
POLICIES BEYOND THE COMPLIANCE THRESHOLD: THE PROTECTION OF GENDER MINORITIES FROM WORKPLACE HARASSMENT

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ABSTRACT

India has, however, tried to make room for diversity in its official records: a new "other" category has now been added besides "male" and "female" in various administrative forms. This improvement is not enough to combat the larger problem of feminism and gender equality. Sexual harassment is often a function of power inequities and reflects broader patterns of gender-based discrimination and harassment. Some experts tie sexual harassment to the idea of men as traditional breadwinners, and high numbers of women and even gender minorities in the workplace have changed. The Constitution of India lays the foundation for gender equality and prohibits discrimination, emphasizing the importance of women's empowerment, protection of queer people and prioritizing individual health and safety. In alignment with these principles, this paper will talk about implementing a set of policies that will talk about the protection of various gender minorities in the workplace from sexual harassment. This can be ensured by devising and implementing comprehensive policies that are tailored to specifically address the concerns and challenges faced by gender minorities in the contemporary workforce; since in private employment, most aspects are governed by company policies, meaning that the protection of employees' rights largely depends on the decisions made by company management. Thus, drafting policies that involve diverse voices and inputs from people at various levels and of diverse social identities along with an enabling environment for accountability and clear and measurable time-bound targets is the need of the present workspace. The main objective of this paper besides drafting a set of policies is to ensure that gender minority people especially those belonging to the queer community are given sufficient protection and do not have to face discrimination or harassment of any kind.

Keywords: Gender equality, Sexual harassment, Gender minorities, Workplace policies, Accountability.

INTRODUCTION:

The Constitution of India lays a robust foundation for gender equality, explicitly prohibiting discrimination and underscoring the significance of women's empowerment. These principles emphasize the prioritization of individual health and safety as critical components of societal progress. Building upon this constitutional mandate, this paper seeks to explore the necessity and strategies for fostering inclusivity within workplaces. Recognizing the workplace as not only a domain of professional advancement but also a space for holistic development, it highlights the imperative to treat all individuals with dignity, respect, and equity.

This paