



Dr. Piyush Kumar Trivedi is an Associate Professor/HoD. at the Faculty of Legal Studies, KMC Language University, Lucknow, with over 18 years of teaching experience in legal education. He specializes in International Law, Environmental Law, and Insurance Law, with research expertise in Environmental Law. Dr. Trivedi has published 41 research papers and authored several books on contemporary legal issues. His academic interests focus on legal research, sustainable development, and emerging areas of law, and he has extensive experience teaching both undergraduate and postgraduate law students.



Dr. Shweta Trivedi is currently working as an assistant professor, Faculty of Legal Studies, KMCLU. Earlier she has worked as a Faculty at Department of Human Rights & Department of Law, School of Legal Studies, Babasaheb Bhimrao Ambedkar (Central) University, Lucknow. She has a teaching experience of more than 7 years. She has attended various International & national Seminars and has authored several articles published in reputed journals. She completed her Ph.D. from Dr. Rammanohar Lohia National Law University, Lucknow. She did her bachelor LL.B. (Hons.) and masters (LL.M.) from Lucknow University. Her Areas of interest include jurisprudence, Criminal Laws, Human rights and women studies.

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FROM MARGINS TO MAINSTREAM: THE JOURNEY OF THIRD GENDER IN INDIA

FROM MARGINS TO MAINSTREAM

The Journey of Third Gender in India

Edited by

Dr. Piyush Kumar Trivedi

Dr. Shweta Trivedi

From Margins to Mainstream: The Journey of Third Gender in India

Editors

Dr. Piyush Kumar Trivedi

Associate Professor/HoD.

Faculty of Legal Studies

Khwaja Moinuddin Chishti Language University

Dr. Shweta Trivedi

Assistant Professor

Faculty of Legal Studies

Khwaja Moinuddin Chishti Language University



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CHAPTER 6

Legal Frameworks and Judicial Interventions for Third Gender Rights: Analyzing the Impact of NALSA v. Union of India

Poorvi Srivastava¹ and Dr. Seema Siddiqui²

Introduction

India's diverse cultural heritage and heritage-related history indicates acceptance of gender variation accompanied by social groups for instance transgender engaging in publicly acknowledged functions during early historical society.³ Yet colonial along with modern-era judicial structures suppressed these populations culminating in long-standing bias and exclusion. The Criminal Tribes Act 1871, namely identified third-minority individuals as "stigmatized tribes," perpetuating social disapproval and surveillance.⁴ Subsequent to independence, despite the establishment of fundamental law embodying ideals of equality and human dignity, legal recognition of gender-diverse communities remained elusive until litigation or court decisions in the early 21st century. The Constitution of India (1950) formalizes principles of legal equality (Article 14), prohibition against bias (Article 15), freedom of expression (Article 19), and the right to life liberty, and personal security (Article 21).⁵ However, prior to ongoing court involvement, these provisions were applied through a strictly binary gender model, excluding transgender and gender-diverse groups. Therefore, transgender communities experienced social stigma, restricted educational and employment, and obstacles in accessing legal identification.

¹ Poorvi Srivastava- Research Scholar, Integral University, Lucknow.

² Associate Professor, Faculty of Law, Integral University, Lucknow.

³ Shabnam Bharti, 'Comparative analysis of transgender identities in ancient and medieval India' (2015) 7(3) IJH <<https://www.historyjournal.net/article/379/7-3-26-678.pdf>> accessed 2 April 2026

⁴ *Criminal Tribes Act* 1871 (India)

⁵ *Constitution of India* 1950 (India) arts 14, 15, 19, 21