

**DRAFT**  
**INVITING COMMENTS**

## Odisha Transgender Policy 2017



Department of Social Security and Empowerment of Persons with Disabilities  
Government of Odisha

# Preamble

Historically, sexual orientation and gender identity have formed the basis of identity of certain social groups who have been perceived as transgender, transsexual or inter-sex. These groups experience harassment, prejudice, stigmatization, discrimination and at times violence weakening their sense of self worth and leading many among them to conceal or suppress their identity and live in fear, invisibility and exclusion.

The Odisha Policy for the Transgendered 2017, in keeping with the constitutional promise to secure to all its citizens, "Justice, Liberty, Equality and Fraternity assuring the dignity of the individual," shall ensure equality regardless of sexual orientation or gender identity in all aspects of their lives. In particular, it shall endeavour to eliminate prejudices and discrimination based on the stereotyped roles for men and women. It shall undertake programmes of education, awareness and inclusion, to promote and enhance the full enjoyment of their human rights.

This policy document sets out the framework for the Government to take the lead and act as a catalyst to achieve a fairer, more equal and prosperous society. It has a cross-departmental approach and demands commitment and strategic partnerships among the public and private sectors, non-governmental organizations, civil society and local communities. The Department of Social Security and Empowerment of Persons with Disabilities shall act as the coordinating Department.

# Rationale

The 2011 Socio Economic and Caste Census enumerates the transgender population in the state as 4316<sup>1</sup> in rural areas and 463<sup>2</sup> in urban areas. Increasing number of transgender persons are coming out and a study commissioned by the Department of Social Security and Empowerment of Persons with Disabilities finds disproportionately high levels of poverty and unemployment among them.<sup>3</sup> Transgender and gender non-conforming persons face a myriad of challenges and experience striking disparities in areas such as access to health care, education, employment, housing, legal services and more. There is a dearth of research examining the challenges this population faces and the types of policies and programmatic interventions that would improve their lives.

This policy document therefore is primarily based on the grievances and demands of transgender people and their organizations and general research on the LGBTIQ. It draws from the judgments of the Supreme Court of India; the Transgender Persons (Protection of Rights) Bill 2016; the Report of the Expert Committee on Issues Relating to Transgender Persons (2014); and the Yogyakarta Principles (2006) that are a set of legal principles on the application of International Human Rights Law in relation to sexual orientation and gender identity.

The Government of Odisha realizes that focusing on gender identities alone will be inadequate to address their poverty, discrimination and exclusion and therefore endeavours through this policy to bring about social justice, economic equality and create real opportunities for transgender people to participate and succeed in society.

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<sup>1</sup> <http://secc.gov.in/statewiseGenderProfileReport?reportType=Gender%20Profile#>

<sup>2</sup> <http://secc.gov.in/statePopulationCountUrban>

<sup>3</sup> XIMB (2017), Report on Status of Transgender Persons in the State of Odisha, Department of SSEPD, Government of Odisha.

# Situation of Transgender People in Odisha

## Demographic Profile

The term 'transgender' or 'transgender person/people/population' used in this document is being used as an umbrella term to include all individuals who do not conform to rigid, binary gender constructions, and who express or present a departure from social and culturally prevalent stereotypical gender roles. It refers to all gender variant people and describes a wide range of identities and experiences including but not limited to: pre-operative, post-operative and non-operative transsexual people (who strongly identify with the gender opposite to their biological sex); male and female 'cross-dressers'; and men and women regardless of sexual orientation, whose appearance or characteristics are perceived to be gender-atypical. A male-to-female transgender person is referred to as 'transgender woman' and a female-to-male transgender person, as 'transgender man'.

