

## **Transgender Policies of The Government: A Study**

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### **Abstract**

There have always been feminist movements in India pertaining to gender issues. However, only in recent years have laws supporting gender identification issues and policies for transgender community welfare started to take effect. The government has initiated a number of efforts in the late 19th century, but only in the past ten years have these acts been formally recognised. A timeline of all the significant national initiatives of the central government for the empowerment of the transgender community is explained in this study. Kerala, which has the country's highest Human Development Index score, has created the country's first state-level transgender policy in line with the famous NALSA judgement of the Supreme Court of India. The Kerala Transgender Policy and some steps taken by the state's social justice department are also discussed. For a comparative knowledge of transgender policies in various socio-economic and political contexts, some model international policies of countries such as Australia, the United Kingdom, the United States of America, Germany, and Argentina are also covered.

**Keywords:** *Transgender welfare initiatives, National Legal Services Authority vs. Union of India (NALSA), Ministry of Social Justice and Empowerment, National Council for Transgenders, Transgender Persons (Protection of Rights) Act, The National Portal for Transgender Persons, SMILE scheme, The Kerala Transgender Policy, International model policies for transgenders.*

### **Introduction**

The patriarchy and other social stratification existing in India for ages have characterised the social structure with numerous inequalities. Though there have been times in Indian history when the transgender communities were respected and celebrated, now they are suffering from discrimination at multiple levels and abuse for a long period of time. Modernisation and future-oriented fast-paced developmental programs have happened in almost all spheres of life, but the attitude, thought process and social acceptance towards transgender people in society have remained the same and bad. The issues and struggles they are undergoing throughout their lives are far beyond other's imaginations (Mrinalini, 2016).

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The transgender community needs vital attention from the government with appropriate policies and development initiatives for accepting, recognising and empowering them. The community in India is having difficulties in accessing healthcare, education, housing, jobs, and other sources of public support. A majority of the community members are constantly facing issues like social stigma, prejudice, and violence on a regular basis, which is ultimately forcing them to live on the margins of society. They have remained silent, not taking part in any social movements and public conversation, and are distanced from the mainstream media, which often ignores to portray their needs and voices. It is an unacknowledged fact that the reluctance of society to accept and embrace various gender identities and manifestations is their failure morally (UNDP Framework Document, 2021).

In 2014, the Supreme Court of India granted legal recognition to the gender identity of transgender people giving them individual freedom to choose their self-affirmed gender as a man, woman or transgender through the famous 'NALSA judgement'. The court thereby directed the governments to implement initiatives for the welfare of the community. The Supreme Court of India's 2018 landmark decision decriminalising homosexuality and the adoption of the Transgender Persons (Protection of Rights) Act 2019 and Rules 2020, however, have brought about substantial improvements in the development of the transgender community in recent years. The Transgender Persons (Protection of Rights) 2019 Act accounts for the welfare of the transgender population in terms of education, health, skill development, and other areas. Though the transgender community has come a long way in overcoming various challenges, they are still having social, political, administrative, economic and civil rights issues that are not well addressed at the grassroots level.

### **A Timeline of National-Level Initiatives**

2008: Tamil Nadu government constitutes a Welfare Board for Transgenders.

Tamil Nadu government was the first governing body of its kind in India to constitute a policy for the transgender community. Its goal was to promote and assist transgender people in receiving free gender affirmation surgery at public hospitals along with a number of other rights and advantages. This was much before the NALSA judgement of the Supreme Court of India recognising Transgender's legal rights. Also, they are among the pioneers in including LGBTQIA+ subjects in school curricula. Several other activities like voter identity cards, and electoral roll enrolment of transgender people happened before 2008, which was after voting rights were granted to the community in 1994, by T.N. Seshan, the then Chief Election Commissioner. In 2008, after several recommendations from various welfare bodies, the government of Tamil Nadu passed an order for the establishment of a Transgender Welfare board with the Minister of Social Welfare as the president to improve the living conditions of the community. As per the Tamil Nadu Transgender Welfare policy, transgender individuals will be entitled to free sex reassignment surgery from government hospitals, free housing, several citizenship records, full financial aid for admission to government colleges for higher education, and the introduction of income-generating programs (IGP).

Transgenders in Census: Transgenders were included in the Census of India for the first time in 2011. This was a major step forward in recognising the community in India. The census counted 4.9 lakh individuals as transgenders in the country. The data revealed a low literacy level and over 60% of the community lives in rural villages. The employment proportion of transgender individuals is also low (Nagarajan, 2014).

15 April 2014: The famous NALSA judgement of the Supreme Court of India declared a verdict recognising Transgender people's legal rights and ordered affirmative actions like reservation in education and jobs considering the suppressed social and economic status of the community members. The court also instructed the national and state governments to formulate policies for the welfare and development of the transgender community. It further added that acknowledgement of Transgender rights in education, employment, healthcare, voting, holding public office and access to public service by addressing gender identity in official documents is required. Thus, all documentations are supposed to have Transgender as a gender choice alongside the male and female. The court legally recognised the community as a part of the society. The court granted them fundamental rights under Articles 14, 15, 16, 19(1)(a) and 21 of the Constitution. It clearly distinguishes between “gender” and “sex” and holds that any kind of discrimination based on one’s gender is a violation of the fundamental right to equality (Sikri, 2014).

