



## EXPLORING EDUCATIONAL RIGHTS AND CHALLENGES FOR THE TRANSGENDER COMMUNITY IN INDIA WITH REFERENCE TO NEP 2020

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### ABSTRACT:

This study delves into the educational rights and challenges faced by the transgender community in India, with a specific focus on the implications of the National Education Policy (NEP) of 2020. The transgender community has long encountered numerous hardships and obstacles that hinder their social, cultural, and economic development. Educational access and opportunities, considered a pathway to emancipation from social inequalities, have remained notably limited for this marginalized community.

Through a comprehensive analysis of the NEP 2020, this paper aims to shed light on the policies and provisions that directly affect transgender individuals' access to quality education. It examines the potential benefits and drawbacks of the NEP in addressing the unique needs and challenges faced by the transgender community within the Indian educational system. By exploring the alignment of the NEP 2020 with the educational rights of the transgender community, this study seeks to contribute to a better understanding of the policy's impact on promoting inclusive and equitable education for all in India, regardless of gender identity.

### KEYWORDS:

TRANSGENDER, EDUCATION RIGHT, NATIONAL EDUCATION POLICY, INCLUSION.

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### INTRODUCTION

The "Third Gender" was acknowledged by the Supreme Court in the 2014 case of National Legal Services Authority v. Union of India. Further, The Transgender Persons (Protection of Rights) Act state that a person who identifies as transgender is one whose gender does not correspond with their assigned gender at birth. (Rafeek,2015). According to the census from 2011, there are around 4.9 lakh third gender people in the nation who experience social exclusion, harassment and discrimination (Rajkumar, 2016). They are humiliated since they are frequently left behind by family. Over the past three centuries, Transgenders have experienced severe injustices. They have experienced social, economic, and educational marginalisation whereas 46% of the transgender students have completed some form of education, according to census data (Chandra, 2017). Additionally, (Rafeek,2015) has highlighted the fact that the transgender population has been denied access to their basic human rights since the beginning.

Since the beginning of our Republic, it has been acknowledged that education plays a critical role in fostering the social fabric of democracy by giving everyone equal chances (MHRD, 2018). Therefore, the Indian

government has placed a high priority on the education sector and the caliber of teachers, frequently developing policies and programmes to advance education and provide teachers with more authority. The reason for this is that teachers are viewed as the most crucial component in the planned educational reconstruction of the country (The Secondary Education Commission, 1954), and education has emerged as the engine for the sustained growth of nation(UNESCO,2014).

In many societies and countries, still transgender people are hated and ridiculed. Transphobia or transprejudice may exist, (Glazier, Hill, and Verduzco-Baker, 2018; Hill & Willoughby, 2005), attitudes against transgender persons that are negative. The Transgender are generally excluded and marginalized from society, and their lack of education further excludes them from the formal labour market, making their life and means of subsistence incredibly difficult. This is the vicious circle that needs to be understood. Those who do pursue education also have great challenges in finishing it, and many of them eventually drop out. Transgender people in families deal with a wide range of issues, such as verbal and physical abuse, exclusion and rejection, and denial of family

property (GLSEN,2019). Transgender people experience stigma and discrimination frequently because of their sexual orientation or gender identity. Social acceptance of the transgender community is required .For a person to have better employment and financial chances, they must have access to education and training (Rajkumar, 2016). Transgender are primarily isolated from their families and their educational environment, which puts their future job opportunities at danger.

On average, Transgender students continue on to the junior secondary and secondary levels before dropping out significantly. Even enrolling in educational institutions is difficult for them since they are tormented and harassed, which causes them to leave. The majority of Transgender people lack access to jobs, educational opportunities, and housing (Monro, 2007). The majority of people are living in extreme poverty (Goel, 2016). Since the sex assigned at birth that is stated on their birth certificate and other school/college documents does not coincide with the gender identification, transgender pupils are not permitted to enrol in institutions for higher education.

In this artical, the researcher aims to understand the transgender community's perspective on the right to education and assesses how well the policy has addressed their concerns and issues. One of the primary objectives of this research is to ascertain the ways in which the National Policy of Education (2020) has influenced transgender education in India.

## REVIEW OF RELATED LITERATURE

According to Chakrapani, Ernest Noronha, and Kavi (2010), most families do not accept it if their boy begins acting in ways that are considered feminine and out of character for his gender. In her research study, Leelavathy (2014) found that the majority of family members frequently do not support transgender people. Researchers Sivakami and Veena (2011) studied 120 transgender people in the city of Coimbatore. They also said that these issues were avoided by their teachers and classmates, which made them hesitant to attend class after noticing anomalous changes in them. Furthermore, 64% of them were from the low-income group, and they further revealed that this was the reason for their reluctance. The study "Kinnaron ke Prati Prashikshu Shikshkon ke Drishtikon ka Adhyayan" (Attitude of Trainee Teachers Towards Transgender Persons) was conducted in 2017 by Parveen and Chandra. On the basis of educational level (UG and PG), another significant difference in trainee instructors' attitudes towards transgender people was discovered.