### **Transgender Population in Odisha**

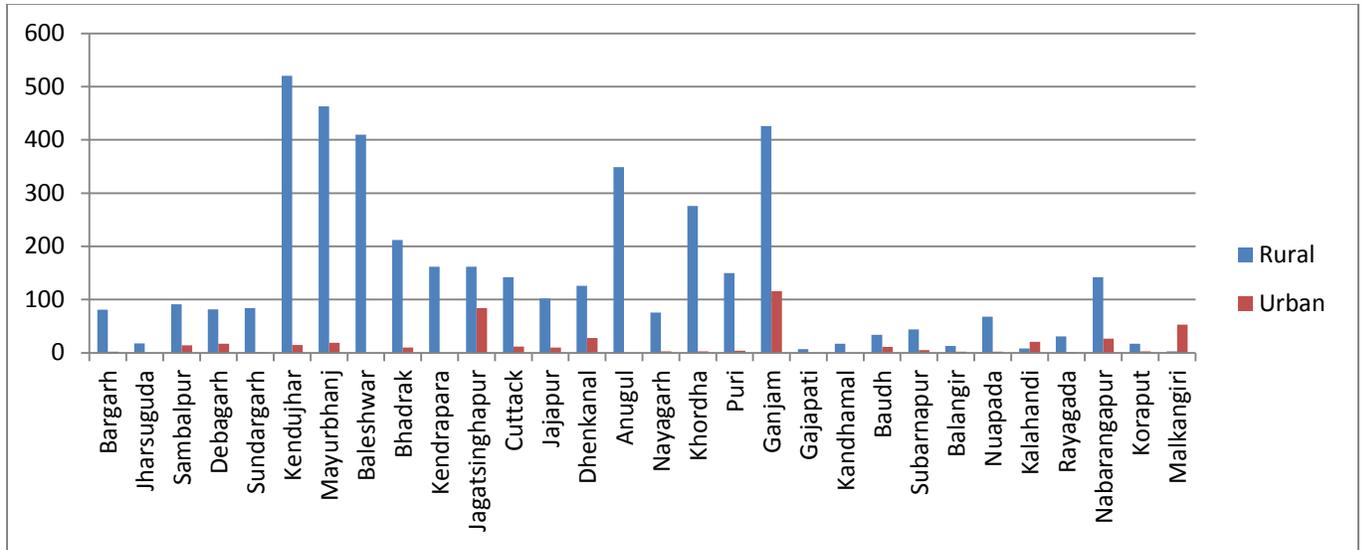
According to the Socio Economic and Caste Census (2011) in Odisha, there are 4316 transgender households in rural areas and 463 transgender persons in urban areas. However, their present numbers would be much higher as they now have the courage to express their transgender identity with the Supreme Court of India, granting legal recognition to a person's self-identified gender as either male, female or third gender. The transgender form a miniscule 0.049 per cent of the rural households and 0.01 per cent of the urban residents in the state.

### **Higher Rural Presence**

Odisha is counted as one of the states with a higher transgender population. 5.75 per cent of the transgender households of rural India are in Odisha and 1.5 per cent of the urban transgender population in the country is in Odisha. Their distribution in the districts of Odisha is depicted graphically below. Their low educational status and

economic impoverishment coupled with gender discrimination is an impediment to social mobility and livelihood opportunities in urban locations.

Figure 1: District wise distribution of Transgender population

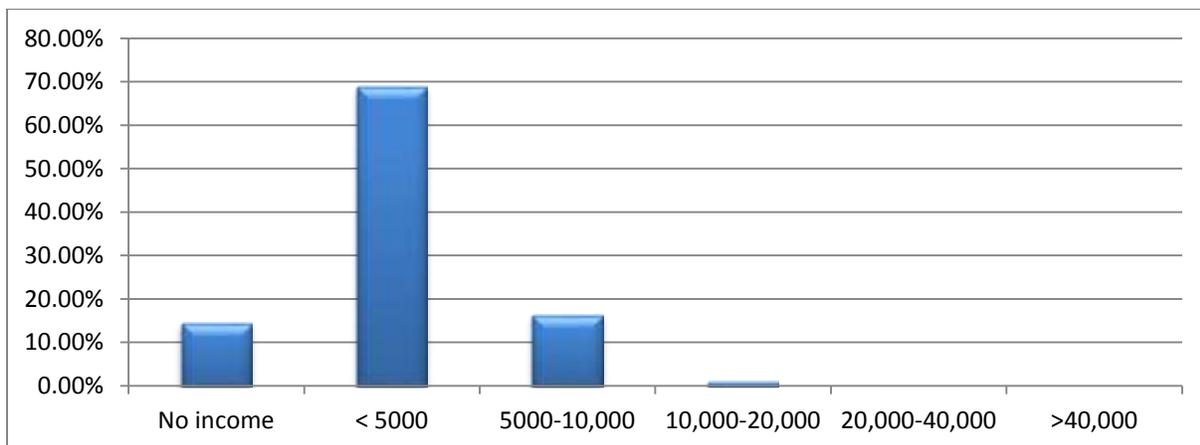


Source: Socio-Economic Caste Census, 2011

### Economic Hardship and Instability

Around 14.5 per cent of the respondents in the statewide online Transgender Survey conducted by the Department of SSEPD in 2017 reported that they have no income and were living in poverty. A major contributor to the high rate of poverty is unemployment. Majority of 69 per cent said that their income was less than Rs. 5000 per month and 16 per cent are found to have a slightly higher income between Rs. 5,000 and 10,000. This income is not assured and is mostly from begging and sex work. Less than 1 per cent of the Transgender population has income more than 20,000 per month.

