

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

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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.

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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