The historic NALSA judgement has made a profound impact on the lives of transgender individuals in India. The life experiences of transgender individuals in India have been profoundly impacted by the historic NALSA ruling. It has cleared the path for more advancement in the struggle for transgender equality and assisted in increasing public awareness of transgender problems. The court upheld their fundamental rights and allowed them to choose their own gender identity. It is essential to acknowledge and act with the principles of all commitments, such as the International Covenant on Civil and Political Rights, the Yogyakarta Principles, and the Universal Declaration of Human Rights.

24 April 2015: The Rights of Transgender Persons Bill, 2014

This bill was introduced in the parliament by a Dravida Munnetra Kazhagam MP as a private member bill and was passed by the upper house in 2015. However, the Lok Sabha failed to take up that topic for discussion. The bill had various progressive points such as the creation of courts for transgender rights, and institutional development of national and state transgender commissions. That bill remained as a bill and was not enacted till another draft bill was introduced in 2016. The skeletal framework for the draft bill was taken from the previous bill. In 2014, the Ministry of Social Justice and Empowerment (MoSJE) issued a notification recognizing transgenders as a gender among others (Abraham, 2017).

2016: Transgender Persons (Protection of Rights) Bill, 2016

This Bill was presented in the Lower House of Parliament by the Ministry of Social Justice and Empowerment. In addition to safeguarding their rights and promoting welfare, the law seeks to

provide transgender persons with legal status. The commitment of the government to upholding transgender people's rights is outlined in the policy. A person who does not identify as the gender they were assigned at birth is considered transgender, according to the law. All spheres of life, including healthcare, work, education, and public spaces, are forbidden from discriminating against transgender individuals. The law also provides for a number of welfare measures for transgender people, such as rehabilitation, vocational training, and self-employment. A National Council for Transgender Persons is created under the Bill to supervise the law's implementation (Abraham, 2017). This Council will be in charge of making sure that transgender people's rights are upheld and that the welfare provisions of the Bill are carried out as intended. The bill was approved by the Lok Sabha, however, it was then sent to the standing committee for recommendations. Unfortunately, both the original and current bills expired before being reintroduced by the government in 2019.

#### 2017: Transgender One-Stop Centre Scheme

The Government of India launched the Transgender One Stop Centre Scheme under the Ministry of Women and Child Development which was a sub scheme of the National Mission for Empowerment of Women. The scheme provides financial assistance to states and union territory governments for setting up one-stop centres for transgender people. This scheme is popularly known as "Sakhi". The centres provide a variety of services to transgender people, including emergency response, medical care, counselling, psycho-social support, shelter, legal aid, and vocational training. The Government of India established the Transgender Welfare Fund in 2017. The fund is used to provide financial assistance to transgender people for education, employment, and health care.

#### 2019: Transgender Persons (Protection of Rights) Act, 2019

This Act is approved by the legislature in 2020. The law forbids discrimination against transgender people in the workplace, in the classroom, in the healthcare system, and when obtaining public services. The law defines a transgender person and specifies their rights to housing, work, healthcare, education, and identity certification as well as welfare programs, offences, and sanctions. The Act's provisions are further expounded upon in the Transgender Persons (Protection of Rights) Rules, 2020, which also establishes a Transgender Cell within the Ministry of Social Justice and Empowerment, a Transgender Welfare Board to oversee the Act's implementation and furnish welfare services to transgender individuals, and a National Council for Transgender Persons. The council established on 21st August 2020 advises the government and looks for the outputs of laws, projects and regulations related to them. It will act as a grievance redressal platform for the transgenders (Press Information Bureau, 2019).

#### **Some important Elements of Transgender Law:**

Definitions: Trans men and trans women are included in the definitions of "person with intersex variation" and "transgender person" (regardless of whether individuals have undergone surgery to reassign their sex, hormone therapy, or other treatments).

**Non-discrimination:** It prevents discrimination against transgender individuals in the workplace, in public services, and in the healthcare system. It improves the rights of transgender individuals to reside, rent, and otherwise occupy property, as well as their freedom of movement.

**Certificate of Identity:** It mandates that a transgender person must get a "certificate of identity" from the district magistrate without having to undergo any medical or physical evaluation. It also gives the right to self-perceive their gender identity. A certificate from the chief medical officer or medical superintendent of the medical facility where the transgender patient is having treatments to change their gender identity—whether it be male or female—must be sent to the district magistrate.

**Policy on Equal Opportunity:** Every business is required to create a policy for equal opportunity for transgender people that includes certain details as outlined by law. This would support the development of inclusive institutions like inclusive schools, etc. The construction of physical amenities such as gender-neutral restrooms and separate hospital wards is also necessary for the inclusion process.

**Complaint Officer:** It is required that each institution appoint a representative to answer complaints from transgender people. Every state government will also be required to establish a Transgender Protection Cell under the supervision of the District Magistrate and Director General of Police to track crimes against transgender people. Programs and welfare programmes that are transgender-sensitive, non-stigmatizing, and non-discriminatory must be developed by the government.