One-third of the respondents in a study by Ganju and Saggurti (2017) had no formal education or schooling. Dutta, Khan, and Lorway (2019) found that 41% of the respondents had no formal education and were illiterate in another study. Rajkumar (2016) noted that transgender persons have everyday struggles because they are not accepted everywhere, shunned by society, and made fun of. They experience severe stigma in practically every area

of their lives, including health, education, employment, social programmes, and entitlement. Extreme social marginalisation undermines one's sense of societal obligation and self-worth. The community needs to be protected from all abuse and exploitation and integrated in the nation's main development agenda.

The majority of the literature on transgender education generally discusses transgenders' poor literacy rate, difficulties getting to schools, and other barriers that prevent them from pursuing an education. So, in order to comprehend the resources offered for Transgender education and to recommend ways to improve the rate of transgender education, this study attempts to critically analyse the National Education Policy 2020.

## METHODOLOGY

The foundation of this study is an extensive evaluation of the literature that includes studies and research papers about transgender inclusion from many sources i.e. academic databases, scholarly publications, and reliable internet repositories, a thorough search was carried out to find pertinent research articles on transgender inclusion. The articles were chosen on the basis of the integrity of the study and their applicability to the subject. To guarantee that modern viewpoints were covered, studies released between 2000 and the present were included. In order to comprehend the policy difficulties facilitating transgender education, this article has carefully examined the National Education Policy, 2020.

## RESEARCH QUESTION

- i. To analyze NEP 2020's claims to provide marginalized populations, particularly transgender people, with fair access to education.
- ii. To investigate the obstacles in putting NEP 2020's inclusion agenda into practice, with a particular emphasis on transgender people, in order to gain a deeper comprehension of the areas that require improvement and the efficacy of the policy.

## NEP 2020: AIMING FOR TRANSGENDER STUDENTS' INCLUSIVITY

Here are some quotes from NEP 2020 that address the inclusion of the marginalized portion generally:

**Inclusive Education(section 6.1):** It places a strong emphasis on inclusive education with the goal of giving all students equitable access to high-quality instruction while honoring their socioeconomic status, gender identity, place of origin, socioeconomic background, vulnerable circumstances, etc.

**Flexible education (section 3.5)**For socioeconomically disadvantaged groups, broadening educational opportunities in their local tongue through Open Distance Learning (ODL), National Institute of Open Schooling (NIOS), and State Open Schooling (SIOS) is a good move.

**Gender Inclusion Fund (GIF) (Section 6.8):** With a larger objective of eradicating inequalities for socioeconomically disadvantaged groups, it supports equitable education access for girls and transgender students by addressing

particular needs and barriers like bicycles, sanitation facilities, and community-based interventions.

**Curriculum Reforms (Section 11.1):** Reviving India's legacy of comprehensive and multidisciplinary education that includes the arts, sciences, careers, and soft skills that help lessen gender bias and increase students' awareness of a range of issues.

Section 6.14, Teacher Sensitization and Training, focused on addressing gender sanitization, fostering inclusivity for marginalised groups, and training teachers on how to teach special needs students.

These parts aim to incorporate the socially and politically marginalised groups in society and to provide equal access to education. However, we must keep in mind that while all marginalised populations and groups are fairly represented in the educational system, special policies need to be developed for them. Despite the NEP 2020's best efforts to cover everyone, many places still need more specific information while also taking the transgender population into consideration.

### **TRANSGENDER MUST BE INCLUDED IN THE RIGHT TO EDUCATION AS A FUNDAMENTAL RIGHT**

An article 21a guarantees free education to all children between the ages of 6 and 14 and stipulates that any child, including transgender children, may receive state support for schooling. It is especially relevant to the current issue since it recognises that every citizen of the country has the right to life and personal freedom. It gives kids who belong to underprivileged groups more recognition. Due of their extreme disadvantage in the country, transgender people were given special consideration under the Act. This law falls short of its promises to these disadvantaged people because transgender people require special care, even while it contains sections that suggest they have the same entitlement to all educational services as any other child. The problem is that before a person can access the judicial system, they must overcome a variety of societal obstacles, which are particularly difficult for transgender adolescents, even if the Act stipulates that a person who violates this right may be imprisoned to 6 months to 5 years in prison.

