &*

⁶⁶ Ankush Kumar, Anti-Transgender Discrimination, Violence in India Persists, The Washington Blade, Sept. 24, 2024, <https://www.washingtonblade.com/2024/09/24/anti-transgender-discrimination-violence-in-india-persists/>.

⁶⁷ Debraj Deb, Tripura: Police Deny Allegations of Transgender Harassment, The Indian Express, Jan. 12, 2022, <https://indianexpress.com/article/north-east-india/tripura/tripura-police-deny-allegations-of-transgender-harassment-7719288/>.

⁶⁸ DC Correspondent, KPHB Police Nab, Strip Eunuch, Deccan Chronicle, Jan. 22, 2015, <https://www.deccanchronicle.com/150122/nation-crime/article/kphb-police-nab-strip-eunuch>.

Ors (2015)⁶⁹, the Delhi High Court acknowledged the severe socio-economic hardships and frequent harassment that transgender individuals face, both from society and law enforcement agencies. The Court stressed that true equality cannot be achieved through legal recognition alone but requires broader societal and institutional acceptance. It emphasized the urgent need for inclusive policies and proactive measures to safeguard the rights and dignity of transgender persons.

In *Neha Singh v. State of Uttar Pradesh* (2023)⁷⁰, the Allahabad High Court addressed the rights of individuals seeking gender transition. Neha Singh, a female constable in the Uttar Pradesh Police, experienced gender dysphoria and applied to the Director General of Police (DGP) for permission to undergo Sex Reassignment Surgery (SRS). After receiving no response, she petitioned the court. The court recognized that individuals with gender dysphoria have a constitutionally protected right to align their physical bodies with their gender identity through surgical intervention. It emphasized that denying such a right could lead to anxiety, depression, and negative self-image. Consequently, the court directed the DGP to promptly consider and decide on Neha Singh's application for SRS, underscoring the necessity for institutional frameworks to accommodate and support gender transition processes.

Other than these judicial interventions, the lived experiences of transgender persons often involve harassment, wrongful detention, and abuse by law enforcement. The reluctance of police officers to register complaints filed by transgender individuals further exacerbates their vulnerability, discouraging them from seeking legal recourse and perpetuating a cycle of injustice.

To bridge the gap between legal recognition and actual practice, it is imperative to implement robust sensitization programs for police personnel, enforce protective laws rigorously, and establish accountability mechanisms. Only through concerted efforts at institutional and societal levels can the cycle of marginalization and abuse against transgender individuals be broken, ensuring they can live with dignity and without fear of persecution.

2.5.6-Discrimination in Access to Healthcare

Discrimination in accessing healthcare is a pressing concern for the transgender community in India, deeply rooted in both societal bias and systemic neglect. While constitutional guarantees emphasize equality, in practice, transgender individuals often experience exclusion, suspicion, or outright hostility within medical environments. The moment they step into a healthcare

⁶⁹ Shivani Bhat v. State of NCT of Delhi & Ors, (2015) SCC OnLine Del 11057 (India).

⁷⁰ Neha Singh v. State of Uttar Pradesh & Others, (2023) SCC OnLine All 701 (India).

facility, they may be confronted with discomfiting stares, whispered comments, or a refusal to acknowledge their self-identified gender. This kind of social mistreatment within clinical settings stems largely from a lack of awareness and training among medical professionals, which results in acts that range from subtle dismissiveness to blatant discrimination. Instead of receiving care, many transgender persons are asked invasive questions about their anatomy, history, or identity that are irrelevant to their medical condition⁷¹. These experiences are not just humiliating; they also reinforce a broader narrative of erasure and non-acceptance.

Many healthcare workers remain unfamiliar with appropriate gender pronouns or how to respectfully interact with gender-diverse patients. In the absence of sensitization, even well-meaning practitioners may unintentionally cause harm or discomfort. The cumulative effect of these experiences leads to avoidance behavior, where transgender individuals hesitate to seek help, even when they are ill. The result is often delayed diagnoses, untreated conditions, and a deterioration in both physical and mental health. Unfortunately, this is not limited to public hospitals alone; private clinics too frequently fall short of delivering respectful and informed care. In rural areas, where healthcare infrastructure itself is limited, the situation is further aggravated by a near-complete lack of awareness about gender diversity. Here, transgender individuals often have no option but to rely on informal remedies or avoid medical help altogether⁷².

Furthermore, hospital admission procedures that demand gender-specific details create confusion and distress, especially when documents do not align with one's current identity. The absence of gender-neutral or third-gender wards mean transgender persons are sometimes forcibly placed in spaces that conflict with their gender identity, heightening feelings of vulnerability. Administrative staff and frontline workers also tend to be poorly trained on inclusivity, often exhibiting curiosity or prejudice instead of professionalism⁷³. These issues are compounded by the rigid bureaucratic norms that define hospital protocols, forms, and facilities around a binary gender model. It is not uncommon for transgender persons to be misclassified or denied services simply because they do not fit into predefined categories. Even in emergency situations, there have been instances where care was delayed due to

⁷¹ Saqib Mugloo & Shefali Rafiq, 'They thought I was a curse': The struggles of India's trans community, openDemocracy (Apr. 7, 2023), <https://www.opendemocracy.net/en/5050/india-transgender-discrimination-health-gender-affirmation-surgery/>.

⁷² Sanjay Sharma et al., Comprehending Health of the Transgender Population in India: A Review, 26 J. Family Med. Prim. Care 123 (2023), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC11043523/>.

⁷³ Lakshya Arora et al., Pervasive discrimination against LGBTQIA+ people in Indian hospitals, aidsmap (Nov. 2022), <https://www.aidsmap.com/news/nov-2022/pervasive-discrimination-against-lgbtqia-people-indian-hospitals>.

confusion over gender identity. This not only violates ethical standards but also endangers lives. Social stigma, already a heavy burden outside medical settings, is magnified when reinforced by institutional structures meant to offer care and safety. Mental health services are not spared from this pattern either. Many therapists and counselors are ill-equipped to understand the psychological distress caused by gender dysphoria or social exclusion, often reducing it to pathology or dismissing it entirely. This fosters a climate of distrust between the transgender community and mental health professionals. Consequently, emotional trauma accumulates over time, rarely being addressed with the sensitivity it deserves.

Discrimination also extends to how medical information is documented and shared. Misnaming or incorrect pronoun use in patient records can be triggering and invalidating. For many transgender individuals, every hospital visit becomes a calculated risk: a choice between neglecting their health or subjecting themselves to possible humiliation. This dilemma disproportionately impacts those without familial support or financial independence. Many also report experiences of being judged for their appearance, especially when they do not conform to stereotypical ideas of masculinity or femininity. In situations involving sexual or reproductive health, the challenges multiply, with care often being denied or offered in a condescending manner.

Some medical practitioners still carry outdated or biased views that pathologize gender variance. Insurance offices within hospitals may also create hurdles by questioning the legitimacy of transgender-related medical needs. Discriminatory gatekeeping, whether subtle or overt, adds an additional layer of struggle to an already uphill battle. Even when policies exist on paper to ensure non-discriminatory treatment, they are rarely translated into actionable, everyday practices. The lack of accountability within healthcare institutions further enables the persistence of such behavior. While some medical colleges have initiated reforms in their curriculum, these changes are far from universal and often lack depth. Meanwhile, grassroots activists and NGOs continue to fill the void by offering community-based healthcare alternatives. These initiatives are promising but cannot substitute the need for systemic reform. It is clear that discrimination in healthcare is not just a matter of individual prejudice; it is a structural issue that demands legal, administrative, and cultural redress. Until healthcare environments become inclusive by design rather than by exception, transgender individuals will remain on the margins of the system. The need of the hour is not only for policy reform but also for an empathetic shift in how we perceive and address gender diversity in medical contexts. Institutional reforms must include training modules, gender-neutral infrastructure, and grievance redressal systems. Without these foundational changes, efforts to achieve

healthcare equity will remain incomplete. Trust, which is fundamental to healing, cannot be built in a space that refuses to see or respect who you are. True progress will come only when healthcare settings become places of affirmation, not alienation. And for the transgender community in India, that moment cannot come soon enough.

2.6-CONCLUSION

The legal and constitutional framework in India has evolved to recognize and protect the rights of transgender individuals. Courts have affirmed the right to self-identify, upheld the dignity of transgender persons, and addressed several forms of discrimination through progressive judgments. The enactment of the Transgender Persons (Protection of Rights) Act, 2019 was a significant legislative step. However, the actual implementation of these legal protections remains limited. Transgender individuals in India continue to face systemic inequalities in critical areas such as education, employment, and healthcare. They are frequently subjected to social exclusion, familial rejection, workplace discrimination, and school dropout due to bullying and harassment. Although statutory provisions prohibit such treatment, the enforcement of these protections remains inconsistent. A significant barrier is the lack of sensitization among key stakeholders, including police personnel, educators, and government officials, which contributes to the persistence of stigma and marginalization.

The legal requirement for transgender persons to obtain a certificate of identity, while intended to offer formal recognition, often becomes a source of distress. The process is bureaucratic, opaque, and intrusive, thereby undermining the principle of self-identification affirmed by judicial pronouncements. Furthermore, the absence of affirmative action in the form of reservations in education and public employment limits the community's access to upward socio-economic mobility and perpetuates structural disadvantage. In the domains of marriage, adoption, and inheritance, existing legal frameworks are either silent or insufficiently inclusive. As a result, transgender persons frequently encounter legal and administrative barriers when attempting to register marriages, adopt children, or claim inheritance rights. Although several High Courts have taken progressive stances, these remain isolated interventions, and comprehensive legal reform is still lacking. Law enforcement agencies also remain a site of significant concern. Reports of arbitrary detention, custodial violence, and refusal to file complaints indicate a pervasive pattern of discrimination and abuse. The fear of secondary victimization discourages many transgender persons from accessing justice mechanisms, thereby reinforcing their vulnerability.

Addressing these issues requires more than legal recognition. There is a pressing need for institutional reforms and widespread sensitization programs targeting law enforcement, healthcare providers, educators, and public servants. Policy measures must go beyond token inclusion and instead focus on ensuring meaningful participation of transgender persons in decision-making processes. Targeted welfare schemes, affirmative action policies, and community-led support systems are essential to bridge the gap between legal guarantees and ground realities.

Ultimately, the goal of achieving equality for transgender individuals cannot be accomplished through legislation alone. It demands a shift in societal attitudes, institutional accountability, and sustained engagement with the lived experiences of the transgender community. India must strive not only to protect transgender persons under the law but also to create a society where they can live with dignity, security, and full inclusion.

CHAPTER III- ACCESS TO HEALTHCARE FOR TRANSGENDER INDIVIDUALS IN INDIA: LEGAL PROVISIONS AND GROUND REALITIES

3.1 INTRODUCTION

Healthcare is a fundamental human right, essential to ensuring that every individual can live with dignity and equality. For transgender persons, access to healthcare is not merely about receiving medical treatment, but about the ability to express their true identity, feel secure in their bodies, and access services tailored to their unique health needs. Denial of such healthcare goes beyond physical harm. It contributes to social and economic marginalization, reinforcing existing inequalities and deepening the sense of exclusion. The right to healthcare is an intrinsic part of the right to life and personal liberty under Article 21 of the Indian Constitution, which guarantees that every citizen has the right to live with dignity. For transgender individuals, this right extends to accessing gender-affirming medical services, which are critical to their overall well-being.

When transgender persons are denied access to adequate healthcare, the consequences are profound. It not only affects their physical health but also exacerbates mental health challenges, including depression, anxiety, and suicidal tendencies. The lack of access to gender-affirming care such as hormone replacement therapy (HRT), surgeries, and psychological support leads to significant distress and often prevents individuals from achieving a sense of harmony between their identity and their body. Other than this the transgender persons face discriminatory practices in healthcare institutions, where they may be denied services, subjected to ridicule, or even forced to provide lengthy justifications for seeking gender-affirming treatment. These barriers to healthcare further isolate transgender individuals, limiting their opportunities for social integration and economic participation. The absence of gender-inclusive healthcare policies and infrastructure often forces transgender individuals to seek informal, unsafe, and unaffordable options, resulting in greater vulnerability to health risks and exploitation.

This chapter will explore the legal and policy frameworks that aim to ensure transgender persons can access appropriate healthcare services. It will critically assess how effective these frameworks are, highlight the gaps in policy and implementation, and examine the practical barriers transgender individuals face when seeking healthcare in India.

3.2 LEGAL AND STATUTORY FRAMEWORK FOR HEALTHCARE ACCESS

Healthcare is an essential aspect of the fundamental right to life under the Indian Constitution. Transgender persons, like all citizens, are entitled to equitable healthcare services. However, transgender individuals often face significant barriers to accessing healthcare, including discrimination, inadequate healthcare infrastructure, and a lack of gender-affirming medical services. The legal and statutory frameworks governing healthcare access in India are designed to ensure that every citizen, including transgender persons, has access to adequate healthcare. These frameworks include constitutional provisions, statutory laws, and judicial precedents that together establish the right to health as a core component of human dignity.

3.2.1 Right to Health under the Indian Constitution

- **Article 14⁷⁴**

Article 14 of the Indian constitution reads “*The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.*” Article 14 guarantees the right to equality before the law and the equal protection of the laws. In the context of healthcare, it mandates that the government must ensure equal access to healthcare services for all citizens. Discrimination based on any grounds, including caste, religion, gender, or economic status, is prohibited. This provision plays a critical role in the context of transgender persons' right to health, as it mandates non-discrimination based on sex, gender, and other grounds. The right to equality ensures that transgender individuals, like any other citizens, are entitled to equal protection under the law, which includes access to healthcare services.

- **Article 15⁷⁵**

Article 15 of the Constitution of India prohibits the State from discriminating against any citizen on grounds of religion, race, caste, sex, or place of birth. The protection offered under this Article has been progressively interpreted to include gender identity within the ambit of the term “sex.” This makes it a crucial constitutional provision for the protection of transgender individuals and other gender-diverse persons who often face exclusion, stigma, and denial of services, particularly in healthcare settings. Article 15 not only prevents direct discrimination but also empowers the State to take affirmative action for the advancement of socially and

⁷⁴ INDIA CONST. art. 14.

⁷⁵ INDIA CONST. art. 15.

educationally disadvantaged groups. In the context of health, this means ensuring equal access to healthcare services, insurance schemes, and public health infrastructure without prejudice, thereby upholding the dignity and rights of all individuals, regardless of their gender identity or background.

- **Article 21⁷⁶**

Article 21 of the Indian Constitution, which guarantees the Right to Life and Personal Liberty, has been widely interpreted by the judiciary to encompass a range of rights, including the right to live with dignity, the right to access healthcare, and the right to gender-affirming medical care for transgender persons. The right to health is integral to the right to life, as health is a fundamental aspect of a dignified life. In several landmark cases, the Supreme Court has elaborated on the constitutional duty of the state to ensure that every citizen can access adequate healthcare.

- **Article 47⁷⁷**

Article 47 part of the Directive Principles of State Policy, casts a responsibility upon the State to raise the level of nutrition and the standard of living of its people and to improve public health. Although not enforceable by courts, Article 47 serves as a guiding principle for policy-making and governance. It recognizes that health is central to the overall development and well-being of individuals and the nation. The provision urges the State to prioritize health in its welfare agenda, particularly by addressing structural inequalities and building an inclusive healthcare system. For marginalized communities such as transgender persons, this Article forms the constitutional basis for the government's duty to provide accessible, affordable, and equitable healthcare services. It reflects the commitment to a welfare state where the needs of the vulnerable are met with dignity and care.

3.2.2 Transgender Persons (Protection of Rights) Act, 2019

- **Section 15 – State Obligation for Transgender Healthcare**

Section 15 of the Transgender Persons (Protection of Rights) Act, 2019⁷⁸, places a responsibility on the government to ensure that transgender individuals have access to healthcare services. This includes providing separate HIV treatment centers and facilities for

⁷⁶ INDIA CONST. art. 21.

⁷⁷ INDIA CONST. art. 47.

⁷⁸ Transgender Persons (Protection of Rights) Act, 2019, § 15, No. 40, Acts of Parliament, 2019 (India).

gender-affirming care, such as hormone therapy and sex reassignment surgeries. The law also encourages the review of medical curricula to sensitize healthcare professionals and mandates the provision of healthcare services for transgender persons in both public and private hospitals.

However, the implementation of these provisions has remained inadequate. The Act uses broad and non-committal phrases such as “the appropriate government shall take steps,” which do not lay down any specific actions, deadlines, or mechanisms for accountability. This vague language has led to uneven implementation across states, and many transgender individuals still face discrimination, denial of services, and limited access to necessary medical treatments⁷⁹. The judiciary has also taken note of these deficiencies. In the case of *Veera Yadav v. The Chief Secretary, Government of Bihar and Ors.* (2020)⁸⁰, the Patna High Court, asked both the Central and State Governments to submit reports outlining the steps taken to enforce the welfare provisions under the Act. The Court’s intervention reflected growing concerns about the gap between the law and its actual implementation, particularly in ensuring inclusive healthcare for transgender persons.

3.2.3 Medical Ethics and Informed Consent

Informed consent is a fundamental principle of medical ethics, ensuring that individuals have the autonomy to make decisions about their own bodies. This principle is particularly crucial in the context of gender-affirming care, where medical procedures can have significant physical and psychological impacts⁸¹. The Supreme Court, in *Suchita Srivastava v. Chandigarh Administration* (2009)⁸², recognized the right to make reproductive choices as a part of personal liberty under Article 21 of the Constitution. The Court emphasized that a woman’s right to privacy, dignity, and bodily autonomy must be respected, and no one can force her to undergo medical treatment without her informed consent. This ruling underscores the importance of informed consent for all individuals, including transgender persons, in making healthcare decisions.

⁷⁹ Shamayeta Bhattacharya, Debarchana Ghosh & Bandana Purkayastha, ‘Transgender Persons (Protection of Rights) Act’ of India: An Analysis of Substantive Access to Rights of a Transgender Community, 14 J. Hum. Rts. Prac. 676 (2022)

⁸⁰ *Veera Yadav v. Chief Sec’y, Govt. of Bihar*, MANU/BH/1009/2022

⁸¹ World Health Org., Gender Incongruence and Gender Dysphoria (2021), <https://www.who.int/news-room/fact-sheets/detail/gender-incongruence-and-gender-dysphoria>.

⁸² *Suchita Srivastava & Anr. v. Chandigarh Administration*, (2009) 9 SCC 1, ¶ 11

The ethical framework for medical professionals in India is guided by the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002⁸³. These regulations mandate that doctors must obtain informed consent before initiating any treatment or surgical procedure. They are also required to maintain patient confidentiality, provide care without discrimination, and respect the dignity of every patient. For transgender individuals, this means that medical professionals have a duty to ensure that all healthcare decisions are made transparently, respectfully, and in full consultation with the individual involved.

In *fred Rogers v. Union of India & Ors.* (2024)⁸⁴, the Madras High Court addressed concerns over unethical practices in gender-affirming care at government hospitals. The petition highlighted instances where transgender individuals were subjected to unnecessary and invasive procedures without proper consent. The Court sought responses from the Union and State Governments, emphasizing the need to formulate and implement ethical protocols for gender-affirming care to protect the rights and dignity of transgender persons.

These developments underscore the urgent need for well-defined guidelines and ethical standards in delivering gender-affirming care. It is essential to ensure that the rights to autonomy, dignity, and informed consent are respected for all individuals seeking such care.

3.2.4- International Legal Instruments

1. International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966)

India ratified the ICESCR, which enshrines the right to health in Article 12⁸⁵. This article recognizes the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. It obligates State parties to take steps to improve public health, control infectious diseases, and provide medical services.

⁸³ Medical Council of India, Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002 (Amended up to 8th October 2016), <https://www.nmc.org.in/rules-regulations/code-of-medical-ethics-regulations-2002/>.

⁸⁴ *Fred Rogers v. Union of India & Ors.*, (2024) Madras HC, W.P.No. 26773 of 2024

⁸⁵ International Covenant on Economic, Social and Cultural Rights art. 12, adopted Dec. 16, 1966, 993 U.N.T.S. 3.

2. The Yogyakarta Principles

The Yogyakarta Principles, adopted in 2006 in Yogyakarta, Indonesia, represent a groundbreaking set of guidelines that articulate the application of international human rights law in relation to issues of sexual orientation and gender identity (SOGI). Drafted by a distinguished group of human rights experts, these principles were developed in response to widespread and systemic discrimination, violence, and marginalization faced by LGBTQ+ individuals, particularly transgender persons, across the globe.

Although non-binding, the Yogyakarta Principles have acquired significant normative influence and are frequently cited by courts, human rights bodies, and advocacy organizations in advancing inclusive interpretations of existing human rights norms (O’Flaherty & Fisher, 2008). In 2017, a supplementary document, known as Yogyakarta Principles +10, was introduced to address emerging human rights issues, including gender expression, intersectionality, and access to justice.

3.3 PRACTICAL CHALLENGES IN HEALTHCARE ACCESS

Access to healthcare is a fundamental right, yet transgender individuals in India continue to face significant barriers when it comes to receiving proper healthcare services. These challenges are rooted in a combination of social, systemic, and infrastructural issues that hinder transgender people from obtaining the medical care they need and deserve⁸⁶. Despite legal frameworks such as the Transgender Persons (Protection of Rights) Act, 2019, guaranteeing the right to healthcare, practical difficulties persist in areas such as social stigma, discrimination in hospitals, lack of gender-affirming services, and inadequate mental health support. These challenges, compounded by economic barriers and gaps in implementation, result in a healthcare system that is often unresponsive to the specific needs of transgender individuals.

3.3.1 Social Stigma and Discrimination in Hospitals

Transgender individuals in India face significant barriers to accessing healthcare, largely due to the pervasive social stigma and discrimination within medical institutions. These challenges manifest in various forms, including denial of care, mockery, and a lack of privacy, which can

⁸⁶ Joshua D. Safer et al., Barriers to Health Care for Transgender Individuals, *Curr. Opin. Endocrinol. Diabetes Obes.*, Apr. 1, 2016, <https://pmc.ncbi.nlm.nih.gov/articles/PMC4802845/>

deter transgender people from seeking essential medical services. For instance, a transgender rights activist, who is also a member of the West Bengal Transgender Welfare Board, recounted a distressing experience in a government hospital. The mistreatment began with derogatory comments from the Group D staff, followed by ticket counter officials mispronouncing their name to mock them. The situation escalated when nurses expressed discomfort about which ward to assign them, and the doctor hesitated to proceed with the treatment after realizing the patient's transgender identity⁸⁷. This story highlights the deeply ingrained prejudices and insensitivity that transgender individuals encounter in healthcare settings.

Further compounding these issues is the lack of gender-inclusive facilities in many hospitals. In a study on healthcare barriers in Western Rajasthan, transgender participants reported being discouraged from seeking care due to the absence of appropriate restrooms and examination rooms⁸⁸. This lack of basic infrastructure contributes to the alienation of transgender individuals from the healthcare system, as they often feel forced to use gender-segregated spaces that do not align with their gender identity. Additionally, many transgender people face humiliation and harassment, including misgendering, deadnaming, and coercion by healthcare providers, as documented in a study published in *Equity in Health*⁸⁹. These negative experiences often lead to significant mental health challenges, including anxiety, depression, and a reluctance to seek medical attention in the future.

Another critical issue is the discomfort and reluctance exhibited by healthcare professionals, who, due to a lack of training or awareness about gender identity and inclusive healthcare practices, may not provide the necessary care⁹⁰. In some instances, healthcare providers either refuse to treat transgender patients or subject them to invasive questioning or unnecessary examinations unrelated to their medical needs. Such practices not only violate the patient's dignity but also create an environment of fear and mistrust, further discouraging transgender individuals from seeking the care they need. This lack of cultural competence in the medical field exacerbates the stigma transgender people face and makes it difficult for them to access

⁸⁷ Sama Res. Grp. for Women & Health & Partners for Law in Dev., *Sexual Health and Reproductive Health Rights in India: A Country Assessment* (2018), https://nhrc.nic.in/sites/default/files/sexual_health_reproductive_health_rights_SAMA_PLD_2018_01012019_1.pdf.

⁸⁸ Tanvi Kaur Ahuja et al., *Health Care Needs and Barriers to Care Among the Transgender Population: A Study from Western Rajasthan*, 24 *BMC Health Serv. Res.* 11010 (2024), <https://bmchealthservres.biomedcentral.com/articles/10.1186/s12913-024-11010-2>.

⁸⁹ K. E. James et al., *Systemic Transphobia and Ongoing Barriers to Healthcare for Transgender and Nonbinary People: A Qualitative Analysis of Social Media Narratives*, *Int'l J. Equity Health*, 2024, <https://pmc.ncbi.nlm.nih.gov/articles/PMC11902059>

⁹⁰ Joshua D. Safer et al., *Barriers to Health Care for Transgender Individuals*, 23 *Curr. Opin. Endocrinol. Diabetes Obes.* 168 (2016), <https://pmc.ncbi.nlm.nih.gov/articles/PMC4802845/>.

safe and effective healthcare.

The absence of comprehensive policies addressing the specific healthcare needs of transgender individuals in hospitals only worsens the situation. Many medical institutions lack the resources, knowledge, and trained personnel to offer gender-affirming care, such as hormone therapy or surgeries⁹¹. Without adequate care, transgender individuals are left with untreated physical and mental health conditions, which further contribute to the cycle of exclusion and marginalization. As a result, many transgender individuals avoid seeking healthcare altogether, leading to untreated conditions and increased rates of physical and mental health issues within the community. Addressing these challenges requires systemic reforms, including policy changes, the establishment of inclusive healthcare facilities, and extensive sensitization programs for healthcare professionals. These efforts are essential to ensure that transgender individuals receive the care, respect, and dignity they deserve, ultimately improving their overall health and well-being.

3.3.2 Lack of Gender-Affirming and Mental Health Services

Transgender people in India are facing a healthcare crisis that's both urgent and deeply personal. On one side, accessing gender affirming treatments, whether hormone replacement therapy or gender affirming surgery, feels out of reach for many. Public health programs rarely cover these procedures, and private clinics often charge exorbitant fees while offering few trained specialists.⁹² Before even getting treatment, transgender individuals must navigate the bureaucratic maze of updating their identity documents under the Transgender Persons (Protection of Rights) Act, 2019. This process can stretch for months, leaving those who need help the most feeling discouraged and left behind. Even worse, because India lacks clear, unified guidelines for transgender healthcare, what's available can sometimes be unsafe, forcing people to seek out unregulated hormone supplies or unlicensed practitioners.

At the same time, mental health issues are overwhelming. Almost half of transgender youth in urban areas are struggling with depression, anxiety, or suicidal thoughts, rates that far exceed those of their cisgender peers. Around 50 percent have seriously considered ending their lives, and up to 40 percent have attempted it⁹³. About one in four engage in self harm, like cutting,

⁹¹ Jae A. Puckett et al., Barriers to Gender-Affirming Care for Transgender and Gender Nonconforming Individuals, 15 Sexuality Res. & Soc. Pol'y 48 (2018), <https://pmc.ncbi.nlm.nih.gov/articles/PMC5842950/>.

⁹² S. Chakrapani et al., Access to Health Services: Barriers Faced by the Transgender Community in India, 24 J. Gay & Lesbian Mental Health 1 (2020), <https://www.tandfonline.com/doi/abs/10.1080/19359705.2020.1850592>.

⁹³ Diana M. Tordoff et al., Mental Health Outcomes in Transgender and Nonbinary Youths Receiving Gender-Affirming Care, 5 JAMA Netw. Open e220978 (2022), <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2789423>

as a way to cope with the deep pain of gender dysphoria and the harsh reality of social rejection. Clinical screenings show that 60 to 70 percent of transgender adults experience severe depression, with just as many dealing with anxiety fuelled by discrimination, harassment, and uncertainty about their transitions⁹⁴.

But these struggles don't happen in isolation. More than half of transgender youth face rejection from their families, nearly a third end up homeless, and over half are unemployed. With no stable homes, income, or supportive networks, isolation grows, and mental health deteriorates further. Despite these desperate needs, fewer than 20 percent of transgender individuals receive any professional mental health counseling, often because many therapists aren't trained to provide the kind of care they need⁹⁵. Crisis hotlines typically offer generic advice that doesn't address the specific needs of transgender people, leaving them feeling even more alone.

Compounding all of this are the intersectional challenges that many transgender people face, whether it's caste, regional divisions, language barriers, or refugee status. These factors make it even easier for them to slip through the cracks of an already fragile healthcare system. While a few community-run clinics and pilot programs that offer both medical and mental health services under one roof show promise, they remain scarce, underfunded, and mostly confined to a few cities.

At the core of all these struggles is a simple human desire: to live openly and authentically in the gender that feels true to them. When society and the medical system acknowledge that truth, by affirming names, pronouns, and bodies, it can transform lives. It can ease depression and anxiety and dramatically reduce the risk of suicide. India needs to act now. It needs to fund public gender affirming clinics, establish national standards for transgender care, integrate transgender health into medical and mental health training, simplify the documentation process, and expand crisis services that offer specialized, affirming care. Only by addressing all of these issues together can we replace isolation with community, despair with hope, and finally provide transgender people the healthcare and dignity they deserve.

⁹⁴ News-Medical.net, Study Finds High Rates of Depression, Suicidal Thoughts Among Transgender Teens (Mar. 31, 2020), <https://www.news-medical.net/news/20200331/Study-finds-high-rates-of-depression-suicidal-thoughts-among-transgender-teens.aspx>

⁹⁵ Erica Woodland et al., Training Mental Health Professionals in Gender-Affirming Care: A Survey of Experienced Clinicians, (2021), https://www.researchgate.net/publication/349636678_Training_Mental_Health_Professionals_in_Gender-Affirming_Care_A_Survey_of_Experienced_Clinicians

3.3.3 Gender-Inclusive Infrastructure and Forms

Transgender individuals in India face significant challenges when seeking healthcare, primarily due to the lack of gender-inclusive infrastructure in medical settings. Many hospitals still lack essential provisions for the third gender, such as separate wards, inclusive forms, and staff trained in gender sensitivity. A study conducted at Government Omandurar Medical College in Chennai revealed that healthcare professionals often lack awareness of transgender health needs, with sex affirmation surgeries being rarely offered.⁹⁶ This lack of understanding is compounded by the absence of inclusive forms and third-gender wards. Hospitals often rely on binary gender categories in medical records, leading to misgendering and discomfort for transgender patients. Without designated spaces for transgender individuals, they are forced to choose between male and female wards, which may not align with their gender identity, resulting in further distress and exclusion.

Discrimination is prevalent within these institutions, with many transgender individuals reporting denial of care even before meeting with a healthcare professional. The lack of gender-sensitive policies and trained staff creates a hostile environment where transgender individuals feel marginalized, unsafe, and reluctant to seek necessary medical care. This systemic exclusion significantly impacts their health and well-being, contributing to higher rates of mental health issues and reluctance to access essential services. To address these challenges, comprehensive reforms are necessary. These should include the establishment of third-gender wards, the implementation of inclusive forms, and extensive gender-sensitivity training for healthcare staff. By integrating these practices, healthcare institutions can foster an environment of trust, safety, and respect for all patients, regardless of their gender identity, ensuring that transgender individuals receive the care and dignity they deserve.

3.3.4 Insurance-Based Discrimination

Insurance-based discrimination remains a significant barrier for transgender individuals in India, even with recent developments aimed at creating a more inclusive landscape. Historically, many private insurers were reluctant to offer policies to transgender people or included exclusionary clauses that denied coverage for gender-affirming healthcare, such as hormone therapy and surgeries. These clauses were often justified by labeling gender-affirming treatments as “pre-existing conditions” or “high-risk,” even though such exclusions were rarely applied to cisgender individuals. As a result, transgender people faced either higher premiums

⁹⁶ Poonguzhali S, Kirubakaran S & Arun Murugan, Equalizing The Third Gender Health: A Lived Experience Phenomenological Study – A Qualitative Approach, Nat'l J. Community Med. (2023), <https://www.njcmindia.com/index.php/file/article/view/2681>

In addition to these challenges, insurers often imposed limits on coverage, particularly for transgender-specific healthcare needs, such as mental health services crucial for individuals coping with gender dysphoria. These practices deepened the inequities faced by transgender individuals, forcing them to either forgo treatments or pay out-of-pocket expenses that many could not afford. Much of the reluctance from insurers stemmed from entrenched biases and a lack of understanding of transgender health needs, with many failing to recognize that gender-affirming care is medically necessary and essential for the well-being of transgender individuals.

Building on this, in 2025, the IRDAI introduced standardized guidelines requiring insurers to disclose their underwriting policies for transgender applicants on their websites.⁹⁹ This directive aims to increase transparency and allow transgender individuals to understand how their insurance applications will be evaluated, how risks will be assessed, and how premiums will be determined. This move was intended to reduce uncertainty and ensure that transgender applicants have clear information about how they will be treated by insurers.

⁹⁸ Insurance Regulatory and Development Authority of India, Master Circular on Protection of Policyholder's Interests (June 12, 2024), <https://www.wtco.com/en-in/insights/2024/10/irdais-latest-regulatory-requirements-ensuring-inclusive-insurance-coverage-for-all>.

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Despite these regulatory advancements, significant challenges remain. Some insurers continue to cite a lack of data to properly assess risks when offering coverage to transgender individuals, leading to either exclusion or insufficient coverage. While the new guidelines mandate non-discriminatory practices, their implementation and enforcement vary among insurers. As a result, many transgender individuals still report difficulties in accessing appropriate health insurance, with some experiencing delays or denials when attempting to secure coverage for gender-affirming care. To fully realize the promise of insurance inclusivity, insurers must not only adhere to these guidelines but also engage in continued education and awareness-building to ensure that transgender individuals are not only eligible for but also fully covered by insurance policies that meet their specific healthcare needs.

3.3.5 Statutory silence

While the Transgender Persons (Protection of Rights) Act, 2019 mandates non-discrimination against transgender persons in healthcare, it remains largely silent on creating binding obligations for private healthcare institutions. Most private hospitals, clinics, and diagnostic centers are not under any statutory duty to offer trans-affirmative services such as gender-affirming surgeries, hormonal therapy, or mental health support tailored to transgender needs. In practice, this allows private healthcare providers to either deny services altogether or charge exorbitant rates, making healthcare largely inaccessible to a majority of transgender individuals who rely on private setups due to poor public health infrastructure. The lack of legally enforceable obligations on private players has resulted in a serious gap in the availability, affordability, and quality of healthcare for the transgender community.

3.4-CONCLUSION

Accessing healthcare remains a difficult and unequal experience for many transgender individuals in India, despite constitutional guarantees and legal protections. While the law recognizes the right to equality, dignity, and personal liberty, these rights often do not translate into actual access to quality healthcare. Social stigma, discrimination in hospitals, and a lack of gender-inclusive infrastructure create environments that feel unsafe and unwelcoming. The absence of trained medical professionals, limited gender-affirming services, and poor mental health support only deepen these challenges.

Legal provisions such as Articles 14, 15, and 21 of the Constitution, along with the Transgender Persons (Protection of Rights) Act, 2019, provide a strong foundation for inclusive healthcare. However, weak implementation, vague statutory language, and limited accountability have made these rights difficult to realize in practice. Discrimination in insurance coverage, lack of third-gender wards, and exclusion from private healthcare services are further barriers that

restrict access.

Addressing these issues requires more than legal reform. It demands a shift in medical education, stronger enforcement of non-discriminatory practices, inclusive healthcare infrastructure, and a cultural change within hospitals. Only through coordinated legal, institutional, and social efforts can transgender persons receive healthcare that respects their identity, meets their needs, and upholds their dignity.

CHAPTER IV- STRUCTURAL BARRIERS AND SYSTEMIC GAPS IN TRANSGENDER HEALTHCARE ACCESS IN INDIA: A CRITICAL ANALYSIS OF POLICY AND PRACTICE

4.1 INTRODUCTION

Access to healthcare is a basic human right, yet for transgender persons in India, it continues to be marked by inequality, stigma, and exclusion. Despite growing legal recognition and new policies aimed at inclusion, many transgender individuals still struggle to access essential health services. This chapter focuses on how both national and state-level government schemes address transgender health, including initiatives like Ayushman Bharat PM-JAY, the Composite Medical Health Scheme, and several progressive efforts by states such as Kerala, Tamil Nadu, and Telangana.

However, these policies often face serious implementation challenges. Documentation barriers, low awareness, untrained medical staff, and inadequate infrastructure continue to block transgender persons from receiving dignified and timely care. Mental health support, which is urgently needed in this community due to widespread discrimination and trauma, remains underfunded and mostly handled by NGOs. The chapter also draws on judicial interpretations and field studies to show how the gap between law and practice affects the lived experiences of transgender individuals. By critically examining government efforts, court rulings, and empirical data, this chapter highlights the complex, real-world difficulties that persist in making healthcare truly inclusive for all genders.

4.2 ANALYSIS OF GOVERNMENT TRANSGENDER HEALTH SCHEMES AND POLICIES

Over the past decade, India has seen significant legal and policy advancements aimed at improving the rights and welfare of transgender individuals, particularly in the domains of healthcare, education, and social security. However, while some schemes and policies have made a positive impact, many gaps remain in terms of implementation, accessibility, and effective outreach.

4.2.1. NATIONAL LEVEL SCHEMES

4.2.1.1 Ayushman Bharat PM-JAY

The Ayushman Bharat Pradhan Mantri Jan Arogya Yojana (PM-JAY), launched in September 2018, is one of India's most ambitious healthcare schemes, aiming to provide health insurance to economically vulnerable groups. In principle, the scheme includes transgender individuals, offering coverage of up to ₹5 lakh per year for necessary treatments¹⁰⁰. In practice, however, formal inclusion has not translated into real access.

A critical barrier is document requirements. Under PM-JAY rules, applicants must present a valid Transgender Identity Card issued via the National Portal for Transgender Persons. Many transgender people are unable to obtain this card, either because they lack an updated Aadhaar reflecting their gender identity or because they face bureaucratic delays in registration. Without this card, they cannot enroll or verify their eligibility, effectively shutting them out of the scheme.

Even when documentation is in order, healthcare providers often remain unaware that transgender people are covered. Reports abound of transgender patients being told they are ineligible or asked to pay out-of-pocket for procedures explicitly listed under PM-JAY¹⁰¹. Public hospitals struggle with the administrative burden of correctly categorizing beneficiaries, leading to frequent delays or outright rejections at admission. At the same time, PM-JAY enrollment drives rarely engage transgender communities directly, so many remain unaware of their entitlement or the steps required to claim it.

Grievance redressal under PM-JAY offers little relief. Transgender applicants who face unfair denials seldom find a responsive appeals mechanism; identity-related disputes are often dismissed or unresolved. Some private hospitals empaneled under PM-JAY outright refuse treatment to transgender patients, citing stigma or perceived reputational risk.¹⁰² These practices force many to either seek care at unempaneled facilities or forgo treatment altogether. In sum, although PM-JAY formally covers transgender individuals, the combined hurdles of rigid documentation requirements, provider ignorance, poor outreach, and ineffective grievance channels leave many transgender people unable to access the benefits they are legally

¹⁰⁰ Access to transition-related health care among transmasculine individuals in India, *PLOS ONE*, 2024, <https://pmc.ncbi.nlm.nih.gov/articles/PMC11521280/>.

¹⁰¹ How Ayushman Bharat Fails India's Transgender Population, NewsLaundry (Apr. 21, 2025), <https://www.newslaundry.com/2025/04/21/how-ayushman-bharat-fails-indias-transgender-population>.

¹⁰² Vinod Kumar, Action Taken Against Hospitals Refusing Treatment Under Ayushman Bharat Scheme, *Times of India* (Dec. 9, 2024), <https://timesofindia.indiatimes.com/city/chandigarh/action-taken-against-hospitals-refusing-treatment-under-ayushman-bharat-scheme/articleshow/116117889.cms>.

entitled to. Addressing this gap will require simplifying card issuance, training healthcare staff, conducting targeted enrollment campaigns, and establishing an accessible, gender-sensitive grievance mechanism. Only then can PM-JAY fulfill its promise of inclusive health coverage.

4.2.1.2- The Composite Medical Health Scheme

The Composite Medical Health Scheme, launched in 2022 under the National Portal for Transgender Persons, marks an important step forward in providing healthcare coverage specifically for transgender individuals¹⁰³. This scheme aims to remove the financial barriers that often prevent transgender people from accessing gender-affirming healthcare services, such as surgeries and hormone therapies. Under the scheme, each registered transgender person is entitled to an insurance coverage of ₹5 lakh annually, which can be used for a wide range of healthcare needs, including gender-affirming treatments. The introduction of this health insurance scheme is especially significant as transgender individuals often face prohibitive costs for medical procedures related to gender transition, and this coverage aims to alleviate those financial burdens.

The ₹5 lakh annual coverage provided by the Composite Medical Health Scheme can significantly improve access to essential healthcare for transgender individuals. It ensures that those seeking gender-affirming surgeries, hormone treatments, or other necessary medical interventions can do so without the fear of crippling financial hardship. The scheme is an essential tool for addressing the specific healthcare needs of transgender people, many of whom have previously been excluded from mainstream insurance schemes due to their gender identity.

However, the implementation of this scheme is not without its challenges. Awareness remains low, many transgender individuals do not know the scheme exists or how to enroll. Bureaucratic delays and confusing documentation requirements such as proof of registration on the National Portal often prevent timely access. Network hospital limitations pose another hurdle, only a fraction of empaneled hospitals offer gender-affirming surgeries, forcing many to travel long distances or incur out-of-pocket expenses at non-empaneled facilities. Claim settlement processes are also slow; transgender patients report waiting months for reimbursements, which undermines confidence in the scheme's reliability.

Moreover, the scheme's design includes certain exclusions that can block coverage for co-morbid conditions commonly experienced by transgender individuals, such as mental health

¹⁰³ Composite Medical Health Scheme, National Portal for Transgender Persons, <https://transgender.dosje.gov.in/Applicant/Registration/DisplayForm4>.

treatment or HIV-related care, if these are not explicitly documented as part of the gender-affirming treatment plan. This gap forces many to pay for critical supportive services that fall outside the scheme's narrow definitions. Finally, the lack of widespread training for healthcare providers on transgender health needs remains a persistent barrier. Many professionals are unfamiliar with the specifics of gender-affirming care, leading to substandard treatment or outright refusal of services. As a result, while the Composite Medical Health Scheme holds great promise, ensuring its effectiveness and equitable reach will require targeted outreach, streamlined enrollment, expanded empanelment of gender-affirming providers, and ongoing provider education.

4.2.1.3. The National Health Policy (NHP) 2017

The National Health Policy (NHP) 2017 of India acknowledges health disparities among marginalized groups such as women, children, and persons with disabilities but offers only vague references to vulnerable populations, without explicitly addressing transgender individuals¹⁰⁴. Although the policy emphasizes equitable healthcare access, it fails to name transgender people or outline tailored provisions for their unique health needs, such as gender-affirming treatments, hormone therapy, or mental health support for gender dysphoria. This lack of specificity has concrete consequences. Healthcare institutions receive no guidance or mandates on accommodating transgender patients, resulting in inconsistent or non-existent services. Many transgender individuals find that local health centers and public hospitals are ill-prepared to offer even basic gender-affirming care. The policy's silence on training means that medical and paramedical staff often lack the cultural competency to treat transgender patients sensitively, leading to misgendering, refusal of care, or substandard treatment.

Furthermore, the NHP 2017 does not establish accountability mechanisms to ensure that state and central health agencies implement inclusive practices. Without monitoring, data collection, or performance indicators specific to transgender healthcare, policymakers remain unaware of gaps in service delivery. This invisibility in official health statistics perpetuates the cycle of neglect, as transgender health needs continue to be under-researched and under-funded.

Finally, the policy's broad language leaves transgender individuals reliant on piecemeal schemes rather than integrated health planning. While various welfare initiatives exist, their fragmented nature coupled with the NHP's lack of a cohesive framework means that transgender healthcare remains reactive rather than proactive. To remedy this, the policy must

¹⁰⁴ National Health Policy 2017, Ministry of Health and Family Welfare, Government of India, <https://mohfw.gov.in/sites/default/files/9147562941489753121.pdf>.

be revised to include explicit references to transgender health, mandate the development of gender-affirming care protocols, require sensitivity training for all healthcare workers, and institute monitoring mechanisms to track progress and hold agencies accountable. Only then can India's National Health Policy move beyond rhetoric to ensure genuine equity for transgender individuals in healthcare.

4.2.2-STATE LEVEL SCHEMES

4.2.2.1. Kerala:

Kerala holds the distinction of being the first Indian state to formulate a comprehensive transgender policy in 2015, under the broader umbrella of the Gender Equality and Justice Campaign¹⁰⁵. As part of this progressive move, the state introduced a range of targeted healthcare services aimed at addressing the specific needs of the transgender community. Among the most significant steps taken was the establishment of exclusive transgender clinics in cities like Thiruvananthapuram, Kochi, and Kozhikode. These clinics have been designed to provide a safe and inclusive space for transgender persons to access basic healthcare services such as general health checkups, hormone therapy support, and referrals for gender-affirming surgeries¹⁰⁶. Importantly, Kerala has placed a strong emphasis on mental health, recognizing the psychological impact of marginalization and gender dysphoria. These clinics offer free psychological counseling services, which help transgender individuals navigate the mental health challenges that often accompany their social and medical journeys.