**Medical Care Facilities:** It is mandated that the government establish specific HIV sero-surveillance centres, provide health care services such as hormone therapy and sex reassignment surgery, and cover medical expenses for surgeries and other treatments through an all-inclusive insurance plan.

**Transgender National Council:** The NCT was established to provide the government with advice on policy development and monitoring, as well as to address transgender people's complaints.

**Penalties and Infractions:** crimes such as subjecting transgender people to forced or bonded work, denying them access to public spaces, or abusing them physically, emotionally, or sexually. Other offences under the Transgender Persons Act are punished by imprisonment for a term of at least six months and can be extended to two years.

**2020:** The National Portal for Transgender Persons was developed under the Ministry of Social Justice and Empowerment on 25th November 2020. It provides a single window for accessing information and services related to the welfare of transgender persons. It also allows transgender persons to apply online for certificates of identity and identity cards without having to physically appear before the officials (Press Information Bureau, 2021). Transparency is ensured in the portal as the applicants can check the status, rejection and redressal of grievances for their application

online. The portal has been made available in multiple languages currently available in English, Hindi, Gujarati, Malayalam and Bengali to make it easier and user-friendly.

2020: MoSJE launches the SMILE scheme for transgenders, which includes a sub-scheme ‘Comprehensive Rehabilitation for Welfare of Transgender Persons’ and ‘Comprehensive Rehabilitation of persons engaged in the act of Begging’. SMILE stands for Support for Marginalised Individuals for Livelihood and Enterprise. The SMILE scheme provides financial assistance for the rehabilitation, education, skill development, and economic empowerment of transgender persons and those engaged in the act of begging. It was launched in 2022 and has a budget of Rs. 365 crores. The sub-scheme provides a range of services to transgenders, such as shelter, food, clothing, medical care, skill development training, and legal aid with the support of State Governments/UTs/Local Urban Bodies, Voluntary Organizations, Community-Based Organizations (CBOs) and institutions and others (SMILE, National Portal for Transgender Persons, 2023).

**Figure 1, SMILE Scheme**



*Source: National Portal for Transgender Persons*

**Certificates and Identity cards:** The Ministry of Social Justice & Empowerment offers the nationally accepted transgender certificate and identity card; the certificate is a requirement to access the welfare benefits offered by the SMILE programme. The Transgender Persons (Protection of Rights) Act of 2019 includes an important clause that the site serves as an intermediary between the districts' authorities and the beneficiaries to facilitate easy access to Transgender Certificates and Identity Cards in accordance with their self-perceived identities.

**Scholarships:** Scholarships for secondary school (9th & 10th) senior secondary (11th & 12th), Undergraduate/Diploma and Post-graduation of Transgender students, are provided under the scheme to reduce dropout and to help in the shift from elementary to secondary stage through the automated online system of the portal by a single login.

**Composite Medical Health: Medical health insurance:** The aim of this initiative is to offer health insurance to all transgender people residing in India so they may improve their health via

appropriate care, including sex reassignment operations and medical assistance. The programme would apply to all transgender people who weren't getting similar benefits from existing state- or centre-sponsored programmes.

2020: 'Garima Greh: A Shelter Home for Transgender Persons' was e-inaugurated by the Union Minister for Social Justice & Empowerment in Vadodara, Gujarat. The Ministry has decided to set up shelter homes for transgender persons who have been forced to leave their homes or abandoned by their families. They will be run by transgender community-led organisations. In these shelters, skill training will be provided to connect the community members with livelihood opportunities. At present, there are 12 Garima Grehs in the country. The Ministry is planning for each state to have one such shelter home for the welfare of the community (SMILE, National Portal for Transgender Persons, 2023).

**Skill development and training:** It is provided as short-term (6 months) and long-term (up to 1 year) courses for the transgenders. After completion of the course, they will be given placements and follow-ups will be there by the institution to ensure non - discrimination of transgenders in the workplace. The training is free of cost along with a stipend and post-placement assistance will be provided under the program.

**Recognition and appreciation:** The portal promotes job opportunities and online skill training for transgender persons, and it gives candidates who have taken courses from the SWAYAM Portal. The portal promotes transsexual job opportunities and online skill training, and it gives credit or incentives to the candidates who have taken courses from the SWAYAM Portal credit or incentives.

"SMILE scheme is aimed to create an inclusive society wherein transgender persons & persons involved in the act of beggary, live a life of dignity and respect. The scheme ropes in the support of state Governments/UTs/Local urban bodies, voluntary organisations, community-based organisations (CBOs) and institutions and others so that they can work together in a coordinated manner for the welfare of this marginalised section." (Dr. Virendra Kumar, Hon'ble Minister of Social Justice and Empowerment, Government of India) (SMILE, National Portal for Transgender Persons, 2023)

"SMILE scheme which is being implemented across the country would cover several targeted welfare measures for both transgender persons and persons who are engaged in the act of beggary with an emphasis on comprehensive rehabilitation that includes the provision of medical facilities, counselling, education, skill development, economic linkages etc. " (A. Narayanaswamy, Minister of State for Social Justice & Empowerment, Government of India)(SMILE, National Portal for Transgender Persons, 2023).

