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Reclaiming Equality: Legal Frameworks and Judicial Responses to the Rights of Minority Genders in Contemporary Justice Systems

Article History:

Name of Author:

Mr. Gaurav Yadav¹, Dr. Priyamvada Tiwari², Mr. Sourabh Batar³

Affiliation:

¹Assistant Professor, Department of Law, JIMS Greater Noida, Uttar Pradesh, India. Research Scholar, School of Law, Justice and Governance, Gautam Buddha University, Greater Noida, Uttar Pradesh, India.

²Associate Professor, Faculty of Law, Medicaps University, Indore

³Assistant Professor, Teerthanker Mahaveer College of Law & Legal Studies, Teerthanker Mahaveer University, Moradabad.

Corresponding Author:

Mr. Gaurav Yadav

615gaurav@gmail.com

How to cite this article:

Yadav G, *et. al* Reclaiming Equality: Legal Frameworks and Judicial Responses to the Rights of Minority Genders in Contemporary Justice Systems. *J Int Commer Law Technol.* 2025;6(1):579–584.

Received: 08-09-2025

Revised: 22-09-2025

Accepted: 05-10-2025

Published: 23-10-2025

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Abstract: The paper will analyze the legal provisions and judicial reactions to the rights of minority genders in the Indian justice system, their development and their effectiveness. It critically evaluates the applicability of legal provisions and judicial interpretations in getting into the labyrinth of gender identity and sexual orientation, especially within intersectional issues, including caste, religion, and patriarchal considerations. The purpose of the study is to understand the complex development of the LGBTQ+ rights in historical terms and gauge how practical those rights are in the reality of Constitutional Law, case law, and other relevant legislations, as well as identify the most common struggles encountered by transgender men and women because of transphobia in society and the strictness of a binary gender identity. Besides, it examines how the judiciary manages to bring about a balance between the constitutional principles of equality and non-discrimination on one hand with the complexities of personal laws and religious freedoms on the other in cases of minority gender in India given the historical and present concession of law and religion. Such an analysis is essential considering the positive secularism of India, where the state has been required to respect and defend all religions and remain indifferent, which is a concept frequently criticized in considering personal law issues and gender equality. This comprises an analysis of the Indian jurisprudence that differentiates between direct and indirect discrimination particularly gender and its implication to the delivery of justice.

Keywords: LGBTQ+, Gender Justice, Indian Constitution, Judicial Review, Discrimination, Human Rights

INTRODUCTION

Minority gender protection and enhancement of rights is one of the most crucial frontiers of modern justice, especially in the intricate Indian socio-legal context. Although there are great strides in jurisprudence in regard to gender equality and dignity, there are still considerable differences and discrimination, and considering the constantly important need to engage in critical questioning of the existing realms of law and their functioning (Kapur and Gossman, 2022). The purpose of this paper is to critically analyze how laws on gender have

formed across India over the years using a feminist approach to explore how patriarchal institutions tend to be deeply embedded in legal norms and their enforcement, influencing the minority genders disproportionately (Singh, 2025). In this analysis the issue of gender injustice in different statutes will be explicitly discussed in ways that will touch both on the design and implementation of the statutes despite the current reform attempts (Singh, 2025). In addition, the paper will consider the judicial case law that has influenced the interpretation and application of these laws, both positive rulings and the failures of

the judiciary in ensuring substantive equality, regardless of gender identity (Waggy and Bashir, 2024). It will also understand the experiences of male victims of domestic violence that are sometimes not acknowledged as they are mostly left behind in systems that are mainly intended to safeguard women (varsha & Greavs, 2025). This review will also explore the societal and legal consequences of the uniform civil code argument and the essential practice test, which tend to restrict the freedom of religion and perpetuate discriminatory individual legislation (Dhavan, 1987). This wide-ranging analysis will also explore the constitutional clauses protecting the rights of other gender identities and evaluate how well these guarantees are being delivered as real protections against discrimination and violence both in the public and the personal world (2021). The influence of judicial activism and revision of the meanings will also be discussed in light of how the gendered nature of the religion based family laws have already posed a challenge to the rights of women and gender equality in the Indian context (Herklotz, 2017).

