

PAPER IDENTITY VS. LIVED REALITY: TRANSGENDER PERSONS AND PAN CARD CHALLENGES IN INDIA

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Defining Transgender Identity in India: Beyond Binary Classifications

The concept of transgender identity is very important in gaining knowledge on the challenges faced by transgender individuals in India. The term transgender is loosely applied to individuals examining the sex assigned to them at birth with their gender identity. This difference is essential, since gender identity can be described as a sense of belonging to one of the gender categories, such as male, female, both, neither, or being at a different point on the gender continuum, regardless of biological traits. Although gender identity has got a complicated background which can be based on biological elements like hormonal status or chromosomes, it is not entirely based on neurological variables¹.

The term transgender in the Indian context has, in most cases, been applied very loosely and even inaccurately, whereby it has mostly been broadly related to the so-called Hijra. Hijras form a major and prominent socio-cultural category traditionally consisting of biologically male people who identify with the female gender. Nevertheless, the situation regarding transgender people in India is much more complicated, and therefore, there is a great number of distinct identities. These other socio-cultural groups are termed as Shiv-shaktis, Jogtas, Jogappas, Aradhis, Sakhi, trans-men (those assigned female at birth and identify as men), trans-women (those assigned male at birth and identify as women) and genderqueer-oriented individuals who may not fall in these standard identities or gender categories, which are either born male or female².

Historical Foundation: The NALSA Judgment and Its Transformative Court Decision

The NALSA judgement 2014 marks the turning point of the law in India, concerning gender identity and transgender rights. A bench of Justices K. S Radhakrishnan and Arjan Kumar Sikri of the Supreme Court has issued a detailed verdict that thoroughly changed the situation of the transgender individual in India. Nothing was far-fetched in the Court decision as it found basis in the Constitution, especially Article 14³ (equality before law), 15⁴ (prohibition of discrimination), 19⁵ (freedom of expression), and 21⁶ (right to life and personal liberty). The case created several landmark principles, which still remain a significant part of the narrative concerning transgender individuals and their rights. It first stated that there is a right to self-identification, i.e. that gender identity is an "innate feeling of the gender a person belongs to"

¹ 'Answers to Your Questions about Transgender People, Gender Identity, and Gender Expression' <<https://www.apa.org/topics/lgbtq/transgender-people-gender-identity-gender-expression>>.

² 'RIGHTS OF A TRANSGENDER IN INDIA - Jotwani Associates' (3 November 2023) <<https://jotwani.com/rights-of-a-transgender-in-india-by-shivalika-midha/>> accessed 30 July 2025.

³ Constitution of India, art 14.

⁴ Constitution of India, art 15.

⁵ Constitution of India, art 19.

⁶ Constitution of India, art 21.

instead of solely being dependent on biological anatomy. This conceptualization also declined the medical model, which required invasive tests or procedures to identify gender in the past. Second, the Court acknowledged hijras and eunuchs as living subjects in the category of the third gender on the legal level and gave official approval to different gender identities existing in India.

The Constitutional Promise vs. Administrative Practice

The history of transgender rights in India was marked by impressive legislative achievements that it has experienced within the last 10 years, and yet there is an observable gap in implementation between constitutional commitments and that in practice by the agencies. Although Supreme Court of India made a landmark decision in 2014 in the case of *National Legal Services Authority (NALSA) v. Union of India*⁷ where transgender people were classified as the third gender by Union of India, and their basic rights were established, yet one of the essential paradoxes was still present in the form of transgender identity certificates being non-recognized in the process of applying to financial documentation, such as PAN card application.

Such a gap between the periphery of legislative desire and the core of bureaucratic practice can be regarded not simply as an oversight of process but rather as institutional discrimination that erodes the bedrock of transgender rights in India. PAN card, which is a passport to formal economic activity, is a must to carry out any financial transaction, to get a job, and to pay taxes. The fact that transgender identity certificates issued by a statutory authority are not admissible to the application of PAN status produces an inherent barrier excluding transgender individuals, and not in concurrence with the letter and intent of the 2019 Act⁸.