Complementing these clinics is the Karuthal initiative, which furthers the state's commitment to transgender health¹⁰⁷. Karuthal works in tandem with the Niramaya Health Insurance Scheme to provide insurance coverage for a wide array of medical needs, including outpatient treatment, essential medicines, diagnostic testing, and hospitalization. Through these initiatives, transgender individuals are not only integrated into mainstream healthcare systems but are also granted financial assistance for gender-affirming surgeries, with support going up to two lakh rupees in approved hospitals. The state has also encouraged hospitals to seek NABH accreditation to ensure quality standards in transgender health services. Furthermore,

¹⁰⁵ State Policy for Transgenders in Kerala, 2015, <https://translaw.clpr.org.in/wp-content/uploads/2019/01/State-Policy-for-Transgenders-in-Kerala-2015.pdf>.

¹⁰⁶ Gender-Affirmative Healthcare in Kerala, Queerala.org, https://queerala.org/wp-content/uploads/2019/08/Gender-Affirmative-Care-in-Kerala_Aug2019-converted.pdf.

¹⁰⁷ Kerala State Department of Social Justice, Karuthal Scheme for Transgender Persons, https://sjd.kerala.gov.in/scheme-info.php?scheme_id=MTc5.

Kerala has launched sensitivity training programs for medical staff, aiming to reduce instances of discrimination and ensure that transgender persons receive respectful and appropriate care. These efforts reflect Kerala's broader vision of fostering equity and dignity within public health institutions.

Despite these impressive initiatives, the implementation of transgender healthcare in Kerala faces numerous challenges. The availability of services is largely concentrated in urban centers, leaving transgender individuals in rural and semi-urban areas without sufficient access to specialized care. The shortage of medical professionals trained in gender-affirming procedures, including endocrinologists, surgeons, and mental health practitioners, limits the effectiveness of the clinics and slows down treatment timelines. Many transgender individuals also encounter bureaucratic delays and complications when trying to access financial aid or claim insurance benefits. A particularly persistent barrier is the requirement to possess a Transgender Identity Certificate under the Transgender Persons (Protection of Rights) Rules 2020, which many find difficult to obtain due to stigma, lack of documentation, or fear of being outed. These procedural hurdles often delay or block access to healthcare schemes entirely. Moreover, while government hospitals are mandated to offer services, private hospitals continue to show reluctance in treating transgender patients, often citing social or reputational concerns. Mental health services, although prioritized, remain urban-centric, with inadequate investment in tele-counseling or community-based outreach programs for those who live in remote areas. Lastly, a lack of consistent data collection on the transgender population's healthcare needs and outcomes hampers the development of evidence-based policies and limits the ability to evaluate the long-term impact of these schemes.

Kerala's efforts undoubtedly stand as a model in terms of policy and intent, but the gap between design and implementation continues to limit the real-world effectiveness of its healthcare programs for transgender individuals. Addressing these structural, logistical, and social barriers remains essential to translating Kerala's inclusive vision into comprehensive and equitable healthcare access for all transgender persons in the state.

4.2.2.2 Tamil Nadu

Tamil Nadu has long been regarded as a pioneer in transgender welfare, being the first state in India to establish a dedicated State Transgender Welfare Board in 2008¹⁰⁸. Under its healthcare initiatives, the state offers financial assistance of up to ₹1.5 lakh for gender-affirming surgeries,

¹⁰⁸ Tamil Nadu Transgender Welfare Board, <https://www.tnsocialwelfare.tn.gov.in/en/specilisationstransgenders-welfare/tamil-nadu-transgender-welfare-board>

which can be accessed through select government hospitals and empaneled private facilities. These surgeries, including sex reassignment procedures and hormone therapy, are either free of cost or heavily subsidized for transgender individuals who are registered with the welfare board. To further support post-operative recovery and social inclusion, the state also provides a monthly pension of ₹1,000 to transgender individuals who have undergone gender-affirming surgeries.

In recent years, Tamil Nadu has also taken significant steps to integrate mental health into its overall healthcare approach for the transgender community¹⁰⁹. Counseling services have been introduced in certain government hospitals, and partnerships have been developed with mental health professionals to provide support for gender dysphoria, depression, anxiety, and trauma arising from social stigma and exclusion. In addition to clinical interventions, the state has launched public awareness drives aimed at educating both the general population and healthcare professionals about transgender identities and rights, in an effort to reduce prejudice and foster a more respectful and inclusive medical environment.

Despite these progressive policies, several challenges continue to obstruct full access to healthcare for transgender persons in Tamil Nadu. Rural areas remain underserved, with a scarcity of trained medical personnel and a lack of gender-sensitive services outside urban centers. Many transgender individuals still face overt discrimination, ignorance, or neglect from hospital staff, which significantly undermines their willingness to seek care. Procedural delays in disbursing financial aid, inconsistent record-keeping, and an absence of clear oversight mechanisms often weaken the implementation of the schemes. Mental health services, though recognized as crucial, are still in the early stages of development and lack uniformity across the state's healthcare network. Additionally, the requirement to furnish a Transgender Identity Certificate to access these services acts as a barrier for many, due to bureaucratic complications, fear of exposure, or incomplete documentation. These systemic and social issues continue to restrict the otherwise commendable intent of Tamil Nadu's transgender health policy, limiting its impact on the ground.

¹⁰⁹ United Nations University, Case Study 2: Gender Guidance Clinics of Tamil Nadu, https://collections.unu.edu/eserv/UNU%3A9346/Case_Study_2_-_Gender_guidance_clinics_of_Tamil_Nadu.pdf

4.2.2.3.Odisha

Odisha has made significant strides toward inclusivity by recognizing transgender persons as part of the vulnerable population under the Biju Swasthya Kalyan Yojana (BSKY), a flagship health insurance scheme¹¹⁰. This recognition entitles transgender individuals to free healthcare coverage of up to ₹5 lakh per year at a wide network of empaneled government and private hospitals. This includes hospitalization costs, surgical treatments, and outpatient services, thereby offering a crucial financial safety net.¹¹¹ The inclusion of transgender persons in BSKY is a commendable attempt to bring them into the fold of mainstream health welfare.

However, the scheme's impact is limited by several systemic issues. One of the foremost challenges is the lack of awareness about the inclusion of transgender persons in the scheme, even among the targeted beneficiaries themselves. Many transgender individuals remain unaware of their entitlements, primarily due to poor outreach and absence of targeted information campaigns. Compounding this issue are the documentation requirements that include possession of a transgender identity certificate under the Transgender Persons (Protection of Rights) Act, 2019. These certificates are often difficult to obtain due to procedural bottlenecks, lack of support from local authorities, and fears of outing or social backlash.

In terms of service delivery, transgender individuals frequently face stigma and discrimination in hospital settings, which discourages them from accessing even the services that are available.¹¹² While the scheme covers a broad range of medical needs, mental health services remain underdeveloped and largely absent from the scope of BSKY's implementation. This oversight is especially concerning given the high prevalence of mental health concerns among transgender persons, who often battle isolation, rejection, and psychological distress. There is also limited institutional training for healthcare providers on how to sensitively address the needs of transgender patients, leading to inconsistent and sometimes hostile service experiences. Additionally, the lack of publicly available data and monitoring mechanisms makes it difficult to assess the effectiveness of the scheme and identify areas requiring

¹¹⁰ Odisha State Transgender Persons Policy 2021, <https://ssepd.odisha.gov.in/sites/default/files/2024-01/ODISHA%20STATE%20TRANSGENDER%20PERSONS%20POLICY%202021.pdf>

¹¹¹ Biju Swasthya Kalyan Yojana (BSKY) Odisha Learnings and Way Forward, <https://phfi.org/wp-content/uploads/2022/01/bsky-policy-brief.pdf>.

¹¹² Irene J. Dolan et al., Misgendering and Experiences of Stigma in Health Care Settings for Transgender People, 212 Med. J. Aust. 150 (2020), <https://pubmed.ncbi.nlm.nih.gov/32030758/>.

improvement¹¹³.

4.2.2.4.Maharashtra

Maharashtra has made significant strides in acknowledging the healthcare needs of transgender individuals, particularly with the launch of the Jeevan Asha Initiative and the formulation of a comprehensive Transgender Welfare Policy approved by the state cabinet in March 2024¹¹⁴. The policy envisions systemic reforms across sectors, with a strong emphasis on healthcare. One of the key proposals is the establishment of district-level medical boards dedicated to facilitating transgender healthcare, including streamlined access to gender-affirming surgeries. While the policy permits financial support for such surgeries and encourages government hospitals to offer them free of cost, there has been no clear budgetary allocation to operationalize this commitment, which has limited real-time implementation.

As part of its preliminary steps, the state has initiated pilot mental health camps targeting transgender individuals, particularly in urban centers like Mumbai and Pune. Some government hospitals have also begun offering hormone therapy consultations and surgical referrals, albeit on a limited scale. The Jeevan Asha program is intended to be an integrated care platform for transgender persons, focusing on physical and mental health, nutrition, and rehabilitation¹¹⁵. Mental health services have been a focal point, considering the high incidence of psychological distress, depression, and anxiety among the transgender population.

Despite these policy-level developments, the pace of execution remains slow. A shortage of trained psychiatrists, endocrinologists, and surgeons familiar with transgender health continues to limit the availability of services. Moreover, there is considerable inconsistency in outreach efforts, with many transgender individuals in rural and semi-urban areas remaining unaware of these initiatives. The absence of a dedicated helpline or information portal also hampers accessibility. Furthermore, bureaucratic hurdles, such as the requirement for a transgender identity certificate and delays in hospital processing, create additional layers of exclusion. With no timeline announced for setting up the proposed medical boards, the ambitious policy risks being reduced to a symbolic gesture unless urgent action follows.

¹¹³ Public Health Foundation of India, Biju Swasthya Kalyan Yojana (BSKY) Odisha: Learnings and Way Forward, at 7, <https://phfi.org/wp-content/uploads/2022/01/bsky-policy-brief.pdf>.

¹¹⁴ Devgatha, Transgender Welfare Schemes in Maharashtra, DEVGATHA, <https://devgatha.in/en/social-justice/transgender-welfare-schemes-in-maharashtra/> (last visited Mar. 28, 2025).

¹¹⁵ Jeevan Asha Charitable Society, Health, <https://www.jeevanashaindia.org/health>.

4.2.2.5. Karnataka

Karnataka has taken several policy-level steps to improve healthcare access for transgender individuals, beginning with the Transgender Policy introduced in 2017. One of the noteworthy health-related measures under this policy is the inclusion of transgender persons under the Yeshasvini Cooperative Farmers Health Scheme, which allows them to access certain healthcare services free of charge in participating hospitals¹¹⁶. Additionally, some state-run hospitals and medical colleges in Bengaluru and other cities have started offering gender-affirming surgeries, hormone therapy, and basic counseling services. The state government has also conducted workshops in collaboration with NGOs to train healthcare providers on gender sensitivity.

Mental health, while recognized in the policy, remains an underdeveloped component. Most psychological services for transgender individuals are offered through NGOs or community-based organizations, rather than being integrated into the state's public healthcare system¹¹⁷. This dependence on non-state actors creates a fragmented support structure that lacks consistency and reach. Moreover, there is a notable absence of follow-up care or post-surgery psychological support in many institutions¹¹⁸.

A significant challenge is the limited reach of these services beyond urban centers. In rural Karnataka, transgender persons face persistent stigma, discrimination, and even denial of care by uninformed or prejudiced medical staff. The Yeshasvini Scheme itself does not cover gender-affirming surgeries explicitly, leading to confusion and barriers at the hospital level. Documentation issues, including the need for a transgender certificate and lack of Aadhaar linkage, further restrict access to the intended benefits. Despite the policy framework being in place for several years, the lack of data-driven assessment or budgetary focus has slowed the momentum of implementation.

¹¹⁶ Karnataka State Policy for Transgenders, 2017, https://kswdc.karnataka.gov.in/uploads/media_to_upload1655970330.pdf

¹¹⁷ Edward Premdas Pinto et al., Gender Identity as a Determinant of Mental Health of Trans Persons, in Transgender Rights and Politics in India (2022), https://link.springer.com/10.1007/978-981-19-9265-0_8-1.

¹¹⁸ Manual on Mental Healthcare of Transgendered Persons in India, https://www.researchgate.net/publication/353906777_Manual_on_Mental_Healthcare_of_Transgendered_Persons_in_India.

4.2.2.6. Delhi

Delhi's efforts to incorporate transgender health into its broader public healthcare system have been centered on its Mohalla Clinics and the formation of the Delhi Transgender Welfare Board¹¹⁹. The Mohalla Clinics, envisioned as neighborhood-level health centers, have been proposed as accessible points of primary healthcare for transgender persons¹²⁰. These clinics offer basic services like general consultations, routine diagnostics, and minor treatments free of cost. However, there is still no concrete mechanism to ensure that transgender individuals receive gender-sensitive care or referrals for advanced medical needs such as hormone therapy or surgeries.

The Delhi Transgender Welfare Board has played an advisory role in shaping policy direction and advocating for the inclusion of transgender needs in health schemes¹²¹. There have been initiatives to conduct sensitization programs for doctors, nurses, and paramedics to reduce institutional bias and improve the patient experience for transgender individuals. Mental health has also featured in discussions, with proposed partnerships between government bodies and psychologists for offering community-based counseling.

Despite these steps, substantial gaps remain. The city still lacks dedicated gender-affirming care centers or specialized clinics for transgender persons. Most government hospitals do not provide comprehensive transition-related care, and private facilities are often unaffordable. While the Mohalla Clinics are an excellent model for decentralized care, they are not equipped to address complex or transition-specific medical needs. Mental health services for transgender persons are not integrated into these clinics, and access is largely limited to private counselors or NGOs.

Moreover, transgender individuals report discomfort and discrimination even within supposedly inclusive spaces, which reduces trust in the public healthcare system. There is no structured financial assistance for gender-affirming treatments, and existing schemes do not explicitly mention transgender-specific provisions. The absence of a coordinated digital system or helpline further makes it difficult for transgender persons to navigate healthcare options or understand eligibility requirements.

¹¹⁹ Directorate General of Health Services, Aam Aadmi Mohalla Clinics, <https://dgehs.delhi.gov.in/dghs/aam-aadmi-mohalla-clinics>.

¹²⁰ Hema Gupta, A Study of Mohalla Clinics and Its Impact on Healthcare Delivery, Shodhgangotri, https://shodhgangotri.inflibnet.ac.in/jspui/bitstream/20.500.14146/11648/1/16phjmc001%20synopsis_hema%20Gupta.pdf.

¹²¹ Delhi Transgender Welfare Board, Annual Report 2017-2018, Directorate General of Health Services, Delhi Government, <https://dgehs.delhi.gov.in/sites/default/files/inline-files/ar1718.pdf>.

4.2.2.7. West Bengal

West Bengal has proposed the Manab Bandhu scheme as part of a larger push for transgender inclusion in the state's social welfare programs¹²². Although still in its early stages, the scheme envisions a holistic support structure for transgender individuals, focusing on healthcare, housing, livelihood training, and shelter homes. Under this scheme, select government hospitals in Kolkata and nearby districts have started providing hormone therapy guidance and referrals to specialist care¹²³. There are also proposals to establish community wellness centers with transgender-inclusive services.

Despite these initiatives, progress has been sluggish. The state does not yet have a formally adopted transgender welfare policy, resulting in fragmented implementation and poor coordination between departments. Awareness about the scheme among the transgender community remains low, and there is no dedicated budgetary provision to support comprehensive rollouts. Many potential beneficiaries struggle to access even basic services due to administrative hurdles, lack of identity documentation, and the absence of a nodal agency to streamline access. While West Bengal has a vibrant LGBTQ+ movement, systemic support through healthcare remains minimal and largely urban-centric.

4.2.2.8. Assam

In a landmark development, the Gauhati High Court's decision in *Swati Bidhan Baruah v. State of Assam* (2023)¹²⁴ marked a turning point in the inclusion of transgender persons in healthcare. The court directed the state to ensure transgender inclusion under the Ayushman Bharat-Pradhan Mantri Jan Arogya Yojana (PM-JAY). Following this, the Assam government announced that transgender individuals would be covered under PM-JAY, provided they register on the National Transgender Portal. Since then, efforts have been made to enroll transgender persons under the scheme and sensitize hospital staff in select districts. The government has partnered with a few NGOs to hold enrollment camps and provide documentation assistance. Some hospitals in Guwahati and Dibrugarh have been identified for offering gender-affirming care in the future, though services are not yet operational¹²⁵. But still

¹²² West Bengal Government, Important Schemes, Chief Minister's Office, https://cm.wb.gov.in/ncmo/Public/Scheme_Master.aspx.

¹²³ Varta Trust, A Good Practice Guide to Gender-Affirmative Care (2017), <https://vartagensex.org/wp-content/uploads/2019/10/1524466384000-sfe-gac-good-practices-guide-2017.pdf>.

¹²⁴ *Swati Bidhan Baruah vs. The State of Assam and Ors.* 2023, GAU-AS:10500

¹²⁵ HexaHealth, Gender Reassignment Surgery Cost in Guwahati,

there is few challenges persist. Many transgender individuals lack Aadhaar cards or proper documentation, making it difficult to register on the National Portal. There is widespread confusion among medical staff about how to handle transgender patients, and only a handful of professionals are trained in hormone therapy or psychological counseling. Social stigma, fear of mistreatment, and a lack of awareness about legal entitlements continue to deter many from seeking care. Moreover, implementation remains patchy, and the absence of monitoring systems has made it difficult to assess the actual impact of the court's directions.

4.2.2.9.Telangana

Telangana has emerged as one of the more progressive states in terms of structuring transgender healthcare access, especially through the "Mythri Trans Clinics" initiative¹²⁶. Launched across all 33 district hospitals, these clinics function twice a week and are staffed by a medical doctor, a trained counselor, and a transgender community representative. Their core services include general health check-ups, HIV counseling and testing, guidance on gender-affirming procedures, and dissemination of information regarding welfare schemes and entitlements. These clinics reflect an inclusive, community-partnered model of care that has been appreciated by activists and public health professionals alike. In addition, the state is exploring an extension of the KCR Kit Scheme, originally designed to support maternal and newborn health to include transgender individuals through targeted health camps¹²⁷. Though still in the pilot stage, this initiative indicates a willingness to repurpose mainstream schemes for marginalized communities. Telangana also has an operational Transgender Welfare Board, which has been instrumental in advocating for better healthcare and education for transgender individuals¹²⁸. The board serves as a liaison between the community and various government departments, aiming to improve policy outreach and service delivery. Transgender individuals in Telangana are also eligible for the Ayushman Bharat – Pradhan Mantri Jan Arogya Yojana (AB-PMJAY) after registering on the National Portal for Transgender Persons. As of August 2024, more than 80 transgender persons had availed themselves of healthcare benefits under this central scheme in Telangana, indicating some measure of success in enrollment and

<https://www.hexahealth.com/treatment/gender-reassignment-surgery-cost-in-guwahati>

¹²⁶ Mrityika Banerjee, 33 Trans Clinics Launched in Telangana, DECCAN CHRONICLE (Dec. 2, 2024), <https://www.deccanchronicle.com/southern-states/telangana/33-trans-clinics-launched-in-telangana-1843459>.

¹²⁷ Telangana District Administration, KCR Kit, HYDERABAD.TELANGANA.GOV.IN, <https://hyderabad.telangana.gov.in/scheme/kcr-kit/>

¹²⁸ Amrutha Kosuru, TS Sets Up Transgender Welfare Board to Protect Rights of Transpersons, NEWSMETER (Aug. 23, 2022), <https://newsmeter.in/regional/telangana/ts-sets-up-transgender-welfare-board-to-protect-rights-of-transpersons-699579>

implementation¹²⁹.

Challenges still remain. Despite the Mythri Clinics, specialized services such as hormone therapy and gender-affirming surgeries are not widely available in public hospitals. Moreover, mental health services are not institutionalized and continue to rely heavily on NGOs and informal networks. Stigma within the healthcare system, particularly in rural and semi-urban districts, hampers access, and many government staff remain inadequately trained in handling transgender-specific needs. Finally, the absence of a state-level transgender health policy with dedicated budgetary allocations limits the scalability of these promising initiatives.

4.2.2.10. Madhya Pradesh

Madhya Pradesh has taken initial steps to integrate transgender individuals into the Ayushman Bharat – Pradhan Mantri Jan Arogya Yojana (PM-JAY) framework, aiming to extend free secondary and tertiary healthcare services to vulnerable populations. While transgender persons are technically eligible under this scheme, actual outreach and access remain minimal due to several structural issues. A major roadblock is the lack of gender-disaggregated data on the transgender population, making targeted intervention and planning difficult. There is no dedicated transgender health scheme or policy at the state level, and existing programs do not contain provisions specific to gender-affirming care, mental health counseling, or community engagement. Additionally, low awareness among both beneficiaries and healthcare workers has severely restricted the impact of the PM-JAY integration. Transgender individuals often encounter discrimination or ignorance when attempting to avail themselves of services, and many report that hospital staff are unfamiliar with the necessary procedures or documentation protocols.

In the absence of a transgender welfare board or dedicated institutional mechanism, Madhya Pradesh's healthcare response to transgender needs remains ad hoc and reactive. The lack of partnership with community-based organizations further limits trust-building and service uptake.

¹²⁹ Acko Health Insurance, Ayushman Bharat Yojana Scheme, ACKO, <https://www.acko.com/health-insurance/ayushman-bharat-yojana-scheme/> (last visited Apr. 1, 2025).

4.2.2.11.Uttar Pradesh

Uttar Pradesh, India's most populous state, currently does not operate any state-specific transgender healthcare program. Transgender individuals are eligible for general healthcare under PM-JAY, but there is no targeted outreach or policy ensuring their inclusion within the scheme.

In the absence of institutional frameworks, most transgender persons in UP are forced to rely on NGOs, community-run initiatives, or private clinics particularly for gender-affirming surgeries, hormone therapy, and mental health counseling. These services often come at high personal cost, making them unaffordable for many who are economically marginalized. Systemic barriers, such as the lack of sensitized healthcare professionals, gender-neutral wards, or standardized protocols for treating transgender patients, further marginalize this population. The lack of a transgender welfare board or helpline compounds the problem, leaving no formal mechanism for grievance redressal or service monitoring. Without a comprehensive state policy or collaboration with local transgender communities, the healthcare rights of transgender persons in Uttar Pradesh remain largely unrecognized and unmet.

4.2.2.12.Bihar

Bihar has not yet developed or implemented a dedicated health policy for transgender individuals. While they are theoretically included under central schemes such as PM-JAY and the National Health Mission, the practical accessibility of these services is extremely limited. There is no institutional infrastructure such as transgender health cells, medical boards, or dedicated hospital units for addressing gender-affirming procedures or psychological support. Transgender individuals often experience apathy or ignorance from government hospital staff, who may not be trained in the nuances of trans healthcare or sensitized to gender identity issues.

As a result, many transgender persons in Bihar avoid public hospitals altogether and seek care through informal networks, NGOs, or private practitioners, if they can afford it. The absence of any government-led promotion or sensitization campaign further contributes to the invisibility of transgender health issues in public discourse. Without strong civil society advocacy or administrative will, health inclusion remains more symbolic than substantive in Bihar.