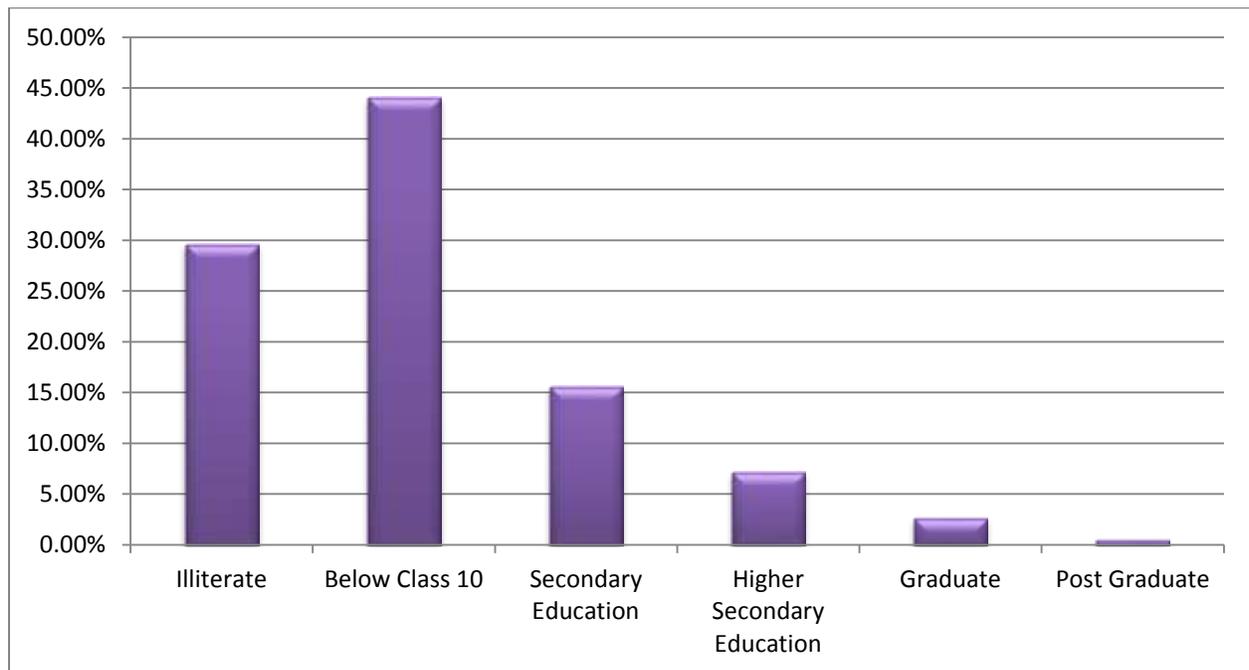
Figure 2: Distribution of Transgender population according to Average Monthly Income



## Education and School Experiences

The transgender have restricted access to education. While thirty per cent of them are illiterate forty-four per cent drops out of schools before completing their secondary education. This data coincides with the age at which they are evicted from their families. Only sixteen per cent manage to complete their secondary education and seven percent complete higher-secondary education. Most of them perceive and start expressing their gender identity while in school and experience some form of mistreatment such as being verbally harassed, prohibited from dressing according to their gender identity, disciplined more harshly, or physically or sexually assaulted because they had crossed gender norms. This deters them from continuing their education and is the beginning of their social exclusion. Only three percent of the respondents in the survey were graduates and less than one percent had a professional post-graduate degree.

Figure 3: Educational Profile of Transgender persons



## Employment

Majority of the transgender are unemployed. Lack of educational qualifications is one of the major factors in their un-employability. They report high rates of engagement in

illegal activities such as begging and sex work and most report having come in contact with the police and been mistreated in some way or the other. Some transgender who are from the *hijra* community enjoy ritual status and receive alms in return for their customary services. Most of the transgender who apply for jobs or are in some employment invariably face verbal harassment and at times even physical assault because of their gender identity expression. Some hide and delay their gender transition or quit the job.

### **Housing and Homelessness**

Majority of the transgender persons report having been homeless at some point of time in their lives usually when they are still very young to be employed and be able to afford housing. Fifty per cent of them are made to leave their parental home between the ages of ten and fifteen years and around nineteen per cent leave their families before ten years of age either due to threats, abuse and violence at home or to avoid social ostracism of their families. They usually live in slums lacking basic civic amenities. They are denied housing in residential areas for being transgender and some are evicted when they express their gender identity.

### **Mental and Physical Health**

On discovering their gender identity being at variance with their sexual identity, most transgender children and youth, face great challenges in coming to terms with their condition and undergo shame, fear, and internalized transphobia. Lack of family support together with social pressure lead to issues with disclosure and coming out; inability to adjust or adapt and conform; fear of losing relationships; lead to self-imposed limitations on expression or aspirations. They thus undergo serious psychological distress and report several mental health conditions such as depression and suicidal tendencies. Sometimes social disapproval of their gender expression is expressed through violent acts, sexual abuse and mistreatment.