The PAN Card Recognition Paradox

Regulatory Framework and Documentation Requirements

This process of applying for the PAN card is guided by the provisions of Section 114 read with Section 139A of the Income Tax Rules, 1962⁹, which indicate the acceptable documents in which the identity, residential address, and date of birth can be proven. The existing regulatory framework comes with names of documents that include Aadhaar cards, passports, voter identity cards, and driving licenses, along with certificates given by the specified authorities; however, the transgender identity certificates under the 2019 Act¹⁰ were notably omitted. Such a missing out provides a major obstacle to bureaucracy and requires transgender people to have no choice but to struggle to access or change their PAN cards to show correct gender information. Although there have been changes made to the forms used by the Income Tax

⁷ *National Legal Services Authority v Union of India* (2014) 5 SCC 438 (SC).

⁸ Amisha Shrivastava, 'Certificates Issued Under Transgender Persons Act 2019 Acceptable For PAN Card Applications : Centre Tells Supreme Court' (29 August 2024) <<https://www.livelaw.in/top-stories/certificates-issued-under-transgender-persons-act-2019-acceptable-for-pan-card-applications-centre-tells-supreme-court-267981>> accessed 30 July 2025.

⁹ Income-tax Rules 1962, r 114 read with Income-tax Act 1961, s 139A

¹⁰ Transgender Persons (Protection of Rights) Act, 2019.

Department in keeping with representations made by the community, by adding a transgender option to the gender option in 2018 forms, still reflected the same documentation needs, which meant that transgender individuals could use the correct gender detail just not have any documentation recognized by the government.

The Reshma Prasad Case: A Catalyst for Change¹¹

Reshma Prasad is an excellent example of how transgender people may struggle with bureaucracy due to strict bureaucratic systems, as it was represented before the Supreme Court as a Special Leave Petition (SLP 8436 of 2018). One of the transgender activists, called Prasad originally from Bihar, had sent their case to the Court because they faced challenges trying to match their PAN card to the Aadhaar card as part of the gender mismatch. There arises an inherent divergence in the case, Aadhaar had already adopted the third gender in recognizing gender, but the PAN system was still on a two-gender system. This incompatibility denied transgender people the chance to connect their core papers of identity, which resulted in the inability to complete income tax, access to government plans, and usability of official monetary networks.

In an important twist in August 2024, a bench of the Supreme Court, Justices Sudhanshu Dhulia and Ahsanuddin Amanullah heard the Reshma Prasad case, and with this case, the next hearing in this case, the Centre gave an assurance to the court on all issues related to the issue of transgender certificate recognition. The Court observed that the Union of India has played a very helpful role in this regard and has more or less conceded the demands that have been made by it in the present petition including the one, that the certificate that is going to be issued under Section 6 *Transgender Persons (Protection of Rights) Act 2019*, s 6¹² and 7¹³ of the Transgender Persons (Protection of Rights) Act, 2019 will be acceptable in case it is made by the district magistrate. This legal interference is a very important move in settling the recognition paradox. The principal acceptance of the Centre sets a precedent in the legal sphere of considering the ID cards issued in terms of transgender identification to be regarded as jurisdictional based on the PAN application. But the Court added that formal adoption of these provisions into the pertinent rules must also be done to have it clearly and implemented uniformly.

Administrative Challenges and Bureaucratic Inertia

Systemic Barriers in Documentation Processes

The barriers experienced by transgender subjects in receiving PAN services are wider in the systemic structures of the Indian administrative system. It has been found that transgender individuals have to face several barriers in availing the government services, and these barriers include a lack of awareness among authorities, discriminatory perception, and convoluted procedures. In-depth research on the financial inclusion of the transgender communities showed that stringent regulatory and procedural formalities, along with a need to submit

¹¹ Reshma Prasad v. Union of India, SLP (C) No. 8436 of 2018.