"Through the SMILE scheme, the Ministry aims to eradicate the differential treatment prevalent in the society towards transgender persons and persons involved in the act of beggary. The welfare

measures have been tailor-made keeping in view the varied needs of the community to achieve social justice & to ensure their rights are safeguarded" (R. Subrahmanyam, Secretary, Ministry of Social Justice and Empowerment, Government of India) (SMILE, National Portal for Transgender Persons, 2023).

**2020: Transgenders in National Health Mission:** The Government of India included transgender people in the National Health Mission. This means that transgender people will now have access to free healthcare services under the mission. It ensured a rightful and respectable place for the transgender community by accessing healthcare services under AB-PMJAY. This provides special healthcare benefits to Transgender persons and also ensures equality for the disadvantaged community. With a transgender certificate granted by the National Portal for Transgender Persons, the Ministry of Social Justice & Empowerment (MoSJE) would provide all healthcare benefits to transgender people nationwide. Per recipient who identifies as transgender, MoSJE would provide a Rs. 5 lakh insurance policy each year. The AB PM-JAY packages now in use as well as tailored packages (such as those for transgender patients undergoing sex reassignment surgery (SRS) and therapy) are being created for the transgender category. They will be qualified to get care in any hospital with an AB PM-JAY empanelled facility located anywhere in the nation, depending on the available packages. All transgender people who are not getting such benefits from other state or centre-sponsored programmes will be covered under the programme.

### **Government Initiatives During The Pandemic**

**Helpline for Counselling Services:** The Ministry of Social Justice and Empowerment has launched a free helpline for psychological assistance and mental health treatment for transgender people who are in distress as a result of the pandemic. This is because people who are struggling with mental health issues do not feel comfortable asking for help because of the stigma associated with it. Anyone who identifies as trans can contact professionals by calling the helpline number 8882133897. The hours of operation for this helpline are 11 a.m. to 1 p.m. and 3 p.m. to 5 p.m. Monday through Saturday. Professional psychologists will offer counselling services on this helpline for people's mental health.

The Ministry of Social Justice and Empowerment provided financial assistance and ration kits to Transgender persons during lockdown. A total amount of 98.50 lakh rupees was incurred which benefitted nearly 7000 Transgender Persons across the country. A subsistence allowance of Rs. 1500 has been provided to each transgender to meet their immediate basic needs.

**Vaccines for transgender people:** The Ministry has sent a letter to the Principal Secretaries of every state to ensure that transgender people are not subjected to discrimination in COVID-19 vaccination facilities. To make sure the transgender community is educated and informed of the vaccination procedure; they have also been asked to organise awareness campaigns that specifically reach out to them in various dialects. Additionally, it has been requested that the states set up special mobile vaccination booths or clinics for transgender people, similar to those implemented in the states of Haryana and Assam (Press Information Bureau, 2021).



2020: The Ministry of Social Justice and Empowerment launches the Transgender Sarthi Scheme. The scheme provides financial assistance to transgender people to start their own businesses.

These are just some of the welfare initiatives that have been taken by the government for transgenders in India. There are many other initiatives that have been taken by state governments and NGOs. These initiatives are helping to improve the lives of transgenders in India and to ensure that they have equal rights and opportunities.

### **Some Additional Initiatives**

The Transgenders Suraksha Yojana (TSY) provides financial assistance of Rs. 1500 per month to transgenders for a period of one year. It also provides skill development training to transgenders in various trades, such as beauty care, tailoring, and handicrafts.

2015: MoSJE launches the Transgenders Suraksha Yojana (TSY), a scheme to provide financial assistance and skill development training to transgenders.

2017: MoSJE launches the Rashtriya Swasthya Bima Yojana (RSBY) for transgenders. The government-funded health insurance scheme launched in 2008 has decided to provide affordable health care services to transgender people up to Rs. 30,000 per year. The scheme provides financial coverage for all medical expenses with cashless insurance. It covers a range of medical expenses including hospitalisation, outpatient care, medicines, diagnosis and ambulance services. This was a major step put forward by the government for promoting transgender rights in India. The government's welfare initiatives for transgenders are a step in the right direction. However, there is still much more that needs to be done to ensure that transgenders have equal rights and opportunities in India.

2021: PM DAKSH: A skill-development programme run by the Ministry of Social Justice and Empowerment is called PM-DAKSH. Beneficiaries who identify as transgender receive skill development training from PM-DAKSH. Under the PM-DAKSH programme, transgender people can participate in short-term training programmes, up-skilling/reskilling programmes, entrepreneurship development programmes, and long-term training programmes.

In addition to these government initiatives, there are a number of non-governmental organisations (NGOs) working to improve the lives of transgender persons in India. These NGOs provide a range of services, including education, healthcare, counselling, and livelihood support.

### **Non-governmental**

The Humsafar Trust: This NGO was founded in 1994 and is one of the leading organisations working for the rights of transgender persons in India. It provides a range of services, including education, healthcare, counselling, and livelihood support.

The Naz Foundation: This NGO was founded in 1992 and is also one of the leading organisations working for the rights of transgender persons in India. It provides a range of services, including education, healthcare, counselling, and advocacy.

The Transgender Welfare Initiative: This NGO was founded in 2015 and works to improve the lives of transgender persons in rural India. It provides a range of services, including education, healthcare, and livelihood support.