4.2.2.13.Rajasthan

In Rajasthan, pilot programs have been launched in select districts to include transgender persons in the Ayushman Bharat (PM-JAY) scheme. However, the state lacks a standalone transgender health policy, and no formal institutional mechanisms have been created to support gender-affirming care. While some primary awareness efforts have been initiated in urban areas like Jaipur and Jodhpur, rural transgender populations remain underserved. There is no standardized provision of hormone therapy, gender-affirming surgeries, or psychological counseling in government healthcare facilities¹³⁰. Challenges are compounded by low levels of awareness among beneficiaries, non-availability of trained specialists, and persistent social stigma, especially in rural and conservative communities. Furthermore, without a dedicated transgender welfare board or regular health camps, the pilot initiatives risk remaining isolated and unsustainable. To ensure equitable healthcare for transgender persons in Rajasthan, the state would need to adopt a comprehensive transgender policy, allocate specific budgetary resources, and promote medical training and sensitization across government health services¹³¹

4.2.2.14.Punjab

Punjab currently lacks a comprehensive, state-sponsored transgender health program. In the absence of official policy frameworks, healthcare access for transgender individuals is largely dependent on NGOs and community-based organizations. These organizations have been instrumental in providing basic health services, particularly in the areas of HIV/AIDS prevention, sexual health, and occasional mental health outreach. For instance, some NGOs in Punjab have partnered with the Punjab State AIDS Control Society to reach out to transgender individuals under targeted intervention programs¹³². However, these efforts are fragmented and geographically limited. Without an overarching state policy, there is no guarantee of consistent, quality healthcare for the transgender population. The lack of trained government healthcare staff, insensitivity at public hospitals, and the absence of transgender-affirmative services (such as hormone therapy, counseling, or gender-affirming surgeries) further marginalize the

¹³⁰Shalendra Singh et al., Challenges in Provision of Anesthesia to Transgender Patients in India: A Scoping Review, 41 J. Anaesthesiol. Clin. Pharmacol. 15 (2025), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC11867373/>.

¹³¹ Here's All You Need To Know About Rajasthan Government's Transgender Welfare Fund, The Logical Indian (2022), <https://thelogicalindian.com/trending/heres-all-you-need-to-know-about-rajasthan-govts-transgender-welfare-fund-38176>

¹³² Punjab AIDS Control Program, Health and Population Department, Government of Punjab, <https://pshealthpunjab.gov.pk/home/verticalprogramaids> (last visited Apr. 3, 2025).

community. Additionally, many individuals struggle to access national schemes like Ayushman Bharat due to documentation barriers or lack of awareness about their entitlements.

4.2.2.15.Haryana, Himachal Pradesh, and Uttarakhand

These three northern states currently have no formal transgender-specific health policies or welfare boards. As a result, transgender individuals in Haryana, Himachal Pradesh, and Uttarakhand are often left to navigate general healthcare schemes like the Pradhan Mantri Jan Arogya Yojana (PM-JAY), which technically includes them as beneficiaries, but does not offer tailored services for their unique health needs. Access to transgender-affirmative healthcare in these states is further hampered by widespread stigma, poor awareness among medical professionals, and a near-total absence of specialized services such as hormone replacement therapy (HRT), gender-affirming surgeries, or psychological counseling for gender dysphoria. The medical infrastructure lacks trained personnel equipped to deal with the psychosocial and medical needs of transgender patients, often resulting in misgendering, ridicule, or outright denial of services. Moreover, transgender persons in rural areas of these states often face double marginalization, first as gender minorities and second due to geographic inaccessibility of healthcare facilities. Without state-level sensitization drives or formal recognition of transgender healthcare rights, exclusion remains deeply embedded in the public health system.

4.2.2.16.Jharkhand and Chhattisgarh

Both Jharkhand and Chhattisgarh have taken preliminary steps toward transgender inclusion in healthcare through policy drafts and welfare intentions. However, these initiatives remain largely non-operational, and the healthcare system has yet to demonstrate a significant shift in practice.

In Jharkhand, transgender welfare has been mentioned in policy discussions, and the state has acknowledged the need for inclusive schemes. However, there are no functional transgender clinics, and government hospitals do not offer gender-affirming surgeries or hormone therapy. In practice, transgender individuals continue to rely on NGOs or private healthcare services, often at unaffordable costs¹³³.

¹³³ A. Banerjee, Landmark Progress for LGBTQ Rights: Jharkhand's Advisory Board, Tamil Nadu's Policy Overhaul, and Tripura's Protection Cells, The Mooknayak (June 14, 2024), <https://en.themooknayak.com/lgbtq-news/major-milestone-for-lgbtq-rights-jharkhands-advisory-board-tamil-nadus-policy-reforms-tripuras->

Chhattisgarh has included transgender people in some of its social protection conversations and has expressed willingness to bring them under government healthcare initiatives. However, there is no clear roadmap, financial allocation, or implementation mechanism. Mental health services are particularly scarce, and even where general counseling exists, it is not equipped to handle gender-specific issues like dysphoria, trauma from familial rejection, or societal discrimination.

Both states also face challenges due to the lack of reliable data on the transgender population, leading to inadequate planning and poor targeting of benefits. Without an institutionalized framework and continuous monitoring, these early-stage efforts risk remaining symbolic rather than transformative.

4.2.2.17. Gujarat

Gujarat has acknowledged the transgender community in its welfare conversations and has introduced some general social inclusion programs. However, when it comes to transgender-specific healthcare, the state is still in the planning and discussion stage. While Ayushman Bharat (PM-JAY) is technically available to transgender persons upon registration through the National Portal for Transgender Persons, the state has not rolled out any exclusive scheme that addresses gender-affirming care, hormone therapy, or mental health support.

Government hospitals in Gujarat generally lack the infrastructure, expertise, and trained personnel to carry out gender-affirming surgeries or provide trans-competent psychological services. The limited presence of endocrinologists and counselors with knowledge of transgender health needs results in poor accessibility to even basic transition-related healthcare. Discrimination and insensitivity from hospital staff further exacerbate the barriers faced by the transgender community. Outreach efforts are minimal, especially in rural districts, where even general health services are sometimes difficult to access.¹³⁴ Despite some policy momentum, the lack of budget allocation, stakeholder consultations, and community partnerships makes implementation slow and fragmented.

[protection-cells.](#)

¹³⁴ Manisha Pathak Shelat & Priyanki Choudhury, Participation, Community, and Communication as the Key for RKSK Programs in Rural Gujarat, in Adolescent Health: Participation, Community, and Communication as the Key for RKSK Programs in Rural Gujarat (2023), <https://www.researchgate.net/publication/362179367>

4.2.2.18. Goa

Goa has recently initiated consultations for a comprehensive transgender welfare policy. This draft policy is expected to include provisions for healthcare coverage, access to gender-affirming procedures, mental health services, and sensitization of healthcare professionals. The move aligns with Goa's broader commitment to inclusive governance and social justice. However, as of now, there is no transgender-specific health scheme in operation. Healthcare access for transgender individuals remains restricted to general public health infrastructure or private clinics. While some transgender persons in Goa can technically avail of benefits under Ayushman Bharat, issues like lack of awareness, bureaucratic hurdles in registration, and absence of targeted communication have prevented meaningful utilization. Mental health services are particularly lacking, with no public infrastructure currently equipped to offer dedicated counseling for gender dysphoria, trauma, or depression that transgender individuals often experience. There is also minimal visibility of trans persons in official planning documents, which limits evidence-based policy formulation. The state's small size and relatively well-connected public systems offer potential for rapid policy implementation, but the absence of a timeline, budget, or community participation risks making the proposed policy more aspirational than actionable.

The healthcare landscape for transgender individuals in India remains fragmented and deeply unequal. While a few progressive states like Tamil Nadu, Kerala, and Telangana have developed targeted health initiatives, the majority either remain at the policy draft stage or depend solely on national schemes like Ayushman Bharat without contextual modifications. This results in stark inter-state disparities, making access to healthcare a matter of geography rather than a guaranteed right. A major challenge across the board is the lack of accountability, clear implementation strategies, and consistent budgetary support. Welfare boards are often announced without functional authority or financial backing, leading to tokenism rather than transformative change. Even in states with relatively developed programs, transgender persons continue to face bureaucratic delays, lack of transparency, discriminatory behavior by hospital staff, and an acute absence of specialized services specially in rural areas. Mental health support, though crucial given the levels of stigma and marginalization faced by the community, is largely absent or left to NGOs. Another structural issue lies in the requirement of documentation such as transgender identity certificates under the Transgender Persons (Protection of Rights) Act, 2019. For many, especially those disowned by their families

or lacking basic legal literacy, this becomes an insurmountable barrier. A further complication is the invisibility of transgender persons in official data systems, making it difficult to assess needs and design evidence-based interventions. Without disaggregated, state-wise data and inclusive policy design, most programs fail to achieve long-term impact. Therefore, there is a pressing need for a national transgender health framework that mandates minimum standards of care across states, integrates gender-affirming services and mental health support, and makes sensitization training mandatory for all healthcare personnel. Strengthening community partnerships, easing documentation requirements, and ensuring dedicated budgetary allocations will be essential steps toward realizing the constitutional promise of equality, dignity, and health for all.

4.3 JUDICIAL INTERPRETATION

1. Francis Coralie Mullin v. Union Territory of Delhi (1981)¹³⁵

In this case, the Supreme Court expanded the scope of the right to life under Article 21 of the Constitution. The Court held that the term ‘life’ does not merely imply the basic biological existence of an individual but includes the opportunities to eliminate sickness and physical disability, ensuring a life of dignity. The Court emphasized that the right to life goes beyond mere survival, incorporating essential elements that support human dignity. As the Court stated, *“The right to life includes the right to live with human dignity and all that goes along with it, namely, the bare necessities of life such as adequate nutrition, clothing, and shelter and facilities for reading, writing, and expressing oneself in diverse forms, freely moving about and mixing and commingling with fellow human beings.”*

2. Paschim Banga Khet Mazdoor Samity v. State of West Bengal (1996)¹³⁶

In this case, the Supreme Court underlined the state’s obligation to provide adequate medical facilities, stating, *“The right to health is a fundamental right under Article 21 of the Constitution. The State is under an obligation to provide adequate medical facilities to its citizens.”*

3. Consumer Education and Research Centre v. Union of India (1995)¹³⁷

This case further strengthened the view that the right to health and medical care is essential for a dignified life. The Court asserted: *“Therefore, it must be held that the right to health and medical care is a fundamental right under Article 21 read with Articles 39(c), 41 and 43 of the*

¹³⁵ Francis Coralie Mullin v. The Administrator, Union Territory of Delhi, (1981) 1 S.C.C. 608 (India).

¹³⁶ Paschim Banga Khet Mazdoor Samity v. State of West Bengal, (1996) 4 S.C.C. 37 (India).

¹³⁷ Consumer Educ. & Research Ctr. v. Union of India, (1995) 3 S.C.C. 42 (India).

Constitution and make the life of the workman meaningful and purposeful with dignity of person.”

4. Pt. Parmanand Katara v. Union of India (1989)¹³⁸

In this case, the Supreme Court emphasized that every doctor, whether at a government hospital or otherwise, has the professional obligation to extend his service for protecting life, stating: *“Every doctor whether at a government hospital or otherwise has the professional obligation to extend his service with due expertise for protecting life, whether the patient be an innocent person or be a criminal liable to punishment under the law.”*

5. National Legal Services Authority v. Union of India (2014)¹³⁹

In this landmark judgment, the Supreme Court recognized transgender persons as the “third gender” and affirmed that they are entitled to fundamental rights under the Constitution, including the right to healthcare. The Court directed the government to take steps to ensure the welfare of transgender persons, including providing access to healthcare services. The Court held that *“Gender identity forms the core of one’s personal self, based on self-identification, not on surgical or medical procedure.”*

6. Navtej Singh Johar v. Union of India (2018)¹⁴⁰

This landmark case decriminalized consensual same-sex relations and recognized the rights of transgender persons. The Court held that personal autonomy, including the right to self-identify one's gender, is a fundamental right under Article 21. The Court further emphasized that discrimination based on sexual orientation or gender identity violates the constitutional guarantee of equality. The Court affirmed, *“Self-determination of gender is an integral part of personal autonomy and self-expression and falls within the realm of personal liberty guaranteed under Article 21 of the Constitution of India.”*

7. Vyjayanti Vasanta Mogli v. State of Telangana (2023)¹⁴¹

In this case, the Telangana High Court struck down the Telangana Eunuchs Act, which had criminalized intersex and transgender persons, and directed the implementation of the Transgender Persons (Protection of Rights) Act, 2019, ensuring free access to medical care, gender-affirming healthcare, HIV treatment, and sex reassignment surgery.

¹³⁸ Pt. Parmanand Katara v. Union of India, (1989) 4 S.C.C. 286 (India)

¹³⁹ National Legal Services Authority v. Union of India 5 S.C.C. 438 (India).

¹⁴⁰ Navtej Singh Johar v. Union of India, (2018) 10 S.C.C. 1 (India).

¹⁴¹ V. Vasanta Mogli vs. The State of Telangana and Ors. (2023) MANU/TL/0911/2023 (India)

8. NHRC Advisory on Transgender Welfare (2023)¹⁴²

The National Human Rights Commission issued an advisory urging the government to provide free sex reassignment surgeries and ensure equal access to rights such as inheritance of agricultural land and civil service jobs.

9. Kinner Maa Eksamajik Sanstha Trust vs Union Of India(2025)¹⁴³

In January 2025, the Supreme Court of India mandated the establishment of Transgender Welfare Boards in various states to address issues faced by the transgender community. This directive came in response to a PIL highlighting challenges such as discrimination, unemployment, and lack of access to education and healthcare. Following the court's order, states like Tamil Nadu, Maharashtra, Uttar Pradesh, Assam, and Rajasthan constituted Transgender Welfare Boards to promote inclusivity and welfare for transgender individuals.

10. XXX v. The Health Secretary & Ors. (2023)¹⁴⁴

In this case, the Kerala High Court addressed the issue of surgeries for minors with ambiguous genitalia, emphasizing that such procedures, without the child's consent, would violate dignity and privacy as guaranteed under Articles 14, 19, and 21, stating: *“The government is required to assist people, and its endeavour should be to see that the people get treatment and lead a healthy life.”*

4.4. DOCTRINAL ANALYSIS: HEALTH RIGHTS AND ACCESS CHALLENGES FOR TRANSGENDER PERSONS

While courts and laws in India have recognized the right to healthcare for transgender persons, the actual situation on the ground tells a different story. Studies and surveys between 2017 and 2025 show that transgender persons still face major difficulties in getting proper and respectful healthcare services.

The 2017 National Human Rights Commission (NHRC) Report was one of the first efforts to bring these issues to light. According to the report, 92% of transgender persons were deprived of the right to participate in economic life, and over 50% faced harassment at hospitals. It also revealed that 57% had been verbally abused by healthcare workers. Many said they would rather avoid hospitals unless it was absolutely necessary, because of the fear of discrimination

¹⁴² National Human Rights Commission, Advisory for Ensuring the Welfare of Transgender Persons (Sept. 2023),

https://nhrc.nic.in/sites/default/files/Advisory%20for%20ensuring%20the%20welfare%20of%20Transgender%20Persons_Sep2023.pdf

¹⁴³ Kinner Maa Eksamajik Sanstha Trust vs. Union of India and Ors, MANU/SCOR/134930/2024 (India)

¹⁴⁴ XXX and Ors. vs. The Health Secretary, Director of Health Services and Ors. , MANU/KE/2253/2023(India)

and mistreatment. The report highlighted the urgent need for gender sensitization training for doctors, nurses, and hospital staff. Even years later, improvements were slow.¹⁴⁵

A 2024 participatory study (PMC) found that transgender persons across different states continued to face misgendering, refusal of treatment, lack of privacy, and judgmental attitudes from healthcare providers¹⁴⁶. Many transgender persons also reported that doctors often had little or no knowledge about gender-affirming treatments or the specific health needs of transgender people.

One of the biggest setbacks came with the closure of Mitr Clinics in 2025. These clinics had provided services like hormone therapy, mental health counseling, and HIV care to about 5,000 transgender individuals. But due to the withdrawal of funding from USAID and lack of government support, the clinics were shut down¹⁴⁷. This showed how fragile healthcare programs for transgender people are when they depend only on external donors instead of stable state funding.

Another study from Western Rajasthan found that transgender persons faced not just discrimination but also financial barriers. Hospitals often demanded documents that many transgender persons did not have, like updated ID cards showing their chosen gender, which made it difficult to access even basic health services. A large number reported skipping treatments altogether due to fear of humiliation and extra expenses¹⁴⁸.

In addition to discrimination, there is also a major gap in medical education. A 2024 study published in SAGE Journals found that over 80% of medical students and doctors had received no formal training on transgender health issues¹⁴⁹. This lack of awareness means that even well-meaning doctors might unintentionally harm transgender patients by providing incorrect treatments or making them feel unwelcome.

Taken together, the real-world data between 2017 and 2025 paints a clear and troubling picture. Healthcare remains one of the most neglected rights for transgender persons in India. Despite

¹⁴⁵ Dr. Jacob John, Study on Human Rights of Transgender as a Third Gender (Kerala Dev. Soc'y 2018), https://nhrc.nic.in/sites/default/files/Study_HR_transgender_03082018.pdf.

¹⁴⁶ Harikeerthan Raghuram et al., Experiences of Transgender Persons in Accessing Routine Healthcare Services in India: Findings from a Participatory Qualitative Study, 4 PLOS Glob. Pub. Health e0002933 (2024), <https://pmc.ncbi.nlm.nih.gov/articles/PMC10903866/>

¹⁴⁷ Krishna N. Das, India's First Transgender Clinics Close After USAID Freeze, REUTERS (Feb. 28, 2025), [https://www.reuters.com/world/india/indias-first-transgender-clinics-close-after-usaid-freeze-2025-02-28/​::contentReference\[oaicite:1\]{index=1}](https://www.reuters.com/world/india/indias-first-transgender-clinics-close-after-usaid-freeze-2025-02-28/​::contentReference[oaicite:1]{index=1})

¹⁴⁸ Tanvi Kaur Ahuja et al., Health Care Needs and Barriers to Care Among the Transgender Population: A Study from Western Rajasthan, 24 BMC Health Serv. Res. 11010 (2024), <https://bmchealthservres.biomedcentral.com/articles/10.1186/s12913-024-11010-2>.

¹⁴⁹ Mini Sharma et al., Sexual and Gender Minority Health Care Issues Related Competence and Preparedness Among the Health Care Professionals and Trainees in India: A Comparative Study, 6 J. Psychosexual Health 338 (2024), <https://doi.org/10.1177/26318318241299033>.

some progress in legal protections, transgender individuals continue to face enormous barriers in accessing dignified, affordable, and sensitive healthcare. Social stigma, lack of training among healthcare providers, poor funding, and bureaucratic hurdles push many transgender persons out of the public health system altogether. Empirical studies and reports repeatedly show that unless there are urgent reforms including better training of healthcare workers, dedicated funding for transgender healthcare services, and simpler procedures for updating identity documents the right to health for transgender persons will remain a right only on paper.

4.5.CONCLUSION

The analysis of healthcare policies and their on-ground realities reveals a consistent pattern: while transgender persons have been legally recognized and included in several schemes, access to healthcare remains deeply uneven and often symbolic. Some states like Kerala and Tamil Nadu have taken meaningful steps, setting up clinics, offering financial support for surgeries, and training healthcare workers. Yet, in many other states, policy intent is not matched by infrastructure, budget allocation, or political will.

Across India, transgender individuals still face stigma in hospitals, lack of specialized services, long waits for reimbursements, and confusion over how to claim their entitlements. The requirement of a Transgender Identity Certificate, although legally mandated, becomes a serious barrier due to bureaucratic delays and social fears. Mental health services, though critical, are rarely integrated into government programs and often rely on overburdened NGOs. Empirical studies from NHRC, SAGE journals, and court judgments confirm that healthcare for transgender persons is more accessible in theory than in practice. Without urgent reforms including nationwide training of medical staff, expansion of services beyond urban centers, flexible documentation rules, and proper monitoring the right to health will continue to be out of reach for many. The chapter ultimately calls for a coordinated national framework that guarantees respectful, inclusive, and accessible healthcare to every transgender person in India, fulfilling the constitutional promise of dignity and equality.

CHAPTER V-GLOBAL APPROACHES TO TRANSGENDER HEALTHCARE: COMPARATIVE INSIGHTS AND LESSONS FOR INDIA

5.1 INTRODUCTION

Transgender healthcare is a vital part of human rights and public health. It involves more than general medical care and includes specific gender-affirming treatments such as hormone therapy, surgeries, and ongoing mental health support. These services are essential for transgender people to live healthy, authentic lives and to reduce the mental and physical health challenges they often face. Despite this importance, transgender healthcare is frequently misunderstood, neglected, or unavailable in many countries, which leads to serious health inequalities and social exclusion for transgender individuals.

Around the world, the state of transgender healthcare differs widely. Some countries have developed progressive laws and healthcare systems that allow transgender people to access affordable and respectful care without fear of discrimination. These countries often include gender-affirming treatments as part of their public health services and invest in training healthcare professionals to understand and meet the unique needs of transgender patients. They also provide legal protections to prevent discrimination in healthcare settings and promote social acceptance. In contrast, many countries still lack clear policies or sufficient medical services for transgender people, leaving them vulnerable to stigma, inadequate care, and poor health outcomes. India is currently at an important crossroads in terms of transgender healthcare. Although the country has made notable legal progress by recognizing transgender rights and launching welfare schemes, access to quality healthcare for transgender individuals remains limited. Healthcare facilities may lack trained professionals or awareness, and many transgender people face discrimination or neglect when seeking care. Studying successful transgender healthcare models from other countries can help India identify gaps and develop better policies and practices to serve its transgender communities more effectively.

This chapter looks at transgender healthcare systems and policies in countries like Argentina, Brazil, Canada, Spain and Sweden. Despite their different backgrounds, these countries share a commitment to providing accessible, affordable, and respectful care. The focus is on gender-affirming treatments, funding and insurance, mental health support, legal protections against discrimination, and the institutions managing these services. Learning from their experiences can help guide improvements in India's healthcare system to better support transgender individuals.

5.2-COUNTRY-WISE DETAILED ANALYSIS

5.2.1.ARGENTINA

Argentina has been a pioneer in transgender rights, particularly with its *Gender Identity Law* passed in 2012. This law is one of the most progressive in the world and explicitly supports transgender healthcare as a fundamental right. It allows individuals to change their name, gender, and sex on official documents without the need for surgery, hormone therapy, or psychiatric diagnosis. This removes many legal and medical barriers that transgender people face in other countries. The law also guarantees that transgender individuals have access to comprehensive healthcare services related to their gender identity. This includes hormone treatments, surgeries, and psychological support, which are to be provided free of charge through the public health system. By framing gender-affirming care as part of the right to health, the legislation places a strong obligation on the government to ensure these services are available and accessible.