One of the biggest systemic changes in recent times is the National Policy for Education 2020, which is the first national education policy update in a long time and first to officially recognise transgender individuals. Under the proposal, education is seen as a public utility rather than a privilege that everyone should have access to. Looking at a lot of different social groupings as a whole, which might not get enough attention from policy makers due to their size or particular historical conditions, seems to be the goal. It will help them find a voice for all of their suffering and aid in making society better, since the majority of social evils can be resolved with the right information.

Even if it is important to acknowledge the goal to reform the educational system, if it is not critiqued in a constructive way, it does no justice to any policy. Because

only by careful consideration can policies improve and support the achievement of rights. Similar to the National Policy for schooling, 2020, it has flaws, particularly when looked at from the perspective of the welfare of transgender schooling.

A variety of issues concerning transgender students should be addressed by the policy, such as curriculum reform, underrepresented group (URG) examination, gender as a cross-cutting subject, curriculum revision, and campus safety.

**Gender as a cross cutting subject:** The policy dedicates a part to girls' as well as transgender education as a major issue for inclusive and equitable education. However, it raises questions because gender issues are very briefly mentioned elsewhere in the strategy and that this is the only portion that directly addresses transgender education with girl education. According to WHO, gender is an all-encompassing, intersectional experience that both adults and children go through. This suggests that a policy's presentation of gender should be a unifying element. The chapters on teacher preparation, curriculum, fundamental reading and numeracy, teacher recruiting, and other topics don't mention gender at all.

**Scrutiny of underrepresented groups :** Regardless of the reasons for exclusion, the policy statement seeks to address the concerns of all URGs in society, but it does so while continuing to exclude some groups and making some insulting remarks. Given that transgender people are one of the historically underrepresented groups, the topic of transgender welfare cannot be avoided. Recognizing transgender people as an underrepresented group and then writing a separate section about them would have been preferable.

The policy seeks to give students a lot more homework that will help them connect their education with their parents as part of a much wider community engagement. It must be acknowledged that many URG parents, many of them, who have very little or no education, wish for a better future for their kids than they had. They are not qualified to provide homework assistance. There are many different types of families that could exist, according to the Transgender Persons, Protection of Rights, Act of 2019: single-parent households, parents who work 12-hour shifts in the unorganized sector, and transgender students residing in rehabilitation centers.

Consequently, this further divides the pupils in the class into those whose parents can assist them and those who are not able to. In a very demeaning approach, youngsters from URGs are called to study English as a "unnatural aspiration," and English is described as the language of the financial elite. For these children, the mention of scholarships based on socioeconomic position and academic achievement is a good step. The text states that professional schools must honour their social duties by providing scholarships to students from economically and socially disadvantaged backgrounds. Of those who are admitted, up to half must receive financial aid of some

kind.

Specific teachers instructing those specific youngsters so that the kids might look up to them as role models are another idea that needs to be examined with high mistrust. It makes readers wonder whether a teacher's gender or caste has any bearing on whether or not you view them as a role model in a positive setting. A system for hiring teachers on the basis of caste or gender, which can allow greater room to instructors from underrepresented groups, is not provided by the policy even after making such a statement.

If a transgender student requires a transgender teacher to be a role model for them, how is the state supposed to help a transgender person find work as a teacher? It is imperative that decision-makers acknowledge that gender issues affect men and women equally. All individuals, including men and women, lesbians, gay men, bisexuals, transgender persons, and those with intersex variations, are impacted differently at every stage of their lives. This means that any policy that seeks to provide access to public goods must take this into account.

**Changes to RTE specifications:** We enthusiastically endorse the proposal of the Kasturirangan committee to extend the age range of the Right to Education Act 2009 from 6 to 14 years old to 3 to 18 years old. The troubling thing is that although the plan increases the Act's quantitative scope, it simultaneously aims to reduce its qualitative scope. The right to education is being weakened. The RTE Act's mandate that 25% of a class's students must be from URG groups is being repealed on the grounds that it should be replaced with "a 'flexible' market model with minimal regulations, to give 'greater flexibility' (and) create greater educational choices for students and healthy competition among schools." [The RTE Act of 2009, Section 12(1)(c)].

While it is understandable that the policy seeks to give schools more authority, children for whom this scheme is the only way to enrol in school shouldn't have their interests compromised in the process. Hundreds of transgender children may not be allowed to attend school if the policy removes the one section that forces teachers to act despite their social biases. The government has to recognise the need for striking a balance between granting schools independence and preserving the essential checks and balances.