These are just a few of the many non-governmental welfare programmes and policies for transgenders in India. The government and NGOs are working together to improve the lives of transgender persons in India, but there is still much work to be done. The welfare policies and programmes for transgender persons in India have made some progress in improving the lives of this marginalised community. However, there is still much work to be done. Transgender persons continue to face discrimination in many areas of life, and they lack access to basic services such as education, healthcare, and employment. The Government of India and NGOs need to continue to work together to ensure that transgender persons can live a life of dignity and equality.

These are some of the national transgender welfare schemes that have been implemented in India in recent years. The government is committed to working towards the full inclusion and participation of transgender people in all aspects of society. It is committed to ensuring the rights and welfare of transgender people and is continuously working to introduce new schemes and initiatives. There are only a few individual achievers at the national level among the many who had made numerous attempts to be acknowledged and accepted by the society. Revathi, a transgender activist and writer, paved the way for hijra voices to be heard in Tamil literature, with her work gaining recognition from Cambridge University. Joyita Mondal made history as West Bengal's first transgender judge, while Shabnam Mausi shattered barriers by becoming the first transgender Indian elected to public office. These remarkable individuals have championed transgender rights and set inspiring examples for future generations.

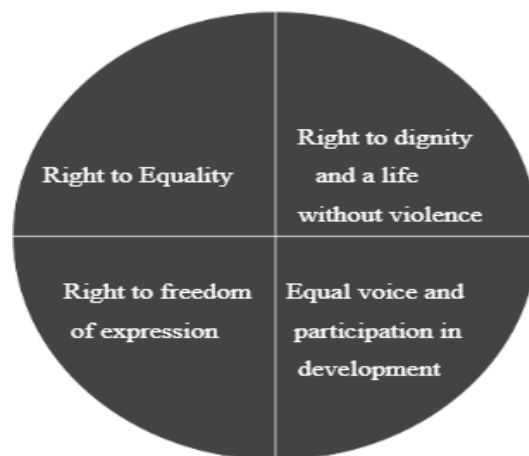
### **Kerala Government Initiatives**

In line with the Supreme Court judgement issuing directives for the centre and state governments to develop welfare initiatives for the transgender community, Kerala became the first state in India to formulate and launch a transgender policy in a bid to end the injustice against the transgender community on November 15, 2015. Kerala embraces the transgender group with open arms, with its Transgender Policy. It has set a good example for other states in India by incorporating a wide range of progressive measures for the community as a whole, which includes trans men, trans women, and intersex people. They are to be recognised, included, and empowered in areas such as public transportation, well-being, social security, education, and job opportunities. The Social Justice Department conducted a statewide survey to gather data on all aspects of Transgenders' social and personal lives in order to better understand the problems they face. The survey questions covered the following topics: basic information, body awareness, civil rights, self-esteem, access to health care, and the capacity to live with dignity and freedom from violence. Additionally, a

general section was included to help readers better understand their needs, priorities, and aspirations. More than 4000 Transgenders sent feedback, of which 63% were Transgenders married to women and 99% were male-to-female transgenders. The survey estimates that there are over 25,000 Transgenders in the state based on snowballing techniques (Transgender Survey Kerala, 2014-2015).

The policy defines the participants in the implementation process and offers them an in-depth action plan. Additionally, it suggests that a State Transgender Welfare Board and District Transgender Justice Committees be established by the State Government. Additionally, it describes the duties of the Board and Committee. The recommended framework promotes collaboration between various government agencies to solve the problems the transgender population faces. Additionally, it stipulates that representatives of the transgender community should be included on the Board in order to ensure their involvement in decision-making. The policy emphasises the need to monitor and review the policy's execution for the state government. It puts up a complex framework for assessing outcomes and policy outcomes.

**Figure 2, Results Framework for the Kerala Transgender Policy**



*Source: The Kerala Transgender Policy (2015)*

### **Initiatives Under The Ministry of Social Justice for Transgenders in Kerala**

Yathnam scheme for Transgenders preparing for competitive exams: The Social Justice Department has created a programme called "Yathnam" for Transgender applicants preparing for competitive tests in an effort to guarantee that Transgender people are as represented as possible across all career sectors and to empower them financially. For transgender people wishing to prepare for PSC, UPSC, Banking Services, RRB, UGC, NET, JRF, CAT, MAT, etc., the department will offer educational help. A financial assistance of Rs.6000/- a stipend amount of Rs. 2,500/- is given as one-time financial aid for individuals doing the 6-month training. Rs. 20,000/- as Rs. 2000/- for ten months will be provided for students doing coaching for one year (Kerala Social Justice Department website, schemes, Transgenders).

Sakalyam scheme: Vocational training to Transgender persons. The skill development training scheme for transgender persons aims to provide them with the skills they need to earn a steady income through self-employment, build their self-confidence, and create a transgender-inclusive work environment. The scheme will select 10 transgender persons from each district and give them the opportunity to choose their own desired courses. Government-affiliated schools offering the courses will be given preference, although candidates may also train with commercial organisations that hold government accreditation. Enrollment in the courses is not contingent on a certain level of education (Kerala Social Justice Department website, schemes, Transgenders,2023).