Beyond the Gender Identity Law, Argentina has several anti-discrimination laws that protect transgender people in healthcare settings and beyond. These laws aim to prevent denial of care, harassment, and discrimination by healthcare professionals, which have historically been significant barriers for transgender individuals seeking medical treatment. The government has also taken steps to promote awareness and training among healthcare workers to improve the quality of care for transgender patients. Public campaigns and educational programs seek to reduce stigma and foster respect for transgender identities within medical institutions.

A landmark case that predated this law was *In re KFB* (2001), where the Family Tribunal No. 1 of Quilmes ruled in favor of a transgender man seeking to amend his birth certificate and identity documents to reflect his gender identity. The court emphasized the constitutional right to personal autonomy and integrity, referencing international human rights standards to support the individual's claim¹⁵⁰. This case set a significant legal precedent, highlighting the judiciary's recognition of transgender rights even before the formalization of such rights in legislation.

In 2021, the Argentine Congress passed the *Diana Sacayán–Lohana Berkins Law* (*Ley Diana Sacayán–Lohana Berkins*)¹⁵¹, which mandates that at least 1% of public sector jobs be reserved for transgender individuals. This law, named after two prominent transgender activists, aims to

¹⁵⁰ *In re KFB*, Family Tribunal No. 1 of Quilmes, Argentina (Apr. 30, 2001), <https://www.icj.org/sogicasebook/in-re-kfb-family-tribunal-no-1-of-quilmes-argentina-30-april-2001/>.

¹⁵¹ Decreto 476/2021, B.O. 25/06/2021 (Arg.), <https://www.boletinoficial.gob.ar/detalleAviso/primera/244419/20210625>.

combat the high unemployment rates among the transgender community and promote their inclusion in the workforce.

However, recent developments have posed challenges to these advancements. In February 2025, President Javier Milei issued Decree 62/2025, which prohibited gender-affirming medical treatments, including hormone therapy and surgeries, for individuals under 18¹⁵². This decree faced immediate backlash from the LGBTQ+ community and human rights organizations. In April 2025, the Federal Court of Paraná declared the decree unconstitutional, reaffirming the rights enshrined in the original Gender Identity Law and restoring access to gender-affirming care for minors¹⁵³.

The Gender Identity Law 2012 guarantees the right of transgender individuals to access all necessary medical treatments for gender affirmation, including hormone therapy and gender-affirming surgeries. Importantly, these treatments are covered under the country's Mandatory Health Program (Programa Médico Obligatorio), ensuring that transgender people can receive care through both public and private healthcare systems without financial barriers. This framework not only affirms transgender rights but also integrates gender-affirming care into mainstream healthcare services.

A concrete example of Argentina's commitment to inclusive care can be seen in a recent study conducted between June 2021 and May 2023 at a public hospital that provided specialized dermatological services to 114 transgender and non-binary patients. This initiative highlighted the unique health challenges faced by transgender individuals, including experiences of stigma and discrimination within medical settings. The study's findings underscored the importance of creating healthcare environments that are both welcoming and tailored to the specific needs of transgender and non-binary people, thereby fostering equitable access to quality care¹⁵⁴.

In Buenos Aires, the Casa Trans initiative offers a community-driven model of support for transgender individuals. Established in 2017 by the Argentine Association of Transvestites, Transsexuals, and Transgender People (ATTTA) in collaboration with the city government, Casa Trans provides a safe space where transgender people can access healthcare, vocational training, and educational opportunities. This center addresses social determinants of health by

¹⁵² Decreto 62/2025, B.O. 06/02/2025 (Arg.),

<https://www.boletinoficial.gob.ar/detalleAviso/primera/256789/20250206>.

¹⁵³ Justice restored the right to gender identity and declared the Government's UN Unconstitutional, (Apr. 20, 2025), <https://www.washingtonblade.com/2025/04/15/gay-nonbinary-parent-fights-for-family-in-argentinascourts/>

¹⁵⁴ Kuperman Wilder L., Orsi V., Chebi G., Balague M.A., & Cabral Campana L., Two Years of Innovative Dermatological Care: The First Public Health Consultation Service for the Transgender and Gender Diverse Community in Argentina, 99 An. Bras. Dermatol. 869 (2024), <https://doi.org/10.1016/j.abd.2024.03.003>.

helping transgender individuals complete their education and gain skills to improve their economic independence, thereby reducing the vulnerabilities that often accompany marginalization.¹⁵⁵ Further reflecting Argentina's commitment to inclusive healthcare are the designated "transliving" areas in public hospitals like Muñiz, Ramos Mejía, and Fernández in Buenos Aires. These dedicated spaces ensure that transgender patients receive respectful and competent medical care that acknowledges their gender identity.¹⁵⁶ By institutionalizing such practices, Argentina reduces barriers such as discrimination and misgendering, which often discourage transgender people from seeking healthcare.

In practice, many public hospitals, especially in Buenos Aires, offer free hormone therapy and surgeries like chest reconstruction and genital surgery. For example, the Dr. Ramón Carrillo Hospital in Buenos Aires has a dedicated transgender health program that guides patients through medical and surgical care. One patient shared how this program allowed them to start hormone treatment within months, rather than years, improving their mental health and confidence¹⁵⁷.

In Argentina, the government makes sure that transgender people can get the healthcare they need without worrying too much about money. They put aside funds specifically to pay for things like hormone treatments and surgeries. This means people don't have to pay out of their own pockets for these important services, which can often be really expensive.

Both public health insurance and private insurance companies cover transgender healthcare in Argentina. So whether someone is using the government system or a private plan, they can usually get hormone therapy or surgeries covered. This kind of support from insurance shows that Argentina takes transgender healthcare seriously and wants to make it easier for people to access care.

There was a study done with transgender women in Argentina that found something interesting: those with good health insurance were much more likely to go to the doctor when they needed to, rather than avoiding or delaying care.¹⁵⁸ This is important because many transgender people avoid healthcare due to high costs or fear of discrimination. Having insurance helps take away that worry about money and encourages people to get the treatment they need on time.

¹⁵⁵ UNAIDS, The Transgender House: A Community Centre for Transgender People in Buenos Aires, Mar. 29, 2018, <https://www.unaids.org/en/resources/presscentre/featurestories/2018/march/marcela-romero-casa-trans>.

¹⁵⁶ Pan American Health Organization (PAHO), Breaking Down Barriers to Healthcare Access for Transgender People in Argentina, Apr. 17, 2018, <https://www.paho.org/en/news/17-4-2018-breaking-down-barriers-healthcare-access-transgender-people-argentina>.

¹⁵⁷ Marcela Romero, The Transgender House: A Community Centre for Transgender People in Buenos Aires, UNAIDS (Mar. 29, 2018), <https://www.unaids.org/en/resources/presscentre/featurestories/2018/march/marcela-romero-casa-trans>.

¹⁵⁸ *ibid*

Argentina's approach to funding and insurance coverage is a good example of how government support and inclusive insurance policies can make a big difference in improving healthcare access for transgender people.

Argentina has created important institutions to support transgender health. The country has established specialized clinics and programs dedicated to transgender health. These include "transliving" areas in public hospitals and community centers like Casa Trans, which provide tailored healthcare services to meet the needs of transgender individuals.¹⁵⁹

Even though Argentina has made great progress in transgender healthcare, there are still some challenges that need attention. One of the main problems is that not all transgender people live near the specialized clinics or community centers. This means those in smaller towns or rural areas often have to travel long distances just to get basic hormone treatments or counseling. This creates a big gap in access and makes it hard for many people to get regular care. Another issue is that while the laws are very supportive on paper, the way they are put into practice sometimes falls short. Some healthcare workers still lack proper training on transgender issues, which can lead to misunderstandings or even discrimination. For example, transgender patients may face insensitive questions or receive care that doesn't fully respect their identities. This can make people feel unwelcome or unsafe, and some might avoid seeking help altogether. Funding can also be inconsistent. While there is public funding for transgender healthcare, it doesn't always reach all areas equally, and some treatments may have waiting lists or delays. This can be frustrating for those who need timely medical attention, especially for surgeries that are critical for their well-being.

Finally, social stigma outside of healthcare settings continues to affect many transgender people's overall health. Discrimination in education, work, and family life can create stress and mental health challenges that healthcare alone cannot fix. So while Argentina's system is far ahead of many countries, these ongoing barriers show that there is still work to be done to make transgender healthcare truly equal and accessible for everyone.

5.2.2-BRAZIL

In Brazil, healthcare is a basic right guaranteed by the Federal Constitution of 1988¹⁶⁰. This means that every person, including transgender people, has the legal right to access health services. Brazil's public health system, called the Sistema Único de Saúde (SUS), is required by law to provide free and universal healthcare. This includes gender-affirming care like

¹⁵⁹ *ibid*

¹⁶⁰ Constituição Federal [C.F.] [Constitution] art. 196 (Braz.).

hormone therapy and surgeries¹⁶¹.

A major step forward came in 2008, when the Brazilian Ministry of Health launched the “Transsexualization Process” policy. This made it mandatory for public hospitals to provide services like hormone therapy, mental health support, and gender-affirming surgeries. The policy was expanded in 2013, allowing more hospitals to participate and lowering the age for starting hormone therapy to 16, and surgeries to 18, provided the person had a psychological evaluation and gave informed consent.

In 2018, the Brazilian Supreme Federal Court made a landmark decision in the case of National Association of Transvestites and Transsexuals v. Federal Government (ADI 4275 and RE 670.422)¹⁶². The Court ruled that transgender people can change their name and gender on official documents without needing surgery, medical reports, or a judge’s permission. This case emphasized the principle of self-identification, recognizing that a person’s gender identity is for them to define.

Another key ruling came in 2024 in the case of Associação Brasileira de Gays, Lésbicas e Transgêneros (ABGLT) v. Union of Brazil (ADPF 787)¹⁶³, where the Court held that SUS must remove all systemic barriers preventing trans people from getting the medical care they need. For example, a trans man should be allowed to visit a gynecologist even if his documents show “male” as his gender.

Historically, Brazil’s first gender-affirming surgery was performed in the 1970s by Dr. Roberto Farina. He was later taken to court for it, but in 1979, the court acquitted him, stating that he was helping transgender individuals reduce their suffering and his work was not a crime. This case was a turning point in the early recognition of gender-affirming care¹⁶⁴.

In 2025, another important case was decided: Public Prosecutor’s Office v. Federal Government¹⁶⁵, where the Supreme Court ruled that the Maria da Penha Law, which protects women from domestic violence, also applies to transgender women and same-sex couples. This was crucial in recognizing the specific risks faced by trans women in abusive situations and ensuring their equal protection under the law.

¹⁶¹ Ana Luiza Fanganiello et al., Gender Affirmation Process in Brazilian Public Health System: Challenges to Integral Care, 14 J. SEXUAL MED. e343, e343 (Supp. 4, 2017), <https://doi.org/10.1016/j.jsxm.2017.04.619>.

¹⁶² ADI 4.275, Supremo Tribunal Federal [STF] [Supreme Federal Court], Mar. 1, 2018, <http://www.stf.jus.br/portal/cms/verNoticiaDetalhe.asp?idConteudo=371085> (Braz.).

¹⁶³ ADPF 787, STF, 28.6.2024 (Braz.).

¹⁶⁴ Letter from Dr. Roberto Farina to Rupert Raj (June 10, 1990), Rupert Raj Collection, The ArQuives, <https://www.digitaltransgenderarchive.net/files/6h440s50f> (last visited May 25, 2025).

¹⁶⁵ Brazil widens women's safety law to same-sex pairs and trans women, Agência Brasil (Feb. 24, 2025), <https://agenciabrasil.ebc.com.br/en/justica/noticia/2025-02/brazil-widens-womens-safety-law-same-sex-pairs-and-trans-women>.

Brazil's public health system, the Sistema Único de Saúde (SUS), offers gender-affirming care through the Transsexualization Process. This includes psychological counseling, hormone therapy, and sex reassignment surgeries. Since 2008, these services have been provided free of charge, following a court ruling that recognized their importance for the health and well-being of transgender individuals¹⁶⁶. In 2013, Ordinance No. 2,803 expanded the Transsexualization Process, ensuring a more comprehensive approach. Adjustments were made in 2023 to further refine these services. While SUS provides free gender-affirming care, access can be limited due to the concentration of specialized services in certain regions. Private healthcare facilities may offer similar services, but they are often expensive and not accessible to all. This disparity underscores the importance of expanding public services to ensure equitable access across the country.

While the Brazilian public health system, SUS, officially offers free gender-affirming care, many transgender people still face difficulties in actually getting these services. One major reason is that specialized clinics and hospitals that provide hormone therapy, counseling, and surgeries are mostly located in large cities like São Paulo, Rio de Janeiro, and Brasília¹⁶⁷. This means that people living in smaller towns, rural areas, or the vast Amazon region often have to travel long distances sometimes hundreds or even thousands of kilometers to reach a clinic that can provide the care they need. This travel can be expensive and time-consuming, making it very hard for many transgender individuals to access services regularly.

On the other hand, private healthcare facilities in Brazil do offer gender-affirming treatments, often with shorter waiting times and more personalized care. However, these private services usually come with a high price tag. Many transgender people cannot afford to pay out of pocket or do not have private health insurance plans that cover these procedures. This creates a significant gap between those who can afford private care and those who must rely on the public system, which may be overloaded and under-resourced.

Because of this imbalance, many transgender Brazilians experience delays, fragmented care, or even give up seeking treatment altogether. The government and health advocates stress the urgent need to expand and decentralize public gender-affirming healthcare services to more regions of the country. Doing so would reduce travel burdens and improve equal access, ensuring that all transgender people, regardless of where they live or their economic status, can receive the care they need with dignity and respect. For example, a transgender person living

¹⁶⁶ Portaria GM/MS No. 2.803, de 19 de novembro de 2013, D.O.U. de 20.11.2013 (Braz.).

¹⁶⁷ Dificuldades vividas por pessoas trans no acesso ao Sistema Único de Saúde, SciELO Public Health, <https://scielosp.org/article/csc/2016.v21n8/2517-2526/en/> (last visited May 2, 2025)

in the state of Acre in northern Brazil might currently face weeks or months of waiting and a costly journey to a specialized center in a distant city. Expanding services to regional hospitals closer to home would greatly improve their access and health outcomes.

In Brazil, the public health system, known as Sistema Único de Saúde (SUS), is fully funded by the government through taxes. This means that transgender people can access gender-affirming healthcare services like hormone therapy and surgeries free of charge at the point of use. The government aims to make these services available to everyone regardless of their income. However, in reality, the number of gender-affirming surgeries performed each year is still quite low, averaging about 100 surgeries annually across the country. This limited availability is partly due to the complex nature of the procedures and the shortage of specialized medical teams trained to perform them¹⁶⁸.

Brazil has developed several specialized clinics and hospitals dedicated to transgender healthcare to provide more focused and appropriate care¹⁶⁹. These centers are spread across the country and serve as important hubs for delivering hormone therapy, psychological support, and surgical services.

Some well-known centers include:

- **Research and Support Center for Transvestites and Transsexuals of Curitiba:** This center focuses on providing comprehensive outpatient care, including counseling and hormone therapy, and serves as a model for inclusive healthcare services¹⁷⁰.
- **Instituto Estadual de Diabetes e Endocrinologia Luiz Capriglione in Rio de Janeiro:** Though primarily an endocrinology institute, it offers specialized hormone therapy programs tailored for transgender patients¹⁷¹.
- **Hospital Universitário Professor Edgard Santos in Salvador:** This hospital provides a range of transgender healthcare services, including psychological support and preparation for surgeries.

¹⁶⁸ Access Pathways to the Transsexualizing Process in Brazil: A Scoping Review, PMC, <https://pmc.ncbi.nlm.nih.gov/articles/PMC11734662/> (last visited May 2, 2025).

¹⁶⁹ A Política Nacional de Saúde Integral de Lésbicas, Gays, Bissexuais e Transgêneros (LGBT) e o acesso ao Processo Transexualizador no Sistema Único de Saúde (SUS): avanços e desafios, SciELO Brazil, <https://www.scielo.br/j/csc/a/JVTfd3DqVzN3dPMLPJYLVy/?lang=en> (last visited May 2, 2025).

¹⁷⁰ R. Valverde & M. de Oliveira, Transgender Health Care in Brazil: Experiences and Challenges, 24 Int'l J. Transgender Health 1 (2022).

¹⁷¹ Ministério da Saúde, Protocolos Clínicos e Diretrizes Terapêuticas para Transexuais e Travestis, 2023.

- **Centro de Referência e Treinamento DST/AIDS in São Paulo:** Known for its expertise in infectious diseases and sexual health, this center integrates transgender health services, recognizing the unique needs of the community¹⁷².
- **Hospital das Clínicas de Uberlândia and Hospital Universitário Cassiano Antônio de Moraes in Vitória:** These hospitals have developed programs offering multidisciplinary care to transgender individuals, combining hormone therapy, mental health support, and surgical interventions.

These specialized centers play a vital role in delivering outpatient care such as regular hormone treatment and psychotherapeutic follow-up. They also provide hospital care for gender-affirming surgeries. By offering a multidisciplinary approach, these institutions address not just the physical but also the mental health needs of transgender people.

However, many of these facilities are concentrated in larger cities, which creates accessibility challenges for those living in remote or rural areas. The Brazilian government and health advocates continue to work toward expanding such services to reach underserved regions, aiming to make gender-affirming healthcare truly available to all transgender individuals across the country.

Despite Brazil's strong legal framework and progressive policies supporting transgender healthcare, many challenges still prevent equal access to necessary services. Specialized clinics and gender-affirming care are mostly concentrated in major cities like São Paulo and Rio de Janeiro, making it difficult for people in smaller towns or rural areas to obtain treatment without costly and time-consuming travel. The public health system (SUS), though publicly funded and free, struggles with long waiting times due to limited resources and a shortage of trained professionals, leaving many transgender individuals waiting months or even years for hormone therapy or surgeries. Additionally, discrimination and lack of understanding from some healthcare providers create uncomfortable or hostile environments that discourage people from seeking care. Funding remains insufficient, with the number of surgeries performed annually far below demand and mental health services for transgender patients often fragmented or inadequate. Mental health support is particularly important as many transgender people face anxiety, depression, and trauma linked to social stigma, but these services are not always integrated with medical care. Overall, while legal protections exist, practical barriers such as geographic disparities, delays, prejudice, funding gaps, and poor coordination of care continue

¹⁷² Fundação Oswaldo Cruz, Relatório sobre Saúde LGBT no Brasil, 2022.

to limit access, requiring ongoing efforts to ensure respectful, timely, and comprehensive healthcare for all transgender individuals in Brazil.

2.5.3- CANADA

Canada has one of the most progressive legal frameworks supporting transgender rights and healthcare. The Canadian Charter of Rights and Freedoms guarantees equality and protection from discrimination based on gender identity and expression¹⁷³. This constitutional protection has been reinforced by federal and provincial laws, including the Canadian Human Rights Act, which explicitly prohibits discrimination on the basis of gender identity and gender expression. In 2017, Canada passed Bill C-16, which amended the Canadian Human Rights Act and the Criminal Code to include gender identity and gender expression as protected grounds. This legislation has been a major step forward in protecting transgender Canadians from discrimination and hate crimes.

Several landmark court cases have strengthened transgender rights related to healthcare access. For instance, in *Vancouver (City) v. Zhang* (2010),¹⁷⁴ the court ruled in favor of inclusive healthcare policies for transgender people. Another significant case, *Carter v. Canada (Attorney General)* (2015)¹⁷⁵, recognized the right to medical assistance in dying but also set important precedents related to bodily autonomy that influence healthcare access debates for marginalized groups, including transgender individuals. Furthermore, the Ontario Human Rights Commission has issued guidelines emphasizing the right of transgender people to access healthcare without discrimination. This includes gender-affirming care such as hormone therapy and surgeries¹⁷⁶. Canada's legal framework provides a strong foundation for transgender healthcare rights, supported by both legislation and judicial decisions that uphold dignity, equality, and access to necessary medical services.

Canada has made significant progress in providing healthcare that respects and addresses the unique needs of transgender individuals. Gender-affirming care is now widely recognized as essential, not just a luxury, and efforts have been made across the country to improve access to these services. The Canadian healthcare system operates primarily through public provincial and territorial health plans, known as Medicare, which generally guarantee medically necessary care free at the point of service. This includes various gender-affirming treatments such as

¹⁷³ Canadian Charter of Rights and Freedoms, s 15, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), c 11.

¹⁷⁴ *Vancouver (City) v. Zhang*, 2010 BCCA 138, 325 D.L.R. (4th) 313.

¹⁷⁵ *Carter v. Canada (Attorney General)*, 2015 SCC 5, [2015] 1 S.C.R. 331

¹⁷⁶ Ontario Human Rights Commission, Policy on Preventing Discrimination Because of Gender Identity and Gender Expression (2014), available at <https://www3.ohrc.on.ca/en/policy-preventing-discrimination-because-gender-identity-and-gender-expression>.

hormone therapy and surgeries. However, the real experience of accessing this care can vary significantly depending on where a person lives, the specific services they need, and the resources available in their community. While major urban centers tend to have specialized clinics with multidisciplinary teams offering comprehensive gender-affirming care, people in rural or remote areas often face long waits, travel burdens, and limited local expertise. Despite these challenges, the overall healthcare framework is evolving to become more inclusive, with growing awareness among healthcare professionals about transgender health needs and efforts to reduce discrimination within medical settings.

In Canada, gender-affirming care encompasses a wide range of medical treatments that help transgender people align their physical bodies with their gender identities. Hormone therapy is often the first step, involving medications like estrogen or testosterone to induce physical changes that correspond with the individual's gender identity. This therapy is generally accessible through family doctors, endocrinologists, or specialized gender clinics. Many transgender people also seek various surgical interventions, including chest reconstruction, genital surgeries, and facial feminization procedures. These surgeries are recognized as medically necessary by many provincial health plans and are usually provided at public hospitals or through contracted specialists. However, accessing these surgeries often involves lengthy waiting periods, partly due to limited numbers of surgeons trained in gender-affirming procedures¹⁷⁷. Moreover, patients must typically go through careful psychological assessments and provide informed consent before surgery, ensuring their readiness and understanding of the process. This comprehensive approach aims to safeguard patient well-being but can also add to delays. Despite these hurdles, Canada is considered one of the more progressive countries globally when it comes to providing comprehensive gender-affirming care. In 2024, the Government of Yukon introduced a policy that significantly improved access to gender-affirming healthcare¹⁷⁸. This policy expanded coverage to include surgeries and other procedures essential to gender transition, aligning with the World Professional Association for Transgender Health's standards of care. The policy also provides enhanced access to hormone therapy and recognizes these treatments as life-saving rather than cosmetic.

Canada's public healthcare system covers most medically necessary treatments, including gender-affirming care, though the specifics differ across provinces and territories¹⁷⁹. For

¹⁷⁷ Gender Affirming Care Services in Canada by Province/Territory, CANADIAN BROADCASTING CORPORATION, https://www.cbrc.net/gender_affirming_care_services_in_canada_by_province_territory.

¹⁷⁸ Gender Affirming Care Services in Canada by Province/Territory, CANADIAN BROADCASTING CORPORATION, https://www.cbrc.net/gender_affirming_care_services_in_canada_by_province_territory.

¹⁷⁹ Government of Canada, How to Access Gender-Affirming Care: Options, <https://www.canada.ca/en/public->

example, provinces like Ontario, British Columbia, and Quebec have well-established policies covering hormone therapy and various gender-affirming surgeries under their public health insurance plans. However, some provinces have more limited coverage or bureaucratic hurdles that can delay access to care¹⁸⁰. Additionally, since the public system can have long waiting times, many transgender Canadians turn to private healthcare providers to access quicker or more specialized care¹⁸¹. Private clinics offering hormone therapy and surgeries exist but can be expensive, and private insurance plans vary widely in what they cover. Some private insurance policies include gender-affirming treatments, but many do not, making out-of-pocket payments a significant barrier for some individuals. This creates an uneven landscape where financial means can strongly influence how quickly and comprehensively someone can access gender-affirming healthcare, underscoring the importance of continued public investment and policy reform to ensure equitable access for all transgender people across Canada. While Canada's public healthcare system covers many gender-affirming procedures, some services are not universally covered across all provinces and territories. For example, the Public Service Health Care Plan, which covers federal employees, introduced changes in July 2024 to include up to \$75,000 for certain gender-affirming procedures not covered by provincial or territorial health programs.¹⁸²

Mental health support is a crucial element of transgender healthcare in Canada. Recognizing that transgender individuals often face higher rates of mental health challenges due to discrimination, stigma, and social exclusion, many healthcare providers emphasize the integration of trans-specific mental health services alongside medical treatments¹⁸³. These services include individual and group counseling, psychiatric care, and support for coping with gender dysphoria and social challenges. Specialized clinics often have mental health professionals as part of their multidisciplinary teams, offering ongoing psychological support before, during, and after medical interventions. However, access to culturally competent mental health care remains uneven across Canada. While larger cities typically have specialized services, rural and Indigenous communities may face a shortage of qualified professionals who

health/services/sexual-health/how-to-access-gender-affirming-care/options.html

¹⁸⁰ Global News, Gender-Affirming Healthcare Coverage in Canada: A Guide for Two-Spirit, Trans, and Non-Binary People, <https://globalnews.ca/news/8900413/gender-affirming-healthcare-province-territory-transgender/>

¹⁸¹ Xtra Magazine, Wait Times for Bottom Surgery in Canada Can Be as Long as Eight Years, <https://xtramagazine.com/health/wait-times-trans-bottom-surgery-canada-255804>.

¹⁸² Government of Canada, Improvements and Changes to the Public Service Health Care Plan, <https://www.canada.ca/en/treasury-board-secretariat/services/benefit-plans/health-care-plan/information-notices/improvements-changes-public-service-health-care-plan.html>.

¹⁸³ Canadian Mental Health Association, Mental Health in LGBTQ2+ Communities, <https://cmha.ca/documents/mental-health-in-lgbtq2-communities> (last visited May 3, 2025).

understand the unique experiences of transgender people. Additionally, the historic pathologization of transgender identities within psychiatry has left some mistrust toward mental health systems¹⁸⁴. In response, many organizations and advocacy groups are working to increase training, improve accessibility, and promote peer support programs to create a more affirming mental health care environment.

Canada's healthcare system is primarily publicly funded through general taxation, which means that gender-affirming healthcare services are available without direct charges at the point of care in most provinces¹⁸⁵. This public funding model helps reduce financial barriers, making hormone therapy, surgeries, and related treatments accessible to many transgender Canadians. However, the degree of coverage for specific procedures and associated services can differ across regions, influenced by local health policies and budget priorities. Some provinces may not cover all types of surgeries or related healthcare costs such as travel expenses, psychological support beyond initial assessments, or post-operative care. For those living outside urban centers, these additional costs can become significant obstacles. Private insurance plans supplement public coverage for some people, but the variability in coverage means many must navigate complex and often confusing systems to understand what is included. Out-of-pocket expenses for certain procedures or medications can be prohibitive for many individuals, highlighting the need for ongoing advocacy to expand both public funding and private insurance coverage to better meet the full range of transgender healthcare needs. The introduction of gender-affirming coverage by private insurers, such as Manulife, marks a significant development in transgender healthcare. Effective September 6, 2024, Manulife began offering gender affirmation benefits as part of their extended health care plans. This coverage includes procedures like transition-related surgeries, facial and body feminization surgeries, vocal cord surgery, and laser hair removal, provided the individual has a diagnosis of gender dysphoria from a physician.¹⁸⁶

Canada has developed a range of institutional supports aimed at improving transgender healthcare. Specialized gender clinics have been established in major urban centers such as

¹⁸⁴ Canadian Psychological Association, Position Statement on Trans and Non-Binary Health, https://cpa.ca/docs/File/Position/CPA_Position_Statement_Trans_and_Non-Binary_Health.pdf (last visited May 3, 2025).

¹⁸⁵ Canadian Institute for Health Information, How Canada Compares: Results From The Commonwealth Fund's 2021 International Health Policy Survey of Primary Care Physicians, <https://www.cihi.ca/en/how-canada-compares-results-from-the-commonwealth-funds-2021-international-health-policy-survey> (last visited May 3, 2025).

¹⁸⁶ Manulife, Manulife Adds Gender Affirmation Benefits to Extended Health Care Plans, <https://www.manulife.ca/about-us/news/manulife-adds-gender-affirmation-benefits.html> (last visited May 3, 2025).

Toronto's Sherbourne Health Centre, Vancouver Coastal Health's Gender Clinic, and Montreal's Centre for Gender Affirming Care. These clinics provide a full spectrum of services, from hormone therapy and surgical referrals to mental health counseling and social support programs. Government agencies at the provincial and territorial level have created policies to support transgender healthcare access and reduce discrimination in health settings. Additionally, organizations like the Canadian Professional Association for Transgender Health (CPATH) and various LGBTQ+ advocacy groups play vital roles in education, advocacy, and policy development to improve healthcare provider competence and promote best practices¹⁸⁷. Community-run organizations also provide peer support, information, and assistance navigating the healthcare system. Organizations like the Canadian Institutes of Health Research announced an \$8.3 million investment in 2023 to improve healthcare for women and gender-diverse people¹⁸⁸. This initiative includes the establishment of virtual hubs across Canada to mobilize knowledge and models of care, focusing on areas such as reproductive health, prevention of violence, and achieving greater equity in health services.

Even though Canada has made important strides in transgender healthcare, there are still quite a few challenges that many trans people face every day. One big issue is that specialized services aren't available everywhere. While big cities like Toronto and Vancouver have clinics where people can access hormone therapy and surgeries, smaller towns and rural areas often don't have these options at all. That means a lot of folks have to travel far just to get basic care, which isn't always easy or affordable. On top of that, the public system can have really long wait times, especially for surgeries, sometimes people wait years before they can get the procedures they need. That kind of delay can take a huge toll on someone's mental health and overall wellbeing. Another problem is that not all provinces cover every kind of gender-affirming care under their health plans. So even with public healthcare, some trans people end up paying out of pocket or turning to private insurance, which can be expensive and complicated. And sadly, discrimination and stigma still exist in healthcare settings. Many transgender individuals share stories of feeling misunderstood, judged, or even refused care by doctors or nurses, which can be really discouraging and scary. Mental health support that's specifically designed for trans people is often limited too, and it's usually not well connected with the rest of their medical care. All of these challenges show that, while Canada is moving forward, there's still a lot of work to do to make sure transgender people get the respectful,

¹⁸⁷ Canadian Professional Association for Transgender Health, <https://cpath.ca/> (last visited May 25, 2025).

¹⁸⁸ Canadian Institutes of Health Research, CIHR Launches \$8.3 Million Initiative on Women's and Gender-Diverse People's Health, <https://cihr-irsc.gc.ca/e/52694.html> (last visited May 25, 2025).

timely, and complete healthcare they deserve.

5.2.4-SPAIN

Spain has established a strong legal framework that explicitly supports the rights of transgender individuals, particularly in relation to healthcare access and gender recognition¹⁸⁹. The most significant recent development is the Gender Identity Law passed in February 2023, which allows individuals aged 16 and older to change their legal gender through a simple self-declaration process¹⁹⁰. This law removes the need for medical diagnoses, hormone treatments, or surgical interventions as prerequisites for legal gender recognition, respecting the principle of self-determination. This progressive legislation has positioned Spain as a leader in transgender rights in Europe. Furthermore, Spain's national laws protect transgender people from discrimination and guarantee access to healthcare, education, and employment without bias. These laws provide a clear foundation that affirms transgender identities and ensures that healthcare policies align with human rights standards. However, the law has faced criticism regarding potential misuse. In Ceuta, a significant number of gender changes were reportedly made by men, including police officers and military personnel, raising concerns about the law's application. Nonetheless, the Ministry of Equality defends the law, emphasizing its positive impact on the lives of transgender individuals¹⁹¹.

Spain's public healthcare system, which operates through the Sistema Nacional de Salud, offers comprehensive gender-affirming care as part of its mandate to provide universal healthcare to all citizens. Gender-affirming treatments in Spain include hormone replacement therapy (HRT), surgical procedures such as chest reconstruction, genital surgeries, and facial feminization or masculinization surgeries. Importantly, access to these treatments does not depend on a lengthy diagnosis or psychiatric evaluation, reflecting a more affirming approach to transgender health. However, access to surgeries and specialized treatments can vary across autonomous communities, with some regions having more resources and expertise than others. Despite these regional disparities, Spain's public healthcare system aims to provide gender-affirming care free at the point of service, ensuring that financial barriers do not prevent individuals from receiving necessary medical support. Private healthcare options are available, but most transgender individuals rely on the public system due to the high costs of private

¹⁸⁹ European Commission, LGBTIQ Equality Strategy 2020-2025: Spain Country Report, https://ec.europa.eu/info/sites/default/files/lgbtiq-equality-strategy-country-report-spain_en.pdf

¹⁹⁰ Ley 2/2023, de 15 de febrero, de igualdad real y efectiva de las personas trans y para la garantía de los derechos LGTBI, BOE No. 43, Feb. 16, 2023, art. 4, <https://www.boe.es/eli/es/l/2023/02/15/2>

¹⁹¹ El País, Ceuta: Gender Change Applications Spike Among Security Personnel, Mar. 2024, <https://elpais.com/espana/2024-03-05/ceuta-gender-change-applications-spike-among-security-personnel.html> (last visited May 25, 2025).

treatments.

Mental health support is integrated as a key part of transgender healthcare in Spain. Trans-specific mental health services are provided to help individuals navigate their gender identity journey, cope with social challenges, and address any accompanying psychological distress. While Spain has moved away from pathologizing transgender identities, psychological support remains accessible for those who seek it voluntarily. Mental health professionals work closely with endocrinologists, surgeons, and primary care physicians to offer holistic care. Additionally, peer support groups and community organizations play an essential role in providing psychosocial support and reducing feelings of isolation. Despite these provisions, mental health services still face challenges such as uneven availability in rural areas and the need for more culturally competent training among healthcare providers. Nevertheless, Spain's integrated approach helps promote the overall wellbeing of transgender individuals beyond just medical interventions.

The Spanish public healthcare system is primarily funded through general taxation and guarantees that gender-affirming healthcare is covered without additional cost to patients. This includes hormone therapies, surgeries, and related healthcare services¹⁹². This universal coverage eliminates financial barriers that many transgender individuals face in other countries. Private insurance plans also exist but tend to cover fewer transgender-specific treatments and often require high out-of-pocket payments, making public healthcare the main option for most transgender people. Regional health authorities receive budgets to manage and expand transgender health services, which has led to improvements in access and quality over time. However, some delays and waiting lists remain, especially for surgeries, due to limited resources and specialist availability. Still, the public funding system's commitment to inclusivity ensures that economic status does not restrict access to essential gender-affirming care.

Spain has developed various institutional mechanisms to support transgender healthcare at both national and regional levels. Specialized gender identity units and clinics have been established across many autonomous communities, providing multidisciplinary care including endocrinology, psychology, surgery, and social work. These units operate within public hospitals and are designed to offer streamlined, patient-centered care tailored to the unique needs of transgender people. The government also funds and supports community-based

¹⁹² Abogado Extranjería Madrid, Moving to Spain as an LGBT+ Individual: Insights from Immigration Expert Ainhoa Manero, <https://www.abogadosextranjeriamadrid.net/en/moving-to-spain-as-an-lgbt-individual-insights-from-immigration-expert-ainhoa-manero/> (last visited May 4, 2025)

organizations that advocate for transgender rights and provide peer counseling and education. Moreover, Spain's Ministry of Health works in coordination with regional health departments to standardize care protocols and monitor the quality of transgender health services. These institutional frameworks ensure that transgender healthcare is more than a medical issue, it is treated as a comprehensive social and human rights matter. Spain continues to invest in training healthcare professionals to enhance cultural competence and reduce stigma within medical settings.

Spain has developed various institutional mechanisms to support transgender healthcare at both national and regional levels. Specialized gender identity units and clinics have been established across many autonomous communities, providing multidisciplinary care including endocrinology, psychology, surgery, and social work. These units operate within public hospitals and are designed to offer streamlined, patient-centered care tailored to the unique needs of transgender people. The government also funds and supports community-based organizations that advocate for transgender rights and provide peer counseling and education. Moreover, Spain's Ministry of Health works in coordination with regional health departments to standardize care protocols and monitor the quality of transgender health services. These institutional frameworks ensure that transgender healthcare is more than a medical issue, it is treated as a comprehensive social and human rights matter. Spain continues to invest in training healthcare professionals to enhance cultural competence and reduce stigma within medical settings.

5.2.5-SWEDAN

Sweden has long been recognized for its progressive stance on transgender rights, backed by a legal framework that explicitly supports access to healthcare for transgender people. The landmark change in 2013 removed the previous requirement for sterilization and divorce to legally change gender, reflecting respect for bodily autonomy and self-identification¹⁹³. More recently, in April 2024, the Swedish Parliament passed legislation lowering the legal gender change age from 18 to 16, with parental consent and medical approval¹⁹⁴. This important step aligns Sweden with evolving international standards and acknowledges the need to support transgender youth earlier in their transition journeys.

A significant legal case underscoring Sweden's commitment was A. v. The Swedish National

¹⁹³ Amended Transgender Law Now in Force, Library of Congress (Jan. 11, 2013),

<https://www.loc.gov/item/global-legal-monitor/2013-01-11/sweden-amended-transgender-law-now-in-force>.

¹⁹⁴ Sweden Passes Law Lowering Age to Legally Change Gender from 18 to 16, The Guardian (Apr. 17, 2024), <https://www.theguardian.com/world/2024/apr/17/sweden-passes-law-lowering-age-to-legally-change-gender-from-18-to-16>.

Board of Health and Welfare, Case No. 3488-17¹⁹⁵. In this decision, the Court of Appeal recognized the right of a transgender person to revert their legal gender after having undergone reassignment surgery, emphasizing that legal gender status must reflect the individual's authentic self at all times, and must not be rigidly fixed by past medical interventions. This case has paved the way for more flexible, humane treatment of transgender identities in legal contexts. While Sweden does not require a diagnosis of gender dysphoria for legal gender recognition anymore, medical evaluations often play a role in accessing healthcare services. Ongoing debates within the Swedish medical community focus on balancing access with protection, particularly for minors, ensuring care is patient-centered and evidence-based.

Sweden's public healthcare system is designed to provide comprehensive gender-affirming care, including hormone therapy, surgeries, and counseling, but access is highly regulated. Gender-affirming genital surgeries, considered complex and requiring specialized expertise, are centralized in three national centers located in Stockholm, Gothenburg, and Linköping. This centralization helps ensure high standards and safety but also means that patients from more remote areas may face travel and accommodation challenges.

Non-genital surgeries, such as chest reconstruction and breast augmentation, and hormonal therapies are more widely available and often managed by local healthcare providers after initial assessments at national centers. Patients typically undergo extensive psychological evaluation before beginning medical treatment, reflecting Sweden's cautious but supportive approach.

For transgender youth under 18, access to puberty blockers and hormone therapy is tightly controlled and only offered after thorough assessment by multidisciplinary teams. This conservative approach was updated in 2022 by the National Board of Health and Welfare, which issued new guidelines to ensure careful evaluation to avoid unnecessary medical risks, sparking discussion about the balance between timely care and caution¹⁹⁶.

Despite these systems, waiting times remain a significant problem. Many individuals report delays of months or even years for initial consultations or surgeries, leading some to seek private alternatives, which are costly and thus inaccessible to many. This delay can exacerbate mental health challenges and highlights an area where Swedish healthcare could improve.

¹⁹⁵ Kammarrätten i Stockholm [Administrative Court of Appeal Stockholm], Case No. 3488-17 (Aug. 28, 2017), available at https://www.law.cornell.edu/women-and-justice/resource/case_no._3488-17_%E2%80%93_a._v._the_swedish_national_board_of_health_and_welfare.

¹⁹⁶ Swedish National Board of Health and Welfare, Care of Children and Adolescents with Gender Dysphoria (Dec. 2022), available at <https://www.socialstyrelsen.se/globalassets/sharepoint-dokument/artikelkatalog/kunskapsstod/2023-1-8330.pdf>

Mental health care for transgender people in Sweden is integrated into the gender-affirming care pathway, recognizing that psychological support is crucial for well-being during transition. Multidisciplinary teams including psychiatrists, psychologists, social workers, and endocrinologists work collaboratively to offer comprehensive mental health assessments and ongoing counseling.

Innovative digital services, such as the Transamman's platform, offer confidential, accessible mental health support via chat, video, or phone, which is especially valuable in reducing stigma and reaching individuals in rural or underserved areas. These services also provide multilingual support, reflecting Sweden's diverse population¹⁹⁷.

However, mental health services face challenges. Long wait times, variability in provider expertise, and occasional lack of cultural competence in understanding transgender experiences can undermine care quality. Studies comparing Swedish and Spanish healthcare found that some transgender youth and adults feel underserved by the public mental health system and sometimes resort to private care, despite the financial burden. Efforts are underway to improve training for healthcare professionals to better understand transgender health issues and to expand specialized mental health services, but gaps remain¹⁹⁸.

Sweden's healthcare system is publicly funded, primarily through local and state taxes, making gender-affirming treatments mostly free at the point of care. Patients generally pay only small fees for visits and medications, making care more accessible than in many countries. About 97% of healthcare costs, including those related to transgender health, are covered by the public system¹⁹⁹.

Several institutional bodies in Sweden play a key role in safeguarding and advancing transgender healthcare. The Equality Ombudsman (Diskrimineringsombudsmannen, DO) enforces anti-discrimination laws protecting transgender individuals in healthcare and other sectors. DO provides guidance, investigates complaints, and promotes public awareness about transgender rights²⁰⁰.

The Swedish National Board of Health and Welfare (Socialstyrelsen) regulates clinical

¹⁹⁷ Transsamman's Counselling Centre, TRANSFORMERING, <https://transformering.se/english/seek-support> (last visited May 5, 2025).

¹⁹⁸ Maria Sundström, Waiting for and in Gender-Confirming Healthcare in Sweden: An Analysis of Young Trans People's Experiences, 36 Eur. J. Soc. Work 1 (2022), <https://www.tandfonline.com/doi/full/10.1080/13691457.2022.2063799>

¹⁹⁹ Health, Disability and Quality of Life Among Trans People in Sweden: A National Survey, BMC Public Health, <https://bmcpublichealth.biomedcentral.com/articles/10.1186/s12889-016-3560-5> (last visited May 5, 2025).

²⁰⁰ The Equality Ombudsman (DO), GOVERNMENT.SE, <https://www.government.se/government-agencies/equality-ombudsman-do/> (last visited May 5, 2025).

guidelines for transgender healthcare, issuing recommendations that shape service delivery across the country. Its 2021 decision to reduce authorized gender clinics from seven to three aimed to concentrate expertise and improve quality but has been criticized for potentially reducing geographic accessibility²⁰¹.

In addition, NGOs like RFSL (The Swedish Federation for Lesbian, Gay, Bisexual, Transgender and Queer Rights) are actively engaged in advocacy, education, and support services for transgender people, helping to fill gaps in the public system²⁰². Recent government initiatives include increased funding for mental health support and research on transgender healthcare needs, alongside campaigns to educate healthcare workers on transgender cultural competency.

5.3-ALIGNMENT WITH INTERNATIONAL FRAMEWORKS

International frameworks have played a transformative role in shaping transgender healthcare policies and practices worldwide. The World Health Organization has been at the forefront of this evolution by reclassifying transgender identities in its latest International Classification of Diseases, removing them from the category of mental disorders²⁰³. This shift has been monumental in reducing stigma and promoting healthcare approaches based on respect, autonomy, and informed consent rather than pathologizing transgender people²⁰⁴. WHO's guidelines emphasize the importance of gender-affirming healthcare that is accessible, evidence-based, and free from unnecessary medical barriers²⁰⁵. These guidelines also stress the need for healthcare systems to integrate hormone therapy, mental health support, and surgical options as part of a comprehensive care model tailored to the unique needs of transgender individuals.

The Yogyakarta Principles, developed by human rights experts, have provided a detailed roadmap for governments to ensure the rights of transgender people are upheld within the

²⁰¹ Sweden's Karolinska Ends All Use of Puberty Blockers and Cross-Sex Hormones for Minors, SEGMENT, https://segm.org/Sweden_ends_use_of_Dutch_protocol (last visited May 5, 2025)

²⁰² Health, Disability and Quality of Life Among Trans People in Sweden: A National Survey, BMC Public Health, <https://bmcpublichealth.biomedcentral.com/articles/10.1186/s12889-016-3560-5> (last visited May 5, 2025)

²⁰³ World Health Organization, Gender Incongruence and Transgender Health in the ICD, <https://www.who.int/standards/classifications/frequently-asked-questions/gender-incongruence-and-transgender-health-in-the-icd>.

²⁰⁴ World Health Organization, Moving One Step Closer to Better Health and Rights for Transgender People, <https://www.who.int/europe/news/item/17-05-2019-moving-one-step-closer-to-better-health-and-rights-for-transgender-people>.