Transgender persons face serious physical health issues brought about by Sex Re-assignment Surgery (SRS), hormone treatment, silicon implantation and other like treatments. Some due to their engagement in sex work contract sexually transmitted diseases and are susceptible to HIV/AIDS and Hepatitis C. Poor nutrition and diet leads to common diseases found in the population including lifestyle diseases.

Transgender persons fear accessing health care facilities due to their low literacy levels and limited affordability. They often face mistreatment and discrimination at the hands of doctors due to their transgender status, sex work status or HIV status.<sup>4</sup>

### **Police Interaction and Prisons**

Transgender people experience high levels of mistreatment and harassment by police. This includes being verbally harassed, repeatedly being referred to as the wrong gender, being physically or sexually assaulted. They feel threatened by the police and rarely approach them for help if needed. Transgender held in jail or prisons either face indifferent behavior or high levels of physical and sexual assault by prison authorities and inmates as they lack separate wards.

### **Public Toilets**

Transgender persons report facing frequent harassment and barriers when using toilets at work, or in public places as the toilets are exclusively marked for men and women. They avoid using public toilets to stay away from confrontation, harassment, assault or other problems and at times suffer from urinary tract infection, kidney infection, or kidney-related problems.

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<sup>4</sup> Chakrapani, V, Babu, P, Ebenezer, T. (2004). Hijras in sex work face discrimination in the Indian health-care system. Research for Sex Work. p12-14

# Mandate and Progress

## Constitutional Mandate

### Preamble

".....to secure to all its citizens: JUSTICE, social, economic and political;

\* \* \* \* \*

EQUALITY of status and of opportunity; and to promote among them all FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation...."

are the first, third and fourth goals, respectively, mentioned in the Preamble.

### III. Fundamental Rights

#### III (B) Safeguards relating to Education & Public Employment

##### *Right to Equality*

14. Equality before law.-The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth-

(1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to— (a) access to shops, public restaurants, hotels and places of public entertainment; or (b) the use of wells, tanks, bathing ghats, roads and places of

public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.

(3) Nothing in this article shall prevent the State from making any special provision for women and children.

(4) Nothing in this article or in clause (2) of Article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

(5) Nothing in this article or in sub-clause (g) of clause (1) of article 19 shall prevent the State from making any special provision, by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 3

#### 16. Equality of opportunity in matters of public employment -

(1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of any employment or office under the State.

(3) Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory prior to such employment or appointment.

(4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.

(4A)

\* \* \* \* \*

(4B) Nothing in this article shall prevent the State from considering any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause (4) or clause (4A) as a separate class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty per cent reservation on total number of vacancies of that year.

19. Protection of certain rights regarding freedom of speech etc

(1) All citizens shall have the right to-

(a) freedom of speech and expression;

\* \* \* \* \*

21. Protection of life and personal liberty – No person shall be deprived of his life or personal liberty except according to procedure established by law.

21A. Right to education – The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.

#### IV. Directive Principles of State Policy

37. Application of the principles contained in this Part –

The provisions contained in this Part shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.

38. State to secure a social order for the promotion of welfare of the people –

(1) The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.

(2) The State shall, in particular, strive to minimize the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.

39. Certain principles of policy to be followed by the State -

The State shall, in particular, direct its policy towards securing -

- (a) that the citizens, men and women equally, have the right to an adequate means of livelihood;
- (b) that the ownership and control of the material resources of the community are so distributed as best to sub serve the common good;
- (c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;
- (d) that there is equal pay for equal work for both men and women;
- (e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;
- (f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

39A. Equal justice and free legal aid -

The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

46. Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections -

The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

**Legal Mandate**

Excerpts from the Judgment of the National Legal Services Authority vs. Union of India and Others (2014)

## Legal Recognition of Third/Transgender Identity

70. Self-identified gender can be either male or female or a third gender. Hijras are identified as persons of third gender and are not identified either as male or female. Gender identity, as already indicated, refers to a person's internal sense of being male, female or a transgender, for example Hijras do not identify as female because of their lack of female genitalia or lack of reproductive capability. This distinction makes them separate from both male and female genders and they consider themselves neither man nor woman, but a "third gender". Hijras, therefore, belong to a distinct socio-religious and cultural group and have, therefore, to be considered as a "third gender", apart from male and female.

76. Article 14 has used the expression "person" and the Article 15 has used the expression "citizen" and "sex" so also Article 16. Article 19 has also used the expression "citizen". Article 21 has used the expression "person". All these expressions, which are "gender neutral" evidently refer to human-beings. Hence, they take within their sweep Hijras/Transgenders and are not as such limited to male or female gender. Gender identity as already indicated forms the core of one's personal self, based on self identification, not on surgical or medical procedure. Gender identity, in our view, is an integral part of sex and no citizen can be discriminated on the ground of gender identity, including those who identify as third gender.