**Curriculum reform and campus safety:** For the state to guarantee inclusive education, the most important issue is campus safety for children from minority groups. It's crucial to remember that the policy takes transgender students and ledgers into consideration in order to provide a safe and supportive learning environment. The policy states that students must be able to offer input in order to create an effective plan that will guarantee their needs are met, such as having their names corrected, having fair access to restrooms, and having texts rewritten to be more gender inclusive. However, outside of these few sentences, it does not appear that these promises are being

kept.

The policy fails to acknowledge the intersectionality of the discrimination that transgender students face because of their gender identity and their socioeconomic backgrounds, and it completely disregards the use of words like violence, hate speech, peer pressure, or bullying in the context of any student at any level of education. One can only wonder how the policy intends to protect the consistently marginalised transgender students against the issue in an environment where bullying and peer pressure put even gender-confirming students in real danger and when students struggle every day to maintain their unique personalities in the student community.

It would only be reasonable to add requirements for educational institutions to establish safety measures for students to the policy. Institutions should make a big deal about their stance against sexual violence. When students lodge complaints, they should be assured of complete confidentiality and given access to helpline phone numbers.

The policy mandates significant curriculum revisions, particularly at the school level. In order to encourage critical thinking and dialogue, it attempts to drastically minimise the load of memorization. This concept is quite admirable. In this sense, significant promotion is a different theme image. In the policy statement, certain concepts have received a lot of attention, which appears to be an underhanded attempt to impose requirements. Regarding indology and Indian languages, this idea seems especially compelling. A minimum of two years of study in any Indian classical language is required of all students, and elective courses on Indian teaching techniques have also received a lot of attention.

It's unclear what objective this promotion of Indian languages and values is pursuing, as Indian values have so far only seen to relate to majoritarian Hindu principles. The struggles and experiences of minority populations have generally received less attention, and it appears that this new policy will continue the trend. In recent years, transgender writers and a number of Dalit blogs have contributed their own stories, but the state still rejects them. The Drafting Committee claims that the only way to learn about diversity is through language study.

The protection of human rights by the legal system is the only way that the situation for the transgender community in Indian society can get better. Thus, it would be the ultimate injustice to allow constitutional ideals—which form the cornerstone of the legal system—to be compromised in India's legal education. An ideal goal would be to envision a more diverse system that welcomes differences in gender and caste, however this objective and the policy's goal do not appear to align. The new policy seems to have a clear ideology that it wants to force down on the entire system. The NEP correctly notes that more interdisciplinary coursework is required in Indian higher education, but it also omits some topics that would really help to integrate multidisciplinary into the curriculum.

**Policies related to transgender education:** Numerous verdicts have been made by the Supreme Court of India and various high courts to the benefit of the LGBTQ+ community in general and the transgender community in particular; these are covered in the introduction chapter. The Indian Parliament, the nation's legislature, has only ever passed one actual law. The 2019 Act is also known as the Transgender Persons (Protection of Rights) Act of 2019. In 2016, the government brought the bill before the Lok Sabha for the first time. It was harshly criticised for its misguided understanding of the transgender community and the limited support it provided at the time.

It is also necessary to take into account how much the right to education is enhanced and whether this law gives transgender people access to other aspects of a respectable and complete existence. The law acknowledges a transgender person's right to a unique identity and puts the NALSA ruling into practice. It has established a procedure for acquiring special identity documents, requiring the District Magistrate to receive a request for them. For the first time, discrimination against transgender persons is prohibited by law. The sanctions to be enforced in the event of any act of prejudice are specified in a separate section.

Denial of any public service or the right to migrate is expressly prohibited by the legislation in its definition of discrimination. Education is one of the most fundamental public services, and people with this freedom have the ability to go to school and higher education without facing any prejudice everywhere in the nation. It can serve as the initial step towards a transgender education programme or as a full-fledged policy because the act directs the relevant governments to develop suitable welfare programmes for the TGC. Additionally, it makes initial moves in a number of other sectors, including social security and healthcare. However, it appears that the legislation only makes modest progress in these areas, and occasionally it looks as though the majority of these provisions are merely empty promises.

Strong opposition to this bill has been voiced by the transgender community; one activist has even dubbed the day the law was passed as "Gender Justice Murder Day." All possible grievances against the act can be resolved if the Rights of Transgender Persons Bill, 2014—also known as the 2014 bill—is approved. The Upper House had adopted a private member's bill for the first time in forty years. This very progressive bill was introduced in the Rajya Sabha by private member Tiruchi Siva.