Historical Context of Gender Minorities in India

Traditionally, the evolution of the equal rights of women in India acquired momentum in the twentieth century, especially when it was accompanied by the independence movement, when women were invited to engage in the life of the inhabitants, which made it necessary to make changes in the right to citizenship and legal principles (2021). It was the era of the enactment of reformative laws to enshrine personal laws and to tackle social evils including the Dowry Protection Act of 1961 and the Hindu marriage act of 1955 which attempted to ban dowry payments and harmonise the laws of marriage between different Hindu denominations (Dhavan, 1987). Nevertheless, even after these legislative endeavours, the frontline of the application of the gender-neutrality has always been questioned due to the inertia of the religious personal laws, which are usually not subjected to the constitutional demands of gender equality and which, because of their state enforcement, are always valid to deny gender equality in the family law issues such as succession (Parashar, 2013). These structures emphasize that gender-neutral laws on domestic violence must be enacted to support the fate of all victims, who are not women, but rather men, as things have always been practiced in the past (varsha & Greavs, 2025). Additionally, their exclusionary character in these legal systems does not help but worsens their susceptibility to multiple methods of discrimination and violence, especially those that intersect gender identity and socioeconomic standing (Atrey, 2024). As an example, Transgender Persons Act of 2019 has received criticism due to its disconnect between the legal protections and their

enforcement, frequently failing to feature any substantive access to rights or procedural support to the transgender community (Bhattacharya et al., 2022)(Waggy and Bashir, 2024). The root cause of such disjunction is that the Indian government has a hard time trying to balance powerful constitutional guarantees of gender equality with the ongoing permissibility of facially discriminatory religious personal law which substantially affects the lives of women (Chibber, 2008). Such antagonistic relationship highlights the dynamic nature of secular legal principles, as well as religious traditions, as a source of systemic inequalities in the name of cultural or religious freedom (Dhavan, 1987).

Understanding Minority Genders in the Indian Context

In the context of the Indian multicultural socio-legal framework, the category of minority genders is not exclusive to male-female gender dichotomies but implies a continuum of the various types of gender identities, such as transgender, intersex, and gender non-conforming individuals, among which discrimination and their marginalization is often different. It requires a subtle approach to gender as a social construct, which is not determined by biological sex and recognition of the fluidity of gender identity (Parashar, 2013). There is a need to change the conventional gender binaries in legal discourse in India to include protections that reflect all gender identities, and hence represent the constitutional requirement of equality and non-discrimination. This multi-faceted strategy is essential in solving the ominous problem of domestic and hates crimes since they overpower these vulnerable groups (Banoo et al., 2025). In addition, although the constitution has guaranteed elementary rights, such problems like gender-based violence, property inequity, and the lack of representation in political leadership still exist, especially among women (Nayar et al., 2023). With women, other dissimilar genders experience aggravated solutions to these problems, among other hindrances due to stigma and the failure of law to legally acknowledge those identities (Malhotra and Saxena, 2024) (Waggy and Bashir, 2024). This requires the critical analysis of current legal frameworks to determine their inclusivity and efficiency in protecting the rights of all gender minorities (2021). The history of legal systems in India, especially regarding female rights, shows that the traditional norms evolved to the more progressive ones, but issues of full gender equality among all minority genders have not been avoided (Nayar et al., 2023). This part will be a critical discussion of the role played by the judiciary in interpreting and implementing these laws in cases where religious personal laws would clash with constitutional assurance of equality to minority genders (Kapur, 2020). That will involve the

assessment of landmark cases that have upheld or dismissed discriminatory practices, which this will inform the law about transgender individuals and other gender variants. In a landmark decision by the Supreme Court of India in 2014, the NALSA, it acknowledged transgender persons as a third gender and therefore provided them with access to rights to social inclusion, health, employment, and education but the ensuing laws such as the Transgender Persons Act of 2019 have been criticized on having gaps in implementation and failed to protect transgender persons against discrimination (Gulati and Anand, 2022)(Nair and Lakshmi, 2023)(Bhatnagar, 2025).