77. We, therefore, conclude that discrimination on the basis of sexual orientation or gender identity includes any discrimination, exclusion, restriction or preference, which has the effect of nullifying or transposing equality by the law or the equal protection of laws guaranteed under our Constitution, and hence we are inclined to give various directions to safeguard the constitutional rights of the members of the TG community.

82. (1)Re: Right of a person to have the gender of his/her choice. When a child is born, at the time of birth itself, sex is assigned to him/her. A child would be treated with that sex thereafter, i.e. either a male or a female. However, as explained in detail in the accompanying judgment, some persons, though relatively very small in number, may be born with bodies which incorporate both or certain aspects of both male or female physiology. It may also happen that though a person is born as a male, because of some genital anatomy problems his innate perception may be that of a female and all his actions would be female oriented. The position may be exactly the opposite wherein a person born as female may behave like a male person.

88. In international human rights law, equality is found upon two complementary principles: non-discrimination and reasonable differentiation. The principle of non-discrimination seeks to ensure that all persons can equally enjoy and exercise all their rights and freedoms. Discrimination occurs due to arbitrary denial of opportunities for equal participation. For example, when public facilities and services are set on standards out of the reach of the TGs, it leads to exclusion and denial of rights. Equality not only implies preventing discrimination (example, the protection of individuals against unfavourable treatment by introducing anti-discrimination laws), but goes beyond in remedying discrimination against groups suffering systematic discrimination in society. In concrete terms, it means embracing the notion of positive rights, affirmative action and reasonable accommodation.

105. If a person has changed his/her sex in tune with his/her gender characteristics and perception, which has become possible because of the advancement in medical science, and when that is permitted by in medical ethics with no legal embargo, we do not find any impediment, legal or otherwise, in giving due recognition to the gender identity based on the reassign sex after undergoing SRS.

106. For these reasons, we are of the opinion that even in the absence of any statutory regime in this country, a person has a constitutional right to get the recognition as male or female after SRS, which was not only his/her gender characteristic but has become his/her physical form as well.

110. (c) The TGs are also citizens of this country. They also have equal right to achieve their full potential as human beings. For this purpose, not only they are entitled to proper education, social assimilation, access to public and other places but employment opportunities as well. The discussion above while dealing with the first issue, therefore, equally applies to this issue as well.

111. We are of the firm opinion that by recognizing such TGs as third gender, they would be able to enjoy their human rights, to which they are largely deprived of for want of this recognition. As mentioned above, the issue of transgender is not merely a social or medical issue but there is a need to adopt human right approach towards transgenders which may focus on functioning as an interaction between a person and their environment highlighting the role of society and changing the stigma attached to them....

118. There is a recognition to the hard reality that without protection for human rights there can be no democracy and no justification for democracy. In this scenario, while working within the realm of separation of powers (which is also fundamental to the substantive democracy), the judicial role is not only to decide the dispute before the Court, but to uphold the rule of law and ensure access to justice to the marginalized section of the society. It cannot be denied that TGs belong to the unprivileged class which is a marginalized section.

119. The role of the Court is to understand the central purpose and theme of the Constitution for the welfare of the society. Our Constitution, like the law of the society, is a living organism. It is based on a factual and social reality that is constantly changing. Sometimes a change in the law precedes societal change and is even intended to stimulate it. Sometimes, a change in the law is the result in the social reality. When we discuss about the rights of TGs in the constitutional context, we find that in order to bring about complete paradigm shift, law has to play more pre-dominant role. As TGs in India, are neither male nor female, treating them as belonging to either of the aforesaid categories, is the denial of these constitutional rights. It is the denial of social justice which in turn has the effect of denying political and economic justice.

122. It is now very well recognized that the Constitution is a living character; its interpretation must be dynamic. It must be understood in a way that intricate and advances modern reality. The judiciary is the guardian of the Constitution and by ensuring to grant legitimate right that is due to TGs, we are simply protecting the Constitution and the democracy inasmuch as judicial protection and democracy in general and of human rights in particular is a characteristic of our vibrant democracy.

126. By recognizing TGs as third gender, this Court is not only upholding the rule of law but also advancing justice to the class, so far deprived of their legitimate natural and constitutional rights. It is, therefore, the only just solution which ensures justice not only to TGs but also justice to the society as well. Social justice does not mean equality before law in papers but to translate the spirit of the Constitution, enshrined in the Preamble, the Fundamental Rights and the Directive Principles of State Policy into action, whose arms are long enough to bring within its reach and embrace this right of recognition to the TGs which legitimately belongs to them.

127. .... When we combine Rawls's notion of Justice as Fairness with the notions of Distributive Justice, to which Noble Laureate Prof. Amartya Sen has also subscribed, we

get jurisprudential basis for doing justice to the Vulnerable Groups which definitely include TGs. Once it is accepted that the TGs are also part of vulnerable groups and marginalized section of the society, we are only bringing them within the fold of aforesaid rights recognized in respect of other classes falling in the marginalized group. This is the minimum riposte in an attempt to assuage the insult and injury suffered by them so far as to pave way for fast tracking the realization of their human rights.

129. We, therefore, declare:

- (1) Hijras, Eunuchs, apart from binary gender, be treated as “third gender” for the purpose of safeguarding their rights under Part III of our Constitution and the laws made by the Parliament and the State Legislature.
- (2) Transgender persons’ right to decide their self-identified gender is also upheld and the Centre and State Governments are directed to grant legal recognition of their gender identity such as male, female or as third gender.
- (3) We direct the Centre and the State Governments to take steps to treat them as socially and educationally backward classes of citizens and extend all kinds of reservation in cases of admission in educational institutions and for public appointments.
- (4) Centre and State Governments are directed to operate separate HIV Sero-surveillance Centres since Hijras/ Transgenders face several sexual health issues.
- (5) Centre and State Governments should seriously address the problems being faced by Hijras/Transgenders such as fear, shame, gender dysphoria, social pressure, depression, suicidal tendencies, social stigma, etc. and any insistence for SRS for declaring one’s gender is immoral and illegal.
- (6) Centre and State Governments should take proper measures to provide medical care to TGs in the hospitals and also provide them separate public toilets and other facilities.
- (7) Centre and State Governments should also take steps for framing various social welfare schemes for their betterment.

- (8) Centre and State Governments should take steps to create public awareness so that TGs will feel that they are also part and parcel of the social life and be not treated as untouchables.
- (9) Centre and the State Governments should also take measures to regain their respect and place in the society which once they enjoyed in our cultural and social life.

### **Government of India Initiatives**

- i) Ministry of Social Justice & Empowerment has been designated as the Nodal Ministry for Transgender Persons with effect from July 2012.
- ii) In this regard, an Expert Committee was constituted under the Chairmanship of Additional Secretary (SJE) to make an in depth study of problems being faced by the Transgender Community. The Committee has submitted its report on 27th January, 2014.
- iii) Inter-Ministerial Committee has been constituted to pursue implementation of the Expert Committee's Recommendation in the light of Supreme Court's Judgement which has held four meetings so far.
- iv) The Ministry is formulating an Umbrella Scheme for Educational, Economic and Social Empowerment of Transgender Community.
- v) A Bill titled "The Transgender Persons (Protection of Rights) Bill, 2016" has been introduced in Lok Sabha on 02.08.2016.

### **Government of Odisha Initiatives**

For the social inclusion, empowerment and increased participation of the transgender community in public life the State and Central Government have taken several initiatives and are in the process of introducing several new schemes which have been outlined below.

- i) Basic Civic Amenities from Municipal Corporations: All the Municipal Corporations of the State are to provide basic civic amenities such as sanitation,

community toilet, drinking water, electricity etc. in the transgender residential colonies under their jurisdiction.

- ii) Food Security of Transgender Persons: Food Supplies & Consumer Welfare Department has notified for auto inclusion of the transgender persons under National Food Security Act as beneficiaries in their individual capacity, vide Notification No. 19969 dated 28.09.2015.
- iii) Recruitment commissions have been advised by the General Administration Department to include Transgender (TG) as a category of gender in the application forms meant for different requirements.
- iv) A survey on “The Status of Transgender in Odisha” commissioned to the Xavier Institute of Management has been completed.
- v) All Departments vide UOI No. 311 dated 08.09.2016; RDCs and Collectors vide Letter No. 6509 dated 09.09.2016 and Letter No. 3094 dated 05.05.2016 have been requested to extend the benefits of existing Government schemes to the Transgender persons.
- vi) The Housing and Urban Development Department has been requested to provide livelihood support to all transgender persons in different local bodies under the National Urban Livelihood Mission (NULM) vide Letter No. 9369 dated 19.12.2016.
- vii) All the Municipality Corporations have been requested to provide Aadhaar Card to Transgender persons.
- viii) A procedure has been outlined by the Department of Social Security and Empowerment of Persons with Disabilities for transgender persons to change their name and gender if they so desire.

## Vision

To achieve a fair, more equal and prosperous society where Transgender persons have equal voice and opportunities to participate and succeed.

## Mission

To do justice to Transgender persons through policy directives and programmes so that dignity, equality, justice (justice as fairness, distributive justice, and affirmative action justice), freedoms, life, liberty and fraternity become meaningful.

## Goals

The Odisha State Policy for Transgender Persons 2017 recognizes that the transgender people face undeniable hardships and barriers in their everyday life and have to navigate multiple problems in order to survive and thrive. This policy therefore aims to ensure that transgender persons are able to live fulfilling lives complete with dignity and rights in an inclusive society. This demands the Government to take several immediate actions that would lead to long lasting solutions beginning with eliminating barriers to gender equality by honoring their legal right to a self-defined gender identity; providing access to quality and affordable health care; ensuring education and necessary skilling thereby increasing their employability; putting an end to stigma and discrimination in schools, educational institutions, the workplace, and other areas of public life; and creating systems of support at the community, village, municipal and state levels to meet the social and psychological needs of transgender people. Crucial to all these solutions and for ending discrimination, exclusion and violence against the transgender persons is the need to educate government officials at all levels and the general public in the accurate knowledge of transgender identities and issues leading to greater acceptance and assimilation in society. The government will ensure gender mainstreaming in all its policies across Departments and adopt a multi-sectoral approach involving government institutions, non-governmental organizations and public and private entities. The necessary institutional capacity will be developed for its effective execution.

# Objectives

In response to the situation of the Transgender people in Odisha and in compliance to the mandate outlined by the Supreme Court of India in the Judgment of the National Legal Services Authority vs. Union of India and Others (2014), the Government of Odisha realizing the inadequacy of the progress made so far, issues this policy for the transgender people in the state.

This policy covers all categories of transgender persons, including but not limited to female to male Transgender, male to female Transgender and Inter-sex people. This policy emphasizes the rights of Transgender persons to self identify as man, woman or transgender.

The major objectives of the policy are:

1. To ensure dignity and protection of the rights of the Transgender persons in the State by integrating within Government policy and decision-making a pluralistic approach that recognizes and affirms the interrelatedness and indivisibility of all aspects of human identity including sexual orientation and gender identity.
2. To recognize the transgender identity and including the transgender category in all Government policies, documents and decisions.
3. To honour self declared gender identity and name of Transgender persons and ensure hassle free procedures in procuring identity documents such as voter ID, passport, PAN card, Aadhar Card, ration card, education certificates and in all Government records.
4. For their greater acceptance and assimilation the Government shall undertake appropriate public awareness and education programmes to eliminate prejudice and discriminatory attitudes or behaviors against the transgender people and to eliminate the idea of inferiority or the superiority of any sexual orientation or gender identity or gender expression.

5. To create an environment that provides them with dignity, independence, equal opportunities, protects their rights and enables their full participation in society by equipping government officials with accurate knowledge on transgender identities and issues.
6. To ensure the participation of transgender persons in the decision making processes to improve their quality of life especially in policy making, planning and budgeting.
7. To ensure barrier free access to social security, health care, food, drinking water, housing, shelter, public transport, sanitation and other welfare services to all transgender persons especially to the economically poor and socially marginalized sections among them by creating necessary support mechanisms and systems in all Government Departments and public offices including local self-governing bodies. To begin with the Transgender column must be included in all application forms for services, employment and other benefits.
8. To ensure and promote the protection of transgender persons from harassment, abuse and violence by creating a conducive, safe and secure environment for them in their homes, localities and public places such as hospitals, offices, police stations and prisons.
9. To ensure the dignity, safety and security of life of the transgender people the police shall be sensitized to pay due attention to the human rights violations against them. Every police station should develop documenting systems that would record incidents and compile statistics of crime against the transgender persons. In case of the involvement of police officials in offences against the transgender persons, criminal and disciplinary action will be taken against them.
10. To ensure that perpetration of violence against transgender persons is vigorously investigated, and that, where appropriate evidence is found, those responsible are prosecuted, tried and duly punished, and that victims are provided with appropriate remedies and redress, including compensation.
11. To ensure the protection of prisoners who are vulnerable to violence or abuse on the basis of their sexual orientation, gender identity or gender expression

without further restricting their rights than those enjoyed by the general prison population.