The way the new statute handles the identification of transgender people is its most significant shortcoming. In accordance with the NALSA ruling, a person has the right to self-identify as transgender, regardless of any sex reassignment surgeries. It was acknowledged as one of a person's fundamental rights. The act leaves it up to the District Magistrate to issue a transgender certificate, with no instructions on how to do so. This certificate will grant the transgender person access to all upcoming programmes, including educational programmes. It can

only be claimed that there is a strong possibility of the majority of the unique people falling under the transgender category if the DM is given such an unregulated amount of power.

## JUSTIFICATION

There could be issues, such as when a cisgender person tries to become certified as trans to utilise assistance programmes intended for the transgender community. This argument, however, presents a number of important counterarguments, such as whether a cis guy would voluntarily wish to be recognised as trans in a society where trans people struggle to survive. Will the assistance programmes be so extravagant that someone would be prepared to participate? to such an extent in order to access them? What sort of nation is. Are we really expecting someone to be so desolate that they would have to take such drastic steps to survive?

The 2014 Bill adopts a better strategy by acknowledging the transgender person's right to choose their sexual orientation independently and that they should be believed when they say what they want.

Since this is the first time that children from all backgrounds are exposed to diversity, it is important to make sure that these institutions offer a secure and nurturing atmosphere for transgender adolescents in order to deliver mainstream education to them. The Act frequently falls short of this expectation. First off, the document lacks definitions for words like abuse and violence. At best, it is unclear what constitutes discrimination.

Furthermore, whereas other crimes like sexual assault and others have consequences outlined, discrimination has not. The grievance resolution process appears to have been added just as a formality; no specified accountability approach is stated.

The 2014 Bill provides much improved methods for ensuring that educational facilities are safe for children in elementary, secondary, and postsecondary education. It defines acts of aggression, abuse, and discrimination and provides appropriate punishments for each. There is a grievance redressal mechanism that outlines how a victim of bias can contact the "Executive Magistrate," who also outlines the duties of the police and magistrate. The Bill includes steps to prevent hate speech and specifically mentions it. It is important for this issue since a lot of the discrimination that transgender kids face comes in the form of names, gestures, and other hurtful behaviours.

Reservation has been a crucial strategy for granting poor people access to essential public services for the 70 decades since independence. It goes without saying that reservations will make it much simpler for transgender persons to obtain education. In line with this idea, the 2014 bill mandates that 2% of all seats in public and publicly financed primary, secondary, and higher education institutions be set aside for transgender people.

## CONCLUSION

In order to achieve educational goals while keeping in mind national goals and roles, teachers and students participate actively in the educational process at all levels. Both professors and, in certain situations, their students are responsible for the overall efficacy of the educational process. The human rights perspective states that every child has the right to the best possible care, including full and sufficient cognitive, psycho-social, emotional, and moral support from all the systems in their environment. From a humanistic standpoint, transgender children should receive the same level of nurturing as regular children and have the same entitlement to an education.

To ensure that all those involved in the educational process, regardless of level, are able to contribute to the inclusive education of the children, they should be aware of this.

In addition to issues with cooperation among all children and relationships between transgender people and other students, educators need to be aware of concerns regarding transgender people, their way of life and culture, and their psychosocial, emotional, and cognitive conditions. Instructors might gain additional knowledge about how to deliver content that is especially pertinent to youngsters who identify as transgender.

Teachers' greater sensitivity is necessary for the successful integration of transgender children. Peer cooperation is necessary to sustain classroom dynamics, create a suitable and stimulating learning environment, and accomplish learning objectives. Peers may be able to support the maintenance of a stigma-free school or classroom atmosphere for better learning with their transgender peer(s). However, conducting focused educational research in this area is now more crucial than ever.

## RECOMMENDATION

Gender should not only be mentioned briefly and shouldn't be confined to a single area. In order to properly identify it as a cross-cutting subject, it should be stated for each endeavour whether it is appropriate for all genders and, if not, what the alternatives are.

It is important to realise that gender-based minorities like transgender people are part of the underrepresented groups. It is important to have a comprehensive sexual health curriculum that encourages kids to acquire tolerant viewpoints and use appropriate language.

It is important to divert the conversation away from a strategy of isolating them within their own group and towards one of integrating them into the majority groups to the point where their current boundaries of distinction are difficult to discern. The Right to Education Act, 2009 requirement that all schools guarantee 25% of seats be given to students from underprivileged families should be reinstated, and the policy's proposal that aims to weaken this requirement should be reexamined. All students' safety on campus should be guaranteed by the policy, with special attention given to gender-based minorities. A new curriculum should be added to the present wave of curriculum reform and contain a variety of literary works

that will prepare the children to consider all the issues that affect society as a whole.

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