Karuthal Scheme for Transgender Persons: The Karuthal scheme is a government initiative to provide financial assistance to transgender persons who are facing crisis or emergency situations. The program can be used to pay for emergency surgery, first aid, ambulance services, food and clothes, legal help, medical examinations, rehabilitation, moving into care facilities or shelter houses, and emergency medical care for acid burns, natural disasters, and life-threatening injuries. Funds up to Rs. 25,000/-may be used by the District Social Justice Officer; any use of funds beyond that amount requires prior permission from the monitoring committee. The cash may also be utilised for caregiver assistance administration. The scheme is a welcome initiative to help transgender persons who are often marginalised and discriminated against. It will provide them with much-needed financial assistance to help them cope with crisis situations and improve their quality of life (Kerala Social Justice Department website, schemes, Transgenders,2023).

Varnam scheme for TG students pursuing distance education courses: The Varnam scheme grants financial aid to transgender students enrolled in distance-learning degree, certificate, and postgraduate programmes. For Postgraduate studies, the plan will pay up to Rs. 24,000 per year for a maximum of 2 years, and for Undergraduate courses, for a maximum of 3 years. The programme intends to assist transgender students in successfully completing their education, making a respectable income, and being encouraged to be independent. The application form needs to be filled out completely and must be accompanied by copies of the transgender identity card or self-declaration statement, address verification documentation, a copy of the hall passes from the previous semester's exams, and bills, vouchers, or receipts for the registration fee, tuition, study materials, and exam fees. The relevant District Social Justice Offices are where the application form must be filed (Kerala Social Justice Department website, schemes, Transgenders, 2023).

Saphalam scheme for Transgender students pursuing Professional courses: The Saphalam scheme is a government initiative to provide financial assistance to transgender students pursuing degree/diploma level professional courses. The scheme will provide a maximum amount of Rs. 1 lakh per year to eligible students. Students who have secured admission in merit seats in government-aided/self-financing colleges or courses MBBS, BVSc, or BSc Agriculture in government colleges are eligible under this scheme. Students pursuing diploma-level government-accredited courses are also eligible. The application form must be filled completely and must include a copy of the transgender ID card. The duly filled applications along with supporting

documents must be submitted to the concerned District Social Justice Officers (Kerala Social Justice Department website, schemes, Transgenders, 2023).

**Self-employment assistance for Transgender persons:** As part of the new project, the Social Justice Department and Kerala State Women's Development Corporation (KSWDC) will give transgender people financial support so they may start their own businesses. Transgender people can apply for a loan of up to Rs. 3 lakhs from KSWDC to establish their own businesses. With the help of this project, transgender people may find employment, live a regular life, and establish financial stability (Kerala Social Justice Department website, schemes, Transgenders, 2023).

**'Samanwaya' continuing education programme for Transgenders:** The Kerala State Literacy Mission Authority (KSLMA) and the Social Justice Department have launched the "Samanwaya" continuous education initiative for Transgenders. KSLMA performed a poll as part of the "Samanwaya" campaign, and 918 transgender people who showed a desire to register were found. Out of this, 145 community members have registered for classes equal to Class 4, 7, 10, and upper secondary. Through this programme, transgender people may continue their education, increasing their career prospects and enabling them to find jobs and lead fulfilling lives.

**Marriage assistance for legally married Transgender couples:** The Kerala government has introduced a new scheme to provide financial assistance of Rs. 30,000/- to transgender couples who have undergone Sex Reassignment Surgery (SRS) and are legally married. The couples must apply for the assistance within one year of their marriage. The application form must be accompanied by a copy of the marriage certificate, a certificate from the ward member/councillor proving that the couple are living together, and a copy of the transgender identity card. Couples who have already received financial assistance for marriage are not eligible for a second grant.

**Financial aid to Transgenders for Sex Reassignment Surgery:** The Social Justice Department in Kerala has introduced a scheme to provide financial assistance to transgender persons for undergoing sex reassignment surgery (SRS). The maximum amount of financial assistance is Rs. 2 lakhs. The applicants must be 18 years of age or older, have a transgender identity card, and provide address proof, medical reports, and bank account details. The application form can be downloaded from the Social Justice Department website. The application needs to be submitted to the Director of the Social Justice Department (Kerala Social Justice Department website, schemes, Transgenders, 2023).

**Financial aid to Transgenders for further treatment after SRS:** The Social Justice Department in Kerala has introduced a scheme to provide financial assistance to transgender persons who have undergone sex reassignment surgery (SRS). The scheme provides an amount of Rs. 3,000/- per month for a period of 12 months from the date of SRS. The applicants must be 18 to 40 years of age, have a transgender identity card, and provide address proof, medical reports, and bank account details. This is a great initiative to help transgender persons who often face financial difficulties

after undergoing SRS. The scheme will help them to meet the day-to-day expenses incurred during the recovery period and improve their quality of life.

**Financial Aid for providing hostel facilities to Transgender students:** The Department of Social Justice in Kerala has introduced a scheme to provide financial assistance to transgender persons for rent. The scheme provides an amount of Rs 4,000/- per month to transgender persons who are pursuing courses in government, aided, unaided, or self-financing institutions. The applicants must submit a duly filled application form along with supporting documents, such as declaration statements from the District Transgender Justice Board, District Social Justice Officer, house owner, and concerned educational institution. The financial aid will be transferred to the bank account of the eligible candidates. The students have to submit a new application for getting the benefit of this scheme during the commencement of each academic year. This is a great initiative to help transgender persons who are often discriminated against and denied housing opportunities. The scheme will help them to continue their education and improve their lives (Kerala Social Justice Department website, schemes, Transgenders, 2023).