²⁰⁵ World Health Organization, WHO Announces the Development of a Guideline on the Health of Trans and Gender Diverse People, <https://www.who.int/news/item/28-06-2023-who-announces-the-development-of-the-guideline-on-the-health-of-trans-and-gender-diverse-people>.

healthcare context²⁰⁶. These principles explicitly recognize the rights to bodily integrity, freedom from discrimination, and access to necessary health services. They call for legal recognition of gender identity without requiring invasive procedures or judicial approvals, thereby empowering transgender people to self-identify and receive care without undue obstacles. Since their introduction, these principles have influenced many national reforms, leading to expanded healthcare coverage, improved access to gender-affirming treatments, and better protections against discrimination in healthcare settings. Governments and policymakers often refer to these principles to align domestic laws with international human rights standards, ensuring transgender healthcare is treated as a matter of fundamental rights.

The United Nations has also increased its focus on transgender health as part of broader efforts to promote equality and eliminate discrimination. UN agencies such as UNAIDS, UNDP, and UN Women have launched campaigns highlighting the intersectional challenges faced by transgender people, including violence, poverty, and exclusion from healthcare. Their reports stress that social determinants such as stigma and discrimination must be addressed alongside medical care to improve overall health outcomes²⁰⁷. The UN Human Rights Council has repeatedly called on member states to remove discriminatory laws, improve healthcare access, and protect transgender individuals from abuse and neglect²⁰⁸. These international demands have prompted legislative reforms and new healthcare policies in various countries. Additionally, the UN has fostered partnerships with civil society organizations to increase awareness, support capacity-building, and promote best practices in transgender healthcare.

A critical aspect emphasized in these international frameworks is the meaningful involvement of transgender people in policy development and healthcare design. When transgender communities actively participate in shaping health programs, the services become more relevant, culturally sensitive, and effective. This participatory approach helps reduce mistrust and barriers stemming from previous negative experiences with healthcare providers. International guidelines encourage training healthcare professionals in transgender health and cultural competence to foster an environment free from bias, discrimination, and misunderstanding. These training initiatives are vital because respectful provider-patient

²⁰⁶ Human Rights Watch, ‘Yogyakarta Principles’ a Milestone for Lesbian, Gay, Bisexual, and Transgender Rights, Human Rights Watch (Mar. 26, 2007), <https://www.hrw.org/news/2007/03/26/yogyakarta-principles-milestone-lesbian-gay-bisexual-and-transgender-rights>

²⁰⁷ UNITED NATIONS DEVELOPMENT PROGRAMME, Discussion Paper on Transgender Health & Human Rights (Dec. 4, 2015), <https://www.undp.org/publications/discussion-paper-transgender-health-human-rights>.

²⁰⁸ Press Release, UNAIDS, Ending Violence and Discrimination Against Lesbian, Gay, Bisexual, Transgender and Intersex People (Sept. 29, 2015), https://www.unaids.org/en/resources/presscentre/pressreleaseandstatementarchive/2015/september/20150929_LGBTI.

interactions directly influence health outcomes and care adherence.

Mental health services receive particular attention within these frameworks. The World Health Organization recognizes that transgender people face disproportionately high rates of depression, anxiety, and suicidal ideation, largely due to societal stigma and discrimination²⁰⁹. Thus, integrated mental health care, including trauma-informed approaches and peer support, is considered an essential component of comprehensive transgender healthcare²¹⁰. International recommendations advocate for accessible counseling, community-based support groups, and suicide prevention strategies tailored to the experiences of transgender individuals. This holistic model understands that gender-affirming medical interventions alone cannot address the full spectrum of health needs.

Furthermore, these international standards have reinforced the importance of eliminating legal and systemic barriers to care. Several human rights bodies have urged states to abolish requirements such as mandatory sterilization, prolonged psychological assessments, or court orders before accessing gender-affirming treatments²¹¹. These barriers have been widely condemned as violations of human dignity and autonomy. As a result, many countries have reformed their procedures to facilitate easier access to healthcare and legal recognition, consistent with global human rights norms. This ongoing global advocacy has led to notable progress in countries across different continents, although implementation gaps persist in many regions.

Another key contribution of international frameworks is in data collection and monitoring²¹². Historically, transgender health has suffered from a lack of reliable data, which has impeded evidence-based policy-making. The WHO and UN have encouraged member states to systematically collect and disaggregate health data by gender identity to identify disparities and track progress. This improved data helps design targeted interventions, allocate resources efficiently, and measure the impact of healthcare policies. It also supports advocacy efforts by providing concrete evidence of the health inequities faced by transgender populations.

Recent global developments continue to reinforce these principles. The WHO's 2022 report on

²⁰⁹ How common are mental health conditions among transgender people?, MEDICAL NEWS TODAY (Oct. 26, 2021), <https://www.medicalnewstoday.com/articles/transgender-mental-health>.

²¹⁰ Addressing Mental Health Needs in the Transgender Community, MEDINDIA (Oct. 17, 2023), <https://www.medindia.net/news/healthwatch/addressing-mental-health-needs-in-the-transgender-community-215519-1.htm>

²¹¹ Discrimination and Violence Against Individuals Based on Their Sexual Orientation and Gender Identity, U.N. Human Rights Council, U.N. Doc. A/HRC/29/23 (May 4, 2015), <https://www.right-docs.org/doc/a-hrc-29-23/>.

²¹² World Health Organization, The World Health Organization's Work and Recommendations for Improving the Health of Trans and Gender Diverse People, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9990390/>.

transgender health highlighted the need for more inclusive health systems and urged governments to prioritize training and resource allocation for transgender healthcare²¹³. Similarly, the 2023 UN High Commissioner for Human Rights report emphasized that access to gender-affirming healthcare is not just a medical issue but a crucial human rights concern that affects transgender people's dignity and social inclusion²¹⁴. These high-level statements keep transgender health visible on the international agenda and encourage nations to advance reforms.

Overall, the alignment with international frameworks ensures that transgender healthcare evolves beyond a fragmented or pathologizing model toward a rights-based, patient-centered system. These global standards compel governments and health institutions to recognize and respect transgender people's identities, provide comprehensive and accessible medical care, and address broader social determinants impacting health. They foster accountability, support community empowerment, and promote dignity and equality. While challenges remain in full implementation worldwide, these international frameworks lay the foundation for continued progress toward health equity and human rights for transgender individuals everywhere.

5.4- COMPARATIVE INSIGHTS AND LESSONS FOR INDIA

India's approach to transgender healthcare has evolved in recent years, particularly following the landmark Supreme Court judgment in *National Legal Services Authority (NALSA) v. Union of India* (2014)²¹⁵, which recognized the right to self-identify one's gender and called for affirmative action in education, employment, and healthcare. Subsequently, the Transgender Persons (Protection of Rights) Act, 2019 was enacted, laying out the legal obligations of the State to protect and support transgender persons, including access to healthcare. However, while the Act refers to the obligation of the government to ensure "access to healthcare facilities including separate HIV sero-surveillance centers and sex reassignment surgeries," implementation has been far from adequate. The National Portal for Transgender Persons launched in 2020²¹⁶, and schemes such as the SMILE (Support for Marginalised Individuals for Livelihood and Enterprise) initiative under the Ministry of Social Justice and

²¹³ World Health Organization, WHO Results Report 2022: "Leave No One Behind" Approach Focused on Equity, Gender and Human Rights Progressively Incorporated and Monitored, <https://www.who.int/about/accountability/results/who-results-report-2022-mtr/output/2022/leave-no-one-behind--approach-focused-on-equity--gender-and-human-rights-progressively-incorporated-and-monitored>.

²¹⁴ Office of the High Commissioner for Human Rights, The Struggle of Trans and Gender-Diverse Persons, <https://www.ohchr.org/en/special-procedures/ie-sexual-orientation-and-gender-identity/struggle-trans-and-gender-diverse-persons>.

²¹⁵ *ibid*

²¹⁶ National Portal for Transgender Persons, Ministry of Social Justice and Empowerment, Government of India, <https://transgender.dosje.gov.in/Applicant/HomeN>.

Empowerment have aimed to provide some healthcare and rehabilitation support²¹⁷. Despite these advancements, the healthcare support system for transgender individuals in India remains fragmented, underfunded, and plagued with bureaucratic hurdles. Medical gatekeeping, lack of trained professionals, and absence of a dedicated national health strategy for transgender persons continue to present severe obstacles. Certification requirements under the 2019 Act for gender change, particularly the need for proof of surgery to obtain a revised identity card, further complicate access to gender-affirming care. In this context, looking at international best practices can help identify pathways for India to build a more inclusive and rights-affirming transgender healthcare system.

- **Legal Recognition and Rights-Based Framework:** One of the most compelling lessons India can adopt is the rights-based legal recognition of transgender identities, as seen in Argentina and Spain. Argentina’s Gender Identity Law, passed in 2012, has been globally lauded for allowing individuals to self-identify their gender without requiring a medical diagnosis, psychiatric evaluation, or surgical intervention. The law also mandates that all public and private health institutions provide gender-affirming healthcare as a right. Spain’s 2023 gender identity law similarly embraces the principle of informed consent, removing the need for medical or judicial approvals for gender change. In contrast, India’s certification process under the 2019 Act requires individuals to apply for a transgender identity certificate through the district magistrate, and a further process including proof of surgery is required for binary gender change (male or female). This not only undermines the autonomy of transgender persons but also subjects them to invasive scrutiny and delays. Learning from Argentina and Spain, India should consider amending its laws to recognize gender identity based solely on self-declaration, reinforcing the principle of dignity and autonomy that the Supreme Court endorsed in NALSA. This would also bring Indian law in line with international human rights standards such as the Yogyakarta Principles.
- **Integrated Public Healthcare Access:** Brazil’s public healthcare system (SUS – Sistema Único de Saúde) and Canada’s provincially administered health insurance systems offer valuable insights into embedding transgender healthcare within the mainstream public health infrastructure. Brazil, despite resource limitations and regional inequalities, has designated reference hospitals in various cities where gender-

²¹⁷ Support for Marginalized Individuals for Livelihood and Enterprise (SMILE), Department of Social Justice and Empowerment, Government of India, <https://socialjustice.gov.in/schemes/99>.

affirming surgeries and hormone therapies are offered free of charge. Canada's healthcare system, though varying slightly by province, integrates transgender healthcare into standard health coverage, including access to endocrinologists, counseling, and surgeries. Provinces like British Columbia and Ontario have led the way in simplifying access and funding. In contrast, India's public health sector has largely neglected transgender-specific needs. Gender-affirming care remains mostly confined to private facilities or NGOs, often at prohibitive costs, and the few government hospitals that offer such services lack trained personnel and standard protocols. Drawing from Brazil and Canada, India needs to formally integrate transgender healthcare into its National Health Mission. This means allocating specific budgets, training staff, and ensuring that gender-affirming treatments are available in government hospitals across the country. Without embedding transgender health into the primary and tertiary care system, India risks continuing a pattern of exclusion and neglect.

- **Mental Health Integration:** Mental health is a vital component of transgender well-being, especially given the elevated rates of depression, anxiety, and suicidal ideation faced by transgender individuals globally. Sweden and Canada have recognized this by embedding mental health services within general and gender-specific healthcare systems. In Sweden, mental health support is routinely offered to individuals undergoing transition and is regarded not as a barrier to medical care but as a parallel support system. Canada has similarly ensured that provincial healthcare includes access to psychologists and therapists trained in gender-affirmative practices. In India, although mental health is gradually gaining attention under schemes like the National Mental Health Programme (NMHP), access remains sparse, and trans-specific mental health support is virtually non-existent in most parts of the country. The lack of trained professionals who understand gender diversity compounds the issue. From the Swedish and Canadian experiences, India can learn to train mental health professionals in trans-affirmative practices and place them within government hospitals, primary health centers, and even schools and universities. Integrating such support within broader health schemes and ensuring it is accessible without stigma is essential for a truly inclusive health model.
- **Decentralization and Regional Clinics:** Access to healthcare must also be geographically equitable, a challenge that Brazil and Spain have attempted to address through regional distribution of specialized clinics. In Brazil, reference centers in cities

like Rio de Janeiro, Salvador, and Curitiba cater specifically to transgender persons, reducing the need for long-distance travel. Spain's autonomous community healthcare systems ensure that regions such as Catalonia and Andalusia develop their own local trans-inclusive protocols and provide decentralized access to services. India's healthcare system remains heavily centralized, with transgender healthcare mostly accessible only in metros such as Delhi, Mumbai, and Chennai. This urban concentration leaves transgender persons in rural and semi-urban areas with almost no access to informed and sensitive care. A lesson from these countries is the importance of establishing transgender health clinics at the district and taluk levels, supported through central funding and technical assistance. India could utilize the infrastructure of community health centers (CHCs) and urban primary health centers (UPHCs) to serve as regional transgender health access points. Doing so would help reduce dependency on large cities and make transgender care more democratic and accessible.

- **Education and Training of Healthcare Professionals:** One of the foundational pillars of inclusive healthcare is the competence and sensitivity of the healthcare workforce, and this is an area where both Canada and Sweden have taken exemplary steps. In Canada, several provinces have developed specific medical training modules that address the needs of transgender patients, covering not just the clinical aspects of gender-affirming treatments but also the psychological, social, and ethical dimensions of transgender care. Medical schools and nursing programs have begun to incorporate transgender health into their core curricula, and continuing education modules on cultural competency and gender inclusivity are offered regularly to practicing healthcare professionals. Similarly, Sweden has institutionalized trans-inclusive training as part of broader gender equality and anti-discrimination policies in the healthcare sector. Sweden's emphasis on professional development in this area has meant that even general practitioners and frontline health workers are familiar with respectful terminology, the importance of pronoun usage, and the protocols surrounding gender-affirming care. In India, unfortunately, transgender persons often report being misgendered, refused care, or subjected to inappropriate questioning and even ridicule by hospital staff. This is due in part to the absence of formal training for healthcare providers on transgender issues. Integrating transgender health modules into the MBBS syllabus, dental and nursing education, AYUSH courses, and allied health training would significantly improve the quality of care. Moreover, sensitization workshops and

certification programs conducted in collaboration with the National Medical Commission and the Indian Nursing Council could be made mandatory for those working in public health institutions. These measures would go a long way toward dismantling the structural biases that transgender persons face and would help in building a health system based on trust, dignity, and professional integrity.

- **Funding and Financial Protection:** Argentina and Brazil offer two models of how public funding can be used as an instrument of equality in transgender healthcare. In Argentina, the Gender Identity Law is not just a recognition of identity but also a mandate for the State to provide necessary health services. Public hospitals are legally required to provide hormone treatments, surgical interventions, and mental health support, all covered under national insurance. Similarly, Brazil's Sistema Único de Saúde (SUS) funds specialized clinics across the country that offer free hormone therapy, surgical procedures, and postoperative support. Both countries recognize that financial exclusion is a major form of systemic discrimination, and thus make comprehensive transgender healthcare accessible without cost. In India, although schemes like Ayushman Bharat have recently included transgender persons as a vulnerable category eligible for coverage, the actual scope of services remains narrow. Gender-affirming surgeries and long-term hormone treatments are often excluded, and bureaucratic hurdles to claim benefits act as a further deterrent. Moreover, private insurance providers in India generally do not offer transgender-specific coverage, forcing individuals to pay out-of-pocket, often leading to economic distress. Learning from Argentina and Brazil, India can expand the health insurance coverage under Ayushman Bharat and state schemes to include gender-affirming procedures as essential services. Additionally, targeted subsidies for transgender persons living below the poverty line and financial assistance for post-operative care, counseling, and rehabilitation should be instituted. Government-funded pilot projects could also be started in select states to assess cost-effectiveness and scalability. These initiatives would ensure that access to essential healthcare does not become a privilege of the few but remains a right available to all, irrespective of gender identity or economic status.
- **Self-Identification in Documentation:** The ability to self-identify one's gender in legal and administrative documents is not merely a bureaucratic matter but a critical aspect of affirming one's dignity, safety, and legal identity. Argentina has led the way in this regard through its Gender Identity Law, which allows any individual above the age of 18 to change their gender marker in legal documents by simply filling out an

administrative form, without requiring surgical intervention, hormonal therapy, or a psychological diagnosis. Canada's federal and provincial systems have also embraced self-identification in documentation, enabling individuals to change their gender markers on passports, health cards, and driver's licenses through streamlined and non-intrusive administrative processes. In contrast, India's Transgender Persons (Protection of Rights) Rules, 2020 require a two-step certification process first to obtain a transgender identity certificate and then to change gender to male or female both involving verification by a District Magistrate. This system has been widely criticized for subjecting transgender persons to humiliation, delays, and medical gatekeeping, and for violating the Supreme Court's direction in NALSA, which upheld self-identification as a constitutional right. Moving toward a self-identification model in India would require legal reform that removes the requirement for medical documentation and judicial approval. Instead, the government could adopt a rights-based administrative process involving a simple affidavit or statutory declaration. Updating digital identity systems such as Aadhaar, PAN, and voter ID to reflect non-binary gender options without imposing unnecessary verification would also be crucial. This shift would send a powerful message about respect for gender autonomy and help transgender individuals access services, employment, housing, and education with fewer obstacles.

- **Inclusive Data Collection and Research:** A critical yet under-discussed element in transgender health policymaking is the role of data. Sweden and Canada have recognized that inclusive data collection is essential to designing responsive policies, allocating resources effectively, and measuring outcomes. In Sweden, government surveys and health databases include gender identity variables that allow for disaggregated analysis of health disparities affecting transgender persons. Canada, through national initiatives and academic partnerships, has undertaken large-scale surveys like the Trans PULSE project, which collect detailed information on the healthcare experiences, mental health needs, and social determinants affecting trans populations. These data have directly informed policy decisions, including improvements to mental health services, anti-discrimination laws, and access to gender-affirming care. India, by contrast, suffers from a data vacuum. The census does not accurately capture the size and diversity of the transgender population, and national health surveys rarely include questions on gender identity. This leads to an absence of evidence-based policy, underfunding, and the invisibilization of transgender persons in mainstream health discourse. To bridge this gap, India must institutionalize inclusive

data collection by including gender identity questions in the next national census, as well as in routine health data collection systems like the National Family Health Survey (NFHS), Sample Registration System (SRS), and Health Management Information System (HMIS). Research grants and fellowships should be provided for scholars working on transgender health, and partnerships with academic institutions and NGOs should be encouraged to undertake longitudinal studies. This evidence base would not only help track health outcomes but also bring attention to intersectional issues such as caste, class, and region within the transgender community.

- **Community Participation in Policy Formulation:** A critical strength of transgender healthcare systems in countries like Argentina and Brazil is the active involvement of the transgender community in designing, implementing, and monitoring healthcare policies. In Argentina, the passing and implementation of the Gender Identity Law were largely driven by trans rights groups, civil society organizations, and community leaders who worked closely with policymakers. Brazil, too, has seen strong partnerships between the SUS health system and trans-led collectives that offer input into public health planning and service delivery, ensuring that policies are not only top-down but also reflect lived experiences from the ground. In contrast, India has only recently begun to engage the transgender community through district-level committees and Transgender Welfare Boards, many of which lack regular funding, clarity of mandate, or real decision-making power. India could adopt a more participatory model by institutionalizing transgender community representation in national and state-level health planning bodies. Community health workers from within the transgender population could be trained and deployed for outreach, awareness, and primary healthcare delivery, similar to the ASHA model. Additionally, India could allocate funding for trans-led organizations to collaborate with government bodies in needs assessment, monitoring of clinics, feedback mechanisms, and grievance redressal. This participatory governance would help bridge the gap between policy and practice, ensuring that healthcare systems are not only inclusive in intention but effective in reality.
- **School and Youth Healthcare Interventions:** Canada and Sweden have recognized the importance of supporting transgender youth through proactive school health programs, counseling services, and adolescent-specific clinics. In Canada, several provinces provide access to puberty blockers, hormone therapy, and psychological counseling through school-based or community youth health centres, ensuring early

intervention and continuity of care. Sweden, while once known for its cautious approach, has reformed its policy to ensure that adolescents have access to timely support that balances medical safety with emotional well-being. India, however, lacks any formal structure to address the needs of transgender children and adolescents, either in schools or in the public health system. Transgender youth in India face bullying, dropout, mental health issues, and familial violence, yet school counselors and public pediatricians are rarely equipped to intervene. India could establish gender-inclusive school health programs through the National Health Mission and the School Health and Wellness Programme under Ayushman Bharat. These programs could include sensitization modules, confidential counseling services, and referral systems to adolescent-friendly clinics that offer informed and non-judgmental care. Moreover, pediatricians and school nurses must be trained in handling gender diversity sensitively and confidentially. Investing in transgender youth today would not only improve health outcomes but also reduce the long-term burden of trauma and social exclusion.

- **Protection Against Discrimination in Healthcare Settings:** Spain and Canada have institutionalized anti-discrimination protocols in healthcare that explicitly include protections for transgender persons. In Spain, healthcare professionals are required by law to adhere to gender non-discrimination norms, and violations can result in administrative penalties. Canada has included gender identity and expression under its national and provincial human rights codes, making it legally enforceable for any healthcare institution to treat transgender patients with dignity and equality. These frameworks are supported by guidelines, patient rights handbooks, and regular audits. In India, discrimination in healthcare settings remains rampant, ranging from verbal abuse to outright denial of services, yet there is minimal legal accountability or institutional protection. The Transgender Persons (Protection of Rights) Act, 2019 prohibits discrimination in healthcare, but lacks detailed enforcement mechanisms or redressal processes. India could build upon this framework by mandating the adoption of gender-sensitive protocols in all public and private hospitals, backed by penalties and grievance redressal mechanisms under the National Health Authority. Displaying transgender patient rights at healthcare institutions, appointing nodal officers for inclusivity, and conducting surprise audits could further help in preventing discrimination. Legal empowerment of transgender persons through community legal aid, helplines, and access to consumer courts for violations of healthcare rights could also be modeled after Spanish and Canadian practices.

- **Decoupling Transgender Identity from Pathologization:** Argentina's approach to transgender health is rooted in depathologization. It explicitly affirms that transgender identity is not a disorder and that individuals should not be subjected to psychiatric diagnosis or gatekeeping to access healthcare. Sweden, although previously associated with stricter protocols, has also moved toward an informed-consent model and depathologized framework. These countries align with the updated ICD-11 classification by the World Health Organization, which has removed transgender identity from the mental disorders section and reclassified it under conditions related to sexual health. India, on the other hand, has not fully transitioned its public health and medical frameworks to reflect this paradigm shift. Many transgender persons are still forced to undergo psychiatric evaluation to access hormone therapy or surgeries, especially in government hospitals. Adopting a depathologized model in India would involve revising national clinical guidelines, removing psychiatric gatekeeping from standard operating procedures, and training doctors in the informed-consent approach. Medical education must teach that gender variance is part of the natural diversity of human experience, not a condition to be treated or fixed. Aligning India's policies with ICD-11, and using Argentina's law as a legislative model, would position India as a global leader in rights-based transgender healthcare.
- **Multi-sectoral Coordination and National Action Plans:** Brazil and Canada have shown that transgender healthcare cannot succeed in isolation; it requires coordination across multiple sectors like health, education, social justice, legal aid, and employment. Brazil's National LGBT Health Policy brings together ministries and agencies to address the determinants of health inequality through a comprehensive framework. Canada's action plans for LGBTQ+ health similarly involve cross-departmental coordination and funding, ensuring that initiatives are not fragmented or siloed. India has taken steps in this direction through the National Council for Transgender Persons and the 2020 National Portal for Transgender Persons. However, these initiatives often function without inter-ministerial synergy, sustained funding, or measurable outcomes. India could develop a National Action Plan on Transgender Health, bringing together the Ministries of Health, Social Justice, Law and Justice, Women and Child Development, and Education. Such a plan should include time-bound goals, performance metrics, and independent monitoring mechanisms. It should also fund innovation in service delivery models, such as telemedicine for hormone therapy, mobile clinics for rural outreach, and community-based rehabilitation centers. The

learnings from Brazil and Canada clearly show that without such a coordinated and well-funded strategy, individual policy announcements risk becoming token gestures.