Legal Frameworks Protecting Minority Genders in India

India has developed numerous legal stipulations concerning constitutional provisions and legal statutes, as well as legal precedents to protect the rights of minority genders, as the country has gradually moved by a predominantly binary conceptualization of gender to include the interests of the legal framework (Nayar et al., 2023)(varsha, 2024).

Constitutional Guarantees and Fundamental Rights

Indian Constitution is founded on equality and non-discrimination; not the least, Articles 14, 15, and 21 together create a solid framework of protecting the basic rights of all citizens, including minority genders, against the state-approved or social discrimination (Pratap, 2020). Such articles provide equal treatment before a law, a ban on discrimination based on sex and ensure the right to life and personal liberty that present the foundation of combating gender-related bias and promoting policy inclusivity (Parhi and Biradar, 2023) (Pratap, 2020). The Supreme Court of India has also expanded on this constitutional requirement especially in matters pertaining to gender identity and expression by affirming the right of self-determination of gender identity is a basic right (Jain, 2022). Nevertheless, the implementation of these constitutional tenets remains challenging, as it can be shown by the discrimination against transgender and gender non-conforming individuals even after the legalization (Nagar & DasGupta, 2023).

Key Legislative Interventions

The Transgender Persons Act, 2019, is an important piece of legislation that tries to solidify the rights of transgender people but has faced some criticism on its effectiveness in application (Jain, 2022). This move, in fact, has been denounced due to procedural isolating provisions insisted on by the Act, notably the requirement to refer to the identity recognition by the District Magistrate, which significantly establishes a wide paper trail and does not adhere to

the principle of identity through self-identification as determined by NALSA judgment (Nayar and Sivanantham, 2023). In addition, even though the Act requires the government to make sure that they have medical facilities that administer medical services to transgender individuals, most still find it very difficult to receive necessary healthcare services because of complex bureaucratic procedures and a lack of training in medical schools (Jain, 2022). Other legislations, such as the Protection of Women against Domestic Violence Act of 2005 mostly consider cisgender women, shunning the particular effects of violence on transgender and non-cisgender individuals in domestic environments (Nayar et al., 2023) despite the different legislatures that are tailored to transgender people.

International Conventions and India's Commitments

It is also important to note that India is obligated by international human rights instruments, including Universal Declaration of Human Rights and UN Convention on the Elimination of All Forms of Discrimination Against Women, to protect minority genders (2021)(Kaur & Singh, 2022). Such international undertakings are not necessarily directly binding in a national court of law, but tend to educate judicial interpretation and law-making, pushing the national legislative system toward a more broad interpretation of gender rights (Kaur and Singh, 2022). Nevertheless, the full international principles translated into tangible and domestic policy and properly executed is still a major challenge, which is usually limited by socio-cultural distinctions and lack of enforcement machinery by governments.

Judicial Responses and Landmark Verdicts

The NALSA v. Union of India Judgment

It was a 2014 Supreme Court of India decision that defined transgender persons as a third gender, confirming their rights under the Constitution and compelling the government to act to ensure their social and economic inclusion (Rasal and Dole, 2024). The case created the right to choose to be transgender or cisgender, as well as the requirement to provide affirmative action in the workforce and education (Jain et al., 2025). Yet, despite such a more progressive decision, the next Transgender Persons Act of 2019 has been now viewed as contradicting the NALSA ruling by considering the requirement of a medical examination in affirming gender identity, and thus, it completely disregards the very concept of self-identification (Chakrapani et al., 2024). Also, even though the rights of transgender people are allowed, an overwhelming number of individuals encounter significant obstacles to receiving medical care, are discriminated against, and do not have

adequate treatment guidelines (Pandya & Redcay, 2020). To make the issue even more problematic, the effectiveness of the Protection of Women from Domestic Violence Act of 2005, though an essential measure toward providing equal protection to cis women, is not always sufficient to support the trans population and their victims in the context of domestic violence, thereby creating a gap in the sphere of holistic protection laws (Dhawan et al., 2024)(Nayar et al., 2023). The obstacles also apply to workplace discrimination as even with constitutional clauses that promote equality and affirmative action, transgender people still encounter systematic employee obstacles and usually do not enjoy the protection of procedures (2021)(Addati et al., n.d.).

Decriminalization of Homosexuality: Navtej Singh Johar v. Union of India

The 2018 ruling by the Supreme Court in this case decriminalized consensual homosexual activity by interpreting Section 377 of the Indian Penal Code and thus established both constitutional rights to privacy, dignity, and equality of LGBTQ+ individuals and constituted a significant step towards acknowledging the diversity of sexual orientations (Krieger et al., 2024). This decision emphasized the importance of the judiciary in extending the fundamental rights to be understood not on the traditional positions but with the principles of international human rights instruments to create a more inclusive view of personal freedom and human dignity (2021). This historical case led to further LGBTQ+ lobbying, such as the controversial topic of marriage equality that the judiciary adopted a more conservative stance toward (Talawar, 2025). In fact, although the decriminalization of homosexuality was a significant milestone towards individual freedoms, the judicial branch has been reluctant to accord individuals equivalent freedoms in the form of marital rights, taking into consideration the difference between the personal sexual freedom and the legalization of same sex unions. The unwillingness to legalize same-sex marriage even though consensual same-sex acts gradually become decriminalized is indicative of a larger social and governmental resistance to accepting the LGBTQ+ population completely into the conventional institutional infrastructure, especially in matters of family law. This position was reinforced by the decision of the Supreme Court of the case *Supriya Chakraborty and Anr. v. Union of India* in 2023 which dismissed the demand to grant marriage equality, noting that the question of marriage is an issue of law rather than the judiciary (Talawar, 2025).

CONCLUSION

This judicial hesitation was further demonstrated in *Supriya Chakraborty and Anr. v. Union of India* case where the Supreme Court declined marriage equality petitions stating that governing marriage is a

legislative function, and not judicial. This position serves to underscore a long-standing conflict between judicial activism in securing the fundamental rights and judicial deference to legislative power on social policy questions, especially where the latter touch the former on matters at the intersection between social policy and religious and cultural norms. This difference highlights the complicated importance of a growing constitutional morality and current socio-legal frameworks, which are often out of pace with progressive assumptions about equality and non-discrimination. The ongoing rejection of the equality of marriage is especially important even though much has been achieved in decriminalization of same-sex relations, which highlights a root incongruity in enforcing the LGBTQ+ rights in India. The stance of the Supreme Court regarding this case points to an even wider problem of balancing the rights of individuals and considering the doctrine of separation of powers especially in addressing issues that have important social and religious consequences. This judicial restraint further subjects institutional discrimination because not to recognize same sex union denies the couples all the myriads of state benefits as well as affirms that heterosexual married couples enjoy in the society. Such an inference supports the idea that an individual sexual orientation can be recognized but the institutional infrastructure of equality is still selectively enforced especially when it comes to family law and social institutions. The introduction of same-sex couples to the right of adoption is one more example of such a challenge because the judiciary faces the challenge of contradictory interpretations of the current laws and the necessity to become orientation to the global developments in LGBTQ+ rights. An example of this judicial reluctance is the refusal of the Supreme Court to legalize same-sex marriages despite the global trend, which means that same-sex couples in India have no basis to legalize their relationships and having fewer opportunities to adopt together.

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