**24x7 Helpline for Transgender community:** The Social Justice Department of the Government of Kerala has established a 24-hour helpline for transgender people at 1800 425 2147 as an innovative initiative. The goal is to give transgender people who are in need the support they need, educate them about their fundamental rights, and offer therapy and legal support. This unique helpline will also serve as a crisis management hub, ensuring the assistance of neighbourhood counsellors and legal counsel.

**Scheme for imparting skill development training to Transgenders:** The Social Justice Department in Kerala has introduced a new scheme to provide skill development training to transgender persons. The scheme aims to help transgender persons become self-reliant and integrated into mainstream society. The scheme will provide financial assistance to transgender persons to cover the cost of training, food, and accommodation. The courses offered must be affiliated to state government universities or government-approved agencies. The applications for the scheme will be scrutinised and recommended by the concerned District Transgender Justice Board. The scheme is a welcome initiative to help transgender persons who often face discrimination and lack of opportunities.

**Scholarship for Transgender Students:** The Social Justice Department in Kerala has introduced a scholarship scheme for transgender students studying in government, government-aided, and self-financing schools. The scheme provides financial assistance to transgender students from 7th standard onwards, with the amount of assistance increasing with the level of education. The scheme is open to all transgender students, regardless of their income. The application form must be submitted through the head of the educational institution to the concerned District Social Justice Officers (Kerala Social Justice Department website, schemes, Transgenders, 2023).

Identity card for Transgender persons: To guarantee that the advantages of the government-run welfare programmes reach transgender people, the Social Justice Department has launched an effort to provide identity cards for transgender people. Online application services for transgender identity cards are now accessible. The Department is advancing from a manual procedure to a fully digital platform. The transgender community can use this service by visiting the website [www.sjd.kerala.gov.in](http://www.sjd.kerala.gov.in). They must complete the required information, such as Name and Contact Information, upload a photo of themselves and their signature, and then submit the online application. Applications would undergo initial review at the Directorate level, be sent to officers at the district level for final approval, and then be sent for printing C-DIT (Centre for Development of Imaging Technology) created the ID card Management system. For the transgender community to take use of the services and advantages of the Department's programme, they will need to provide this ID card, which will have a special number on it. A hologram will be on the ID card to provide security and prevent ID card duplication. The card affirms the Supreme Court's ruling regarding the freedom to self-identify as male, female, or transgender (Kerala Social Justice Department website, schemes, Transgenders, 2023).

Transgender cell constituted: In order to support and aid the state transgender justice board and district transgender justice committees, the Kerala Social Justice Department formed a transgender cell. Additionally, the cell will design and oversee the Department's transgender welfare programs. Three members of the transgender community make up the cell: an office attendant, a project officer, and a project assistant.

Both the central and the state governments have taken initiatives to support and promote the welfare of the transgender community in the country. The right to equality and dignity of life without discrimination are among the fundamental rights of every citizen of the country, regardless of their gender identity. In this case, the judiciary has also made its voice clear that no gender shall be discriminated against from accessing public services and having a dignified life. So, it is up to the government and civil society to take actions promoting equity and equality within the state effectively by giving due consideration and recognition to the marginalised sections of the society. Governments should be prepared to adopt model policies with proven global efficiency. Some of the best-identified international models on gender normalisation and legal actions to prohibit discrimination and promote equality shall be taken into consideration.

### **International Models**

U.K: The UK government has passed two laws that protect the rights of transgender people. The Gender Recognition Act, 2004 allows transgender people to legally change their gender, and the Equality Act, 2010 prohibits discrimination against transgender people in areas such as employment, housing, and education.

The Gender Recognition Act does not require transgender people to have undergone gender reassignment surgery in order to change their legal gender. The Act is comprehensive because it not only recognises a person's newly acquired gender legally but also sets provisions defining

exactly how their currently acquired gender status will affect their legal entitlements and rights in a number of areas, including marriage, parenthood, succession, social security, and pensions, etc.... The Equality Act protects transgender people from discrimination on the basis of their gender reassignment. This means that transgender people cannot be denied employment, housing, or other services because of their gender identity.

Australia: In Australia, the Sex Discrimination Act, 1984 and the Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Act, 2013 prohibit discrimination on the basis of sexual orientation, gender identity, and intersex status. These Acts define gender identity as the appearance or mannerisms or other gender-related characteristics of a person without regard to the person's assigned sex at birth, whether through medical intervention or not. The Acts prohibit discrimination in a wide range of areas, including employment, education, accommodation, and access to goods and services. They also provide remedies for people who have been discriminated against, such as compensation and orders to stop the discrimination. These Acts send a clear message that discrimination on the basis of gender identity is not tolerated in Australia, such as an employer cannot refuse to hire someone because of their gender identity, a school cannot expel a student because of their gender identity, landlord cannot refuse to rent an apartment to someone because of their gender identity, a business cannot refuse to serve someone because of their gender identity (Sikri, 2014).