5.5-CONCLUSION

India's journey toward comprehensive transgender healthcare can greatly benefit from the experiences of countries like Argentina, Brazil, Spain, Sweden, and Canada. Legal recognition based on self-identification, integrated public healthcare access, and inclusive mental health services are essential pillars that India must adopt to improve dignity and access for transgender individuals. Training healthcare professionals and expanding funding and insurance coverage will reduce discrimination and financial barriers. Simplifying procedures for legal gender recognition and strengthening institutional coordination can ensure smoother service delivery. Moreover, reliable data collection and community involvement will help tailor programs effectively. By learning from global best practices and aligning with international human rights standards, India can create an inclusive healthcare system that respects the rights and needs of its transgender population, promoting equity, dignity, and well-being.

CHAPTER VI : CONCLUSION AND SUGGESTIONS

6.1. INTRODUCTION- AN OVERVIEW OF THE THESIS

This study set out to examine the legal frameworks governing transgender healthcare in India, assessing their effectiveness in safeguarding the rights and dignity of transgender individuals. Beginning with an exploration of historical and cultural narratives that reveal the long-standing yet complex presence of gender-diverse communities in Indian society, the research traced the shift from marginalization to partial recognition through constitutional and judicial developments. The work critically analyzed key statutory provisions, especially the Transgender Persons (Protection of Rights) Act, 2019, and relevant constitutional interpretations, with particular focus on Articles 14, 15, 19, and 21 of the Indian Constitution. Subsequent chapters delved into the practical realities of accessing healthcare, identifying widespread discrimination, administrative barriers, and a lack of institutional sensitivity that continue to undermine transgender persons' right to health. By mapping legal promises against ground-level implementation, the study exposed the deep disconnect between recognition and realization of rights. It also highlighted the intersectionality of discrimination, where marginalization in healthcare is compounded by exclusion in education, employment, family rights, and public services.

A critical examination of policy shortcomings and judicial responses revealed persistent structural gaps, especially regarding identity documentation, access to gender-affirmative procedures, and meaningful representation in governance. The thesis further expanded its analytical lens through a comparative exploration of global models from countries such as Argentina, Canada, and Sweden, offering insights into inclusive healthcare practices that India could adopt or adapt.

Ultimately, the study reinforced its central hypothesis: that access to inclusive and gender-affirmative healthcare in India remains severely limited due to systemic policy failures, weak institutional frameworks, and inadequate medical sensitization. These deficiencies continue to obstruct the fulfillment of transgender individuals' constitutionally protected rights to health, dignity, and social inclusion. The concluding chapter now turns to synthesizing these findings into concrete suggestions for reform and offers a vision for future legal and policy development in this critical area of human rights

6.2. ANALYSIS OF RESEARCH QUESTIONS

1. How do societal attitudes and cultural perceptions shape the evolution and implementation of laws concerning transgender rights and access to healthcare services in India?

The research reveals those societal perceptions—often rooted in binary understandings of gender—continue to play a significant role in influencing both the framing of laws and their enforcement. Despite ancient Indian traditions acknowledging non-binary gender identities, modern social structures often reflect rigid and exclusionary norms. These cultural perceptions result in social stigma, which not only impedes community integration but also discourages transgender individuals from seeking healthcare due to fear of ridicule or mistreatment. Even where legal protections exist, their implementation is frequently obstructed by prejudiced attitudes among administrators, healthcare providers, and the general public. This underscores the need for social sensitization to accompany legal reform.

2. What are the key legal provisions related to transgender healthcare in India, and what practical challenges hinder their effective application?

The Transgender Persons (Protection of Rights) Act, 2019, represents the primary statutory instrument aimed at safeguarding transgender rights, including access to healthcare. While the Act provides for non-discrimination and mandates equal access to medical services, including gender-affirmative procedures, its execution is hindered by several factors. These include bureaucratic requirements for gender certification, limited availability of specialized healthcare services, lack of trained medical personnel, and financial constraints. Moreover, the absence of affirmative action measures such as reservations in healthcare institutions further restricts access. These findings suggest that legal recognition alone is insufficient without strong institutional frameworks and accountability mechanisms.

3. What are the major obstacles in the implementation of transgender healthcare policies in India, and how do these affect the accessibility and quality of services?

Major implementation barriers include administrative apathy, lack of interdepartmental coordination, insufficient funding, and absence of monitoring systems. While national health schemes like Ayushman Bharat mention provisions for transgender persons, access is frequently delayed due to documentation issues or lack of awareness among both beneficiaries and authorities. Many public hospitals do not have gender-neutral facilities or trained staff to deal with transgender health needs. These structural shortcomings result in poor-quality care, delay in treatment, and mental health burdens for transgender individuals. The invisibility of transgender persons in national health data further exacerbates their marginalization, as

targeted policies remain underdeveloped.

4. What are the gaps between legal frameworks and policy provisions regarding transgender healthcare in India, and how have courts interpreted these issues?

While the legal framework, particularly through constitutional interpretations and statutory mandates, recognizes the rights of transgender persons, there is a significant implementation gap at the policy level. Courts have consistently upheld the principles of equality, dignity, and non-discrimination in a series of judgments. However, policy measures remain fragmented and largely reactive. For instance, while the judiciary has recognized the right to self-identify one's gender, administrative procedures still require invasive verification for legal recognition. The courts have also highlighted the State's obligation to ensure access to healthcare, but enforcement remains weak due to limited institutional accountability. This disconnect highlights the need for a harmonized approach between legal directives and policy execution.

5. How do judicial interpretations in countries with progressive transgender rights shape the legal status of transgender individuals, and what lessons can India incorporate into its legal system?

Comparative analysis of countries such as Argentina, Canada, Spain, and Sweden shows that comprehensive legal protections, public health funding, and strong anti-discrimination laws are central to inclusive healthcare for transgender individuals. Many of these nations have adopted a rights-based approach, prioritizing self-identification, banning conversion therapies, and integrating gender-affirmative services into national health systems. India's legal system, while moving toward progressive recognition, still lacks an integrated policy that ensures consistent healthcare access, mental health support, and social security benefits for transgender persons. The Indian framework can benefit from these models by institutionalizing sensitivity training, expanding coverage under public health insurance, and ensuring meaningful representation of transgender voices in policymaking bodies.

6.3. TESTING OF HYPOTHESIS

The hypothesis formulated at the outset of this study proposed that:

"Access to inclusive and gender-affirmative healthcare for transgender individuals in India remains severely limited due to systemic policy failures, weak institutional mechanisms, and inadequate medical sensitization, thereby obstructing the realization of their fundamental right to health and social inclusion."

An in-depth analysis of statutory provisions, judicial pronouncements, policy frameworks, and lived experiences validates this hypothesis. The investigation across various chapters has

revealed that while legal recognition of transgender rights has significantly advanced, especially post-*NALSA v. Union of India*, the translation of these rights into actual, accessible healthcare services remains deeply flawed and inconsistent.

Evidence from the field shows that healthcare access for transgender individuals continues to be hampered by bureaucratic hurdles, such as the requirement for identity certificates that are difficult to obtain without medical or surgical procedures. This procedural obstacle stands in stark contrast to the Supreme Court's affirmation of the right to self-identification. The Transgender Persons (Protection of Rights) Act, 2019, while progressive in its intent, does not include enforceable guarantees of affirmative healthcare, nor does it provide for structural mechanisms to ensure delivery of such services at scale.

Institutional mechanisms such as the National Council for Transgender Persons have a limited mandate and lack enforcement powers, rendering them ineffective in holding healthcare providers and government agencies accountable. Moreover, there is a notable absence of gender-inclusive infrastructure and gender-sensitized personnel within the public healthcare system, which continues to rely on a binary approach to care.

The study also confirms that societal stigma plays a critical role in discouraging transgender individuals from seeking medical help. This stigma is often mirrored by medical staff and administrative officials, leading to denial of services, humiliation, and a deep-seated mistrust of formal health systems. As a result, many in the transgender community turn to unsafe, unregulated alternatives that expose them to further risks and complications.

Additionally, the lack of targeted financial support and insurance coverage for gender-affirmative procedures disproportionately affects individuals from economically weaker backgrounds. The economic exclusion experienced by a significant section of the transgender population—often pushed into informal sectors or survival-based work—compounds the inaccessibility of healthcare services.

Cross-national comparisons with countries that have successfully embedded transgender-inclusive policies into public health systems further strengthen the hypothesis. These models demonstrate that meaningful reform requires not only legal guarantees but also well-funded, inclusive, and accountable institutions.

In conclusion, the hypothesis stands affirmed. Despite the existence of constitutional protections and enabling legislation, the failure of effective implementation, coupled with institutional inertia and lack of sensitization, has prevented transgender individuals in India from fully realizing their right to healthcare and social inclusion. Bridging this gap demands an integrated response involving legal reform, administrative accountability, and a

reorientation of societal attitudes.

6.4 SUGGESTIONS

To meaningfully advance transgender healthcare in India and ensure full realization of constitutionally guaranteed rights, the following multi-pronged suggestions are proposed. These recommendations cover legislative reform, administrative restructuring, policy innovation, data and research support, and social transformation measures.

- Legal Reforms: Legal reforms aimed at empowering transgender persons must prioritize the affirmation of their fundamental rights with clear, unequivocal provisions. The Transgender Persons (Protection of Rights) Act, 2019, requires urgent revision to ensure that the right to self-identification is absolute and not subject to bureaucratic verification or medical gatekeeping by District Magistrates or medical boards. This change is crucial to respect the autonomy and dignity of transgender individuals, removing unnecessary barriers that currently infringe on their ability to live authentically. Furthermore, legal frameworks should mandate horizontal reservations specifically for transgender persons across key sectors such as education, healthcare, and public employment. Drawing from successful models in states like Karnataka, a 1% horizontal reservation must be codified to ensure meaningful inclusion and equitable access to opportunities, breaking systemic exclusion.

In addition to these measures, legal recognition of transgender marriages and adoption rights is essential. Either by extending existing personal laws or introducing a uniform civil code, marriages involving transgender persons should be fully recognized, and adoption rights granted without discrimination, enabling transgender individuals and couples to form families with legal protection and societal acceptance. Another critical area for reform is the regulation of insurance practices. Both private and public insurers must be legally required to provide equal coverage for transgender-specific healthcare needs, including hormone therapy, gender-affirming surgeries, and other necessary treatments. This protection is vital to eliminate discriminatory practices that prevent transgender persons from accessing adequate healthcare.

Moreover, the law must codify the rights to informed consent and bodily autonomy, explicitly prohibiting any medical procedures, such as sterilization or sex reassignment surgeries, as preconditions for identity recognition or access to legal and social rights. These reforms would align with international human rights standards, affirming that bodily integrity is an inviolable right. Finally, it is necessary to incorporate

comprehensive anti-discrimination provisions across all spheres, including education, employment, healthcare, and public services, backed by strong enforcement mechanisms and sensitization programs. Such legal reforms, supported by sustained policy efforts, will create an inclusive society where transgender persons can live with dignity, equality, and full participation.

- **Policy-Level Interventions:** Policy-level interventions play a crucial role in ensuring equitable and inclusive healthcare for transgender individuals. One of the foremost steps is to guarantee universal coverage of gender-affirmative healthcare services across all central and state-funded health schemes such as Ayushman Bharat, Employees' State Insurance Corporation (ESIC), and Central Government Health Scheme (CGHS). This would encompass medical, surgical, and psychological support related to gender transition, thereby removing financial barriers that often prevent access to necessary care. Furthermore, establishing dedicated Transgender Health Cells within state health departments is essential for effective coordination of healthcare programs tailored to the transgender community. These specialized units can oversee grievance redressal mechanisms, ensure implementation of sensitization and awareness campaigns, and monitor the quality and reach of services provided.

To foster an inclusive environment, it is imperative to ensure the availability of gender-neutral infrastructure in all public facilities. This includes the mandatory construction of gender-neutral washrooms, hospital wards, and diagnostic centers, which can help reduce stigma and promote dignity for transgender individuals while accessing healthcare services. Additionally, the deployment of mobile healthcare units and facilitation of telemedicine consultations can significantly improve access to healthcare for transgender persons, especially those residing in rural or underserved areas where specialized services are scarce.

Integrating transgender health needs into broader public health policies is also critical. Updating frameworks like the National Health Mission (NHM), the National Mental Health Policy, and the strategies of the National AIDS Control Organization (NACO) to explicitly include transgender individuals as a target group with measurable indicators will ensure focused attention and resource allocation. Beyond these measures, it is vital to invest in capacity-building initiatives such as training healthcare providers on transgender health issues, rights, and culturally competent care to eliminate discrimination and improve service delivery. Additionally, establishing comprehensive data collection systems related to transgender health can inform policy

decisions and track progress over time. Encouraging partnerships with community-based organizations and advocacy groups will further enhance outreach and trust-building within the transgender community. Altogether, these interventions at the policy level are essential to create a healthcare system that is inclusive, respectful, and responsive to the unique needs of transgender individuals.

- **Institutional and Administrative Measures:** Institutional and administrative measures are vital to ensure effective implementation and sustainability of transgender-inclusive healthcare policies. One foundational step is the establishment of State and District-Level Transgender Welfare Boards endowed with decision-making authority, budgetary autonomy, and strong representation from the transgender community. These boards can tailor interventions to local needs, oversee program implementation, and foster accountability. To maintain transparency and drive continuous improvement, regular social audits and compliance reviews should be institutionalized within hospitals, medical colleges, and healthcare facilities to assess adherence to transgender inclusion policies. The results of these audits must be publicly disclosed to promote accountability and encourage systemic change.

Creating safe, confidential, and transgender-friendly grievance redress mechanisms within healthcare institutions is essential to address discrimination and other violations promptly. These mechanisms should be linked to independent bodies such as State and National Human Rights Commissions to ensure impartiality and proper follow-up. Additionally, the appointment of transgender liaison officers in public hospitals can significantly ease administrative navigation for transgender patients, helping them access services without fear of stigma or bureaucratic hurdles. These officers should receive specialized training on transgender rights, sensitivity, and healthcare needs.

Dedicated budget allocation is another critical factor; both central and state health ministries must earmark specific funds for transgender healthcare programs, including infrastructure development, training of healthcare workers, and awareness campaigns. Beyond this, administrative reforms should incorporate capacity-building initiatives for all levels of healthcare staff to foster a culture of inclusion and respect. Establishing mandatory sensitivity training modules as part of medical and paramedical education curricula will create long-term attitudinal change. Moreover, creating comprehensive data collection and monitoring systems to track healthcare outcomes for transgender persons will inform policy refinement and resource allocation. Institutional collaboration with community-based organizations, NGOs, and legal aid services can

further strengthen support networks and ensure that transgender individuals receive holistic care encompassing physical, mental, and social well-being. Collectively, these administrative measures form a robust framework to institutionalize transgender inclusion and improve healthcare accessibility and quality.

- Data Collection and Research: To promote inclusivity and effective planning in transgender healthcare, it is imperative to mandate the collection of gender-disaggregated data within Health Management Information Systems (HMIS) and Electronic Health Records (EHRs), explicitly recognizing transgender individuals as a distinct category. This inclusion will enable healthcare providers and policymakers to identify specific health trends, address service gaps, and allocate resources more accurately. Complementing this data integration, conducting periodic national-level transgender health surveys every five years is essential to capture up-to-date information on the health status, well-being, and emerging needs of transgender populations. These surveys will provide critical insights to guide targeted interventions and policy formulation.

Supporting the advancement of knowledge in this area, the government should fund interdisciplinary academic research through dedicated fellowships and grants. Such research could encompass diverse fields including transgender healthcare, mental health, epidemiology, and legal frameworks, thereby fostering a comprehensive understanding of the challenges faced by transgender communities. Additionally, the impact of healthcare interventions for transgender individuals must be systematically monitored and evaluated. Employing participatory methods that actively involve the transgender community in feedback and assessment processes ensures that health schemes remain responsive and effective. This approach not only enhances accountability but also empowers the community by valuing their lived experiences and perspectives in shaping healthcare services. Together, these measures are critical to building an evidence-based, inclusive healthcare system that addresses the unique needs of transgender populations.

- Societal and Educational Reforms: Societal and educational reforms are fundamental to fostering a more inclusive and supportive environment for transgender individuals. One critical measure is the mandatory integration of gender sensitization and comprehensive sexuality education within school curricula, particularly at the secondary level. This initiative should be accompanied by thorough teacher training

programs and active parental engagement to ensure that students receive accurate, respectful, and age-appropriate information about gender diversity and identity. Early education on these topics can play a transformative role in reducing prejudice, fostering empathy, and building a foundation for lifelong acceptance.

In parallel, mainstream media must play an active role in challenging stigma by increasing transgender representation in positive and diverse roles. National media outlets, including public broadcasters like Doordarshan, should be encouraged to produce and air campaigns featuring real stories of transgender professionals, leaders, and artists, showcasing their contributions and normalizing their presence in all spheres of society. Such representation helps dismantle stereotypes and fosters public empathy. To address the emotional and mental health challenges faced by many transgender individuals, family support helplines staffed with counselors trained in gender identity issues, family dynamics, and crisis intervention should be established. These helplines can offer vital support for those experiencing family rejection or mental health crises. Housing remains a significant challenge for many transgender persons, particularly those rejected by their families. Expanding access to safe, community-based housing facilities and transitional shelters is essential to provide security, dignity, and a stable living environment during vulnerable periods. Furthermore, encouraging private sector inclusion through targeted incentives such as tax benefits and Corporate Social Responsibility (CSR) credits can motivate companies to adopt transgender-inclusive hiring practices and extend healthcare coverage to transgender employees. These steps not only improve economic independence and social integration for transgender individuals but also promote diversity and inclusion within workplaces, benefiting society as a whole. Collectively, these societal and educational reforms are vital in creating an environment where transgender individuals are respected, supported, and empowered to thrive.

6.5 Conclusion

The legal journey towards securing the rights of transgender individuals in India marks a significant shift in constitutional interpretation and social consciousness. However, legal acknowledgment alone does not translate into substantive equality. The persistent gap between statutory recognition and everyday realities has rendered many protections inaccessible in practice. Transgender persons remain marginalized not only due to legal loopholes but also because of institutional apathy and widespread social stigma. Healthcare, which should be a

universal right, becomes a site of exclusion for them.

This study has attempted to unravel the structural and systemic barriers that undermine access to equitable healthcare. Despite constitutional mandates guaranteeing dignity, privacy, and the right to health, transgender individuals often navigate a healthcare system that is insensitive and exclusionary. Gender identity remains misunderstood in medical spaces, frequently leading to misdiagnosis, denial of treatment, or outright humiliation. Most public hospitals lack gender-neutral infrastructure or trained professionals capable of delivering inclusive care.

In India's evolving rights discourse, transgender inclusion remains partial and conditional. Judicial pronouncements have consistently emphasized the right to self-identification, yet state mechanisms continue to demand proof through invasive procedures. Identity documentation, which should be a facilitator of rights, often becomes a hurdle. Bureaucratic red tape deters many from seeking official recognition, resulting in further marginalization.

Economic vulnerability exacerbates the challenges transgender persons face in seeking quality healthcare. With limited employment opportunities and poor access to formal education, many are financially dependent or forced into informal sectors. The high cost of gender-affirmative medical procedures puts them out of reach for the vast majority. Health insurance policies frequently exclude or inadequately cover the unique medical needs of this community.

While the Transgender Persons (Protection of Rights) Act, 2019 signifies a landmark legal development, its enforcement has been largely inconsistent. The Act's provisions, though ambitious on paper, fall short in practical implementation due to vague obligations and limited accountability mechanisms. The absence of affirmative action measures further weakens the impact of legal guarantees. Without reservations or targeted welfare measures, access to healthcare remains skewed against transgender individuals.

Comparative legal systems have demonstrated that meaningful reform is possible through a combination of inclusive laws, strong public healthcare, and community engagement. Countries that have adopted gender-sensitive medical protocols and anti-discrimination enforcement show improved outcomes for their transgender populations. India can draw valuable lessons from these jurisdictions to redesign its healthcare and legal landscape. A rights-based, patient-centered approach must replace the current bureaucratic and binary model of care.

Another critical observation lies in the invisibility of transgender persons in national datasets. The lack of disaggregated health data impedes effective policy planning. It also reinforces the erroneous assumption that transgender healthcare is a niche issue. In truth, it intersects with every aspect of public health, including mental health, reproductive services, HIV prevention,

and primary care. The state must commit to inclusive data collection, policy design, and service delivery.

The role of education in reshaping public attitudes cannot be understated. Schools, colleges, and medical institutions must embed principles of gender inclusivity in their curricula. Sensitization must not remain a one-time workshop but become a continuing institutional process. Training for healthcare workers, law enforcement, and government officials is essential to reduce discrimination at the first point of contact.

Family and community support also play a crucial role in the well-being of transgender individuals. Many face rejection at home, leading to psychological trauma and social isolation. Counseling services, peer networks, and safe shelters must be expanded to provide holistic support. Addressing the health needs of transgender persons is not merely a policy challenge but a matter of ethical governance.

Judicial empathy has opened doors for progressive change, but it cannot operate in isolation. The responsibility lies equally with the legislature, executive, and civil society to ensure that legal victories are not hollow. Institutional frameworks must be strengthened, and grievance redressal systems must become accessible and effective. Every violation of rights must invite consequences, not silence.

India stands at a crucial juncture where it must choose between symbolic inclusion and transformative justice. A truly inclusive society cannot allow any group to live on the margins of dignity. Transgender persons must be seen as equal stakeholders in the nation's development, deserving not of tolerance, but of active support. Their health, identity, and humanity are not negotiable. Without their inclusion, the promise of equality remains incomplete.

This work reaffirms that healthcare for transgender individuals is not a charitable concern but a constitutional obligation. Rights must not remain aspirational but must be felt in the everyday lives of people. Inclusion begins with listening and is fulfilled through action. As legal systems evolve, they must anchor themselves in compassion, equity, and justice. The path forward lies not only in reforming laws but in transforming institutions and mindsets alike.

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anjali krishana - LEGAL FRAMEWORKS FOR TRANSGENDER HEALTHCARE IN INDIA: AN ANALYTICAL AND COMPARATIV

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