12. Undertake programmes of training and awareness-raising for prison personnel and all other prison officials engaged in detention facilities and jails with regard to human rights standards and principles of equality and non-discrimination, including in relation to sexual orientation and gender identity.
13. To ensure access to justice, the transgender persons seeking redress against discrimination and violence shall be provided free legal aid.
14. Laws with regard to sexual harassment, sexual abuse, domestic violence and all gender related laws shall be made Transgender inclusive. Similarly, the provisions of the Juvenile Justice Act (2015) and the Protection of Children against Sexual Offences Act (2012) shall be amended to include the concerns of the gender non-conforming child.
15. To ensure that the institutional staff of short-stay homes, orphanages, adoption centres and other child protection agencies are sensitized to the needs of gender non-conforming children.
16. To ensure equal rights to land and home ownership and inheritance without discrimination on the basis of sexual orientation or gender identity.
17. To take all necessary measures to set up exclusive night shelters, day care centres and other emergency accommodation for transgender persons.
18. To provide safe and habitable housing, a combination of grants and loans will be provided to Transgender persons depending on their income and eligibility through various Government schemes such as Indira Awas Yojana subsidy.
19. An exclusive round the clock, Transgender Helpline operated by trained counsellors shall be created for responding and managing incidents of violence, abuse and other inhuman treatments.
20. To protect the right of the gender non-conforming child to be nurtured and protected in a family environment, the Government shall take action against

parents who desert or evict them. At the same time the Government shall support such parents to take care of the specific needs of the transgender child through financial assistance, counseling and health services.

21. To develop the capacity of Anganwadi workers and staff of ICDS, ICPS, DCPOs and other frontline child service providers to be responsive to the needs of the transgender children.
22. To take all necessary legislative, administrative and other measures of a preventive and protective nature regarding the sexual exploitation of persons on the grounds of actual or perceived sexual orientation or gender identity.
23. To consider the specific needs of elderly transgender persons unable to maintain themselves. Key sectors in which government intervention shall be assured include income security, housing, health and protection.
24. To promote the employability of the transgender persons in the public and private sectors facilitate their education and required training or coaching through scholarships and freeships.
25. To promote self-employment or to increase their present incomes provide skill development training, grants and loans to make their enterprises profitable.
26. To promote individual and group endeavours by transgender persons for employment, self-employment and other services for their economic well being.
27. To provide adequate protection for students, staff and teachers of different sexual orientations and gender identities against all forms of social exclusion and violence within the school environment, including bullying and harassment.
28. Ensure that students subjected to such exclusion or violence are not marginalised or segregated for reasons of protection, and that their best interests are identified and respected in a participatory manner.
29. Educational institutions should issue Transgender policies for their institutions to address issues of marginalization, segregation, discrimination and harassment faced by students with different gender identities and sexual orientations.

30. To encourage the transgender in their creative and artistic pursuits by promoting their participation in national and state celebrations, public events, cultural activities and festivals.
31. To ensure that transgender persons have access to quality healthcare facilities, goods and services, including in relation to sexual and reproductive health, and to their own medical records.
32. To take measures to include transgender persons in Health Insurance Schemes of the Government.
33. Government and private hospitals and facilities should develop transgender inclusive policies on registration, treatment, admissions, investigations and other medical services to prevent discrimination, harassment, abuse or exploitation while providing health care services.
34. To provide psychological counseling services to Transgender persons with regard to their gender transition especially during pre-operative and post operative period.
35. To establish separate Sero-surveillance Centres to address sexual health issues faced by transgender persons.
36. To support and assist organizations that promote and protect the rights of the transgender people; provide care and counseling services; set up and manage homes, shelters, schools and skill development centres for the transgender persons.
37. To encourage research and periodic surveys on issues of concern to the transgender people to generate valuable evidence and information for policy formulation and effective intervention.



# Implementation, Monitoring and Evaluation

The Department of Social Security and Empowerment of Persons with Disabilities will be the nodal agency to coordinate all inter-departmental coordination and convergence regarding the policy objectives of the Odisha Transgender Policy 2017.

In order to ensure that the rights of Transgender persons are protected, mainstreamed into the activities of all Government Departments, a State Council for Transgender People comprising of officials from various Departments, High level Coordination Committees and Technical Advisory Groups will be constituted.

At the District level a Council with the District Collector as the Chairperson and other District level officers of the line Departments will be constituted to provide guidance in implementing the policy.

The Department of Social Security and Empowerment of People with Disabilities will decide the priorities for implementation according to the budgetary allocation, and need of the transgender population.

The implementation framework will be developed foreseeing the context and urgent needs of the transgender persons. The nodal department will develop short term and long term implementation frame work ranging from one year to five years for successful implementation of the policy depending upon availability of resources.

The implementation framework will include an integrated mechanism of monitoring and evaluation. It will identify and anticipate probable challenges; analyze capacities and capabilities for appropriate response by the implementing agencies; and determine the best course of action from the available alternatives to achieve policy goals.

The framework will actively engage various stakeholders and ensure a trained and dedicated cadre of social security officers for effective delivery of services.

The processes will be transparent and will be communicated to various stakeholders including the general population to solicit their active participation.

The framework will have well designed mechanisms for continuous review, monitoring and evaluation for making the social security system responsive and progressive.

The policy shall encourage and sustain all efforts for the equality, dignity and human rights of the transgender population through periodical awards and recognition.