In Australia, if someone believes that they have been discriminated against on the basis of their gender identity, you can file a complaint with the Australian Human Rights Commission. The Commission will investigate the complaint and, if it finds that the complaint is right, it can take steps to remedy the situation (Sikri, 2014).

European Union: The European Parliament has encouraged Member States to take action to safeguard transgender persons. The European Union has passed laws outlawing discrimination based on gender reassignment. A 2010 study from the Policy Department of the European Parliament details the individual circumstances of transgender persons in 27 Member States of the European Union. Hungary has passed a legislation that lists sexual identity as one of the grounds of discrimination.

According to the Court of Justice of the European Union, discrimination resulting from a person's gender reassignment is equally covered by the principle of equal protection of rights of men and women. This indicates that transgender individuals are shielded from prejudice in the job, in the classroom, and in other spheres of life (Sikri, 2014).

U.S.A: The United States has a patchwork of legislation in place that protects transgender people from discrimination. The federal law, Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act, 2009, prohibits hate crimes motivated by actual or perceived gender identity. However, this law does not provide protection from discrimination in other areas, such as employment, housing, and education.



Around 15 states and the District of Columbia have enacted legislations that prohibit discrimination on grounds of gender identity and expression. These laws vary in their scope and enforcement. For example, some states only prohibit discrimination in employment, while others prohibit discrimination in all areas of public life. Few states have issued executive orders prohibiting discrimination. These orders are not as strong as laws, but they can provide some protection to transgender people. The patchwork of legislation in the United States makes it difficult for transgender people to know their rights and to seek legal recourse if they are discriminated against. There is still more work to be done to ensure that all transgender people are treated fairly and equally under the law (Sikri, 2014).

South Africa: The Alteration of Sex Description and Sex Status Act, passed by the South African Parliament in 2003, permits intersex individuals, transgender persons who have undergone gender reassignment, and people whose sexual preferences have developed naturally to submit an application at the Director General of the National Department of Home Affairs for a change to their sex description in the birth register. But a more inclusive strategy is not taken into consideration by the legislation.

Argentina: The Gender Identity Law is a piece of legislation that the Argentine Senate enacted on May 8, 2012. It acknowledges that everyone has the right to be accepted for who they are and to freely develop in accordance with their identity. The law allows people to change their recorded sex and first name, even if they have not undergone any medical procedures. It also requires that people be treated with dignity and respect, even if their first name does not match the one on their national identity documents (Sikri, 2014).

The law allows people to change their recorded sex and first name by submitting a simple request to the Civil Registry. The law does not require people to undergo any medical procedures in order to change their gender identity. The law has been praised by human rights organisations and transgender activists. This law is a significant step forward in the recognition of the rights of transgender people in Argentina. It provides transgender people with the legal right to live their lives in accordance with their gender identity, and it helps to protect them from discrimination.

Germany: A new regulation that permits parents to list their children's sex as "not specified" when they have intersex children went into effect in Germany on November 5, 2013. The German Civil Statutes Act's Article 22, Section 3, states the following:

*"If a child cannot be classified as either male or female, the child must be given a name without a gender specification. "In addition to adding categories "M" and "F" for the categorization of gender in passports, the law has also established a category "X." (Sikri, 2014)*

A democratic country like India, which is diverse in all its realms of engagement and having a vast population, cannot simply adopt a model international policy into its system. Thorough socio-political and psychological studies of communities in the country are required to understand and

evaluate the actual condition. Also, all stakeholders need to be given equal opportunities to act for their cause in the administration and management of policies for the common welfare of the state. The bureaucracy will also have to identify a proper method of implementation that can easily penetrate and have an interface with the community members for the policies to be effective.

## **Conclusion**

The condition of the transgenders in Kerala as well as India is still not completely improved. The reality is that despite various policies and laws made by the government, there is still rampant discrimination prevailing in society against them. The Kerala Transgender Policy is the first of its kind for a state in India to frame a policy with respect to the NALSA judgement of the Supreme Court Of India. It is really disappointing that eight years after the policy, there is still a high degree of formalism in its implementation. The actual plight of transgender people is not well addressed from a legal, economic, social, and political perspective. There are discrepancies within the various programs the state has proposed for transgender community welfare and empowerment. Those educated and skilled members of the community under the programmes of the government are unable to find jobs due to their gender thereby making them remain poor. It is not always up to the judiciary to check and advise for better implementation of policies by the government. The community members are also having issues accessing policies that are intended towards their own welfare. The Kerala High Court on 7th July 2023 observed that “sex” and “gender” are two distinct concepts that are too often mistakenly used interchangeably by society. The order was made while considering a plea by the parents requesting to conduct genital reconstructive surgery for their child born with hormonal disease (Hameed and Shukri, 2014). Representation of transgender people needs to be strictly ensured in the decision-making process of the state to strengthen their role and establish their identity. More social penetration of the community can help them to integrate with society and enable others to accommodate the transgender population. A more inclusive society can be created only through the coordinated action of all the stakeholders such as civil society, political representatives, law enforcement agencies, bureaucrats and the judiciary. These are matters that need attention from the implementing authorities. The policies will remain only as documents without reaching the beneficiaries as it is now.

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