¹² *Transgender Persons (Protection of Rights) Act 2019*, s 6

¹³ *Transgender Persons (Protection of Rights) Act 2019*, s 7

various legal documents, do not attract the interest of the transgender individuals to go to the formal financial institutions. The examination discovered that the aggressive attitude of the bank employees and their limited knowledge about different programs developed further supply-side obstruction to financial inclusion.

Recent Developments and Progressive Measures

State-Level Initiatives and Best Practices

Several states have shown themselves to be proactive in the implementation of transgender rights, and these state policies can be used as guidelines for implementing further. An in-depth policy framework of Kerala encompasses employment reservations in government branches, simplified procedures of identity certificates, and integrated healthcare facilities. The state policy stresses the notions of dignity and respect and substantial equality instead of their formal affirmation¹⁴. Another important step is the announcement of the rules of protection of transgender individuals in Delhi in July of the year 2025¹⁵. The rules define timelines on the issuance of identity certificates, transferring of welfare boards to a multi-departmental representation, and also have coordination among the different branches within the government departments. The trends signify an increase in the awareness that transgender rights should be implemented systematically.

Central Government Policy Evolution

The emerging policy concerning transgender rights in the Central Government is an indication of increasing concerns about the difficulty of implementation. This is a major policy change because the Centre has taken the decision to accept transgender identity certificates in PAN applications, as made known by the Supreme Court. The Income Tax Department has also proved that it responds to community concerns, as it amended PAN application forms in 2018 to specify the gender option of transgender and indicated that no supporting documents of gender identification were necessary in applications, for transgender individuals during their gender identification application. These are the practices of institutional learning and adaptation to inclusive practices.

Legal Framework Analysis and Harmonization Needs

Constitutional Mandate vs. Regulatory Practice

The disparities between what constitutional requirements demand and regulatory reality in implementing transgender rights show how basic issues of law exist in India. Although the Constitution has provisions on equality and non-discrimination, these are not duly reflected in

¹⁴ 'Social Justice, Kerala' <https://sjd.kerala.gov.in/scheme-info.php?scheme_id=MTQ4> accessed 30 July 2025.

¹⁵ 'Delhi Notifies Transgender Persons Rules 2025 | SCC Times' <<https://www.sconline.com/blog/post/2025/07/17/delhi-transgender-persons-rules-2025-scc-times/>> accessed 30 July 2025.

the subordinate legislation, as well as in administrative rules. The judgment of NALSA clearly asked the governments to revise all official records to acknowledge transgender people. But the execution of this directive has been done bit by bit, and each department and agency is taking different approaches. Such variance causes transparency and obstacles to transgender people who want to exercise their rights.

Need for Comprehensive Rule Amendment

The paradox of the PAN recognition needs a systematic amendment of the Income Tax Rules, 1962 and Rule 114¹⁶ specifically has to be amended so as to resolve this paradox.¹⁷ According to legal theories, it has been recommended that Rule 114 should be changed by clearly stating that transgender identity certificates issued under Section 6 of the 2019 Act are valid documents of gender and identity to support the submission of PAN applications. These amendments would make it more legal and would give uniform implementation of provisions. Other procedural issues like the mechanism of updating old PAN cards with the correct gender and the process of connecting with Aadhaar should also be complimented in the amendment.

Integration with Broader Documentation Framework

Harmonization of documentation requirements in all the departments and agencies should be considered, including the allowance of transgender identity certificate when applying to be a PAN candidate. This would make transgender people able to receive governmental services without hindrance on a departmental basis, as everyone can receive government services by providing their identity certificates. The suggested solution will support the concept of One Nation, One Identity, and will not only help to eliminate some administrative burden but also help to guarantee equal and fair awareness of transgender rights. This would go along with the harmonization that would also include facilitating the digital interoperability and integration of various government systems.

Future Directions and Policy Recommendations

Immediate Administrative Reforms

The pressing requirement is the formal amendment of Rule 114 of the Income Tax Rules, 1962, to some extent, confirming that transgender identity certificate should be treated as a valid document in the matter of PAN application. To manage this amendment in unison, guidelines to officials in charge of the Income Tax Department and service providers should be given. Also, standard measures to update the current PAN cards with the correct gender details and simplify the Aadhaar-PAN linking procedure for the transgender population need to be instituted by the government. Such moves would handle interim obstacles and cement the path to comprehensive changes.

Comprehensive Documentation Harmonization

¹⁶ Income-tax Rules 1962, r 114

¹⁷ Atul Rana & Dimpal Singh, 'The Legal Paradox: Transgender Identity Certificates And PAN Card Recognition In India' (27 June 2025) <<https://www.livewlaw.in/articles/the-legal-paradox-transgender-identity-certificates-pan-card-recognition-india-295910>> accessed 30 July 2025.

All the documentation requirements imposed by the government should also be analysed systematically to determine and remove barriers to transgender access. As an outcome of this review, it is expected that there will be substantial guidelines accepting the transgender identity certificates in every department and agency.

The harmonization process is also expected to put an end to the interoperability challenges that exist between various systems in the government, so that transgender individuals can receive all services through their identity certificates without any problem. This should involve a coordination of different ministries and sectors, but would be of immense help regarding administration and administrative capacity, and the scope to protect the rights.

There must also be effective forms of monitoring and evaluation adopted to monitor the process of implementing transgender rights policies and know where it can be improved. Such systems must have periodic audits of government departments, a feedback channel to transgender persons, and a measure of performance to check progress. Active roles must also be played by independent oversight bodies like human rights commissioners and ombudspersons to monitor compliance and address grievances. Such multi multi-layered process would incur accountability and consistency improvement in implementation.

The identification of transgender identity certificates on PAN applications holds huge implications for financial inclusion and economic participation¹⁸. Transgender people may use formal financial systems, which allow them to create bank accounts, use credit services, and be involved in online payment systems. Studies have shown that financial inclusion of transgender population helps to reduce poverty, empower people economically, and also helps them socialize. Adequate documentation and identity mixtures are important factors to formally enter the job market, open companies, and have access to government welfare programs.

Conclusion: Toward Complete Legal Harmonization

The paradox of the transgender identity certificate recognition in India has been an attempt at the hard-fought decision-making in the nation on the tolerance and adherence to the constitution. Although the jurisprudential basis of the 2019 Act and the NALSA of 2014 judgment is highly protective in its protection of transgender rights, the disparity in the protection granted by the clear provisions in the administrative procedures is as good as going through the grades of school students in admission to institutions and keeping them on the backbench on a grass root level.

The recent intervention of the Supreme Court in the Reshma Prasad case and the responsibility taken by the Centre to take transgender identity certificates into consideration in PAN applications are a major step in untangling this paradox. Nonetheless, sustainable change needs comprehensive reforms, not isolated cases or ad hoc changes within the policies.

¹⁸ 'The Legal Paradox of Transgender Identity Certificates and PAN Card Recognition in India' (*The Law Codes*) <<https://thelawcodes.com/article/the-legal-paradox-of-transgender-identity-certificates-and-pan-card-recognition-in-india/>> accessed 30 July 2025.

The way ahead calls for complete standardization of the documentation system in India so that the transgender identity certificates that are mandated by the law are accepted uniformly in all government agencies and services. Such harmonization should be complemented with powerful implementation tools, capacity-building initiatives, and monitoring practices to make the right delivery effective at the ground level.

Economic and social effects of this harmonization go way beyond transgender community, as they contribute to the overall objectives of equal development, constitutional conformity, and social fairness. Since India is in the process of becoming a diverse democracy, how the least vulnerable of its communities are treated can serve as a form of litmus test regarding India's adherence to constitutional values and human dignity.

The resolution of the paradox regarding the recognition of transgender identity certificates is therefore not just a technical administrative change, but a commitment that India is ready to convert its constitutional assurances into modes of actual, beneficial experiences for all its citizens, irrespective of their gender identity or expression. This vision has to be fulfilled through much hard work, political resolve, and social devotion to the ideals of equality, dignity, and justice on which the constitutional democracy of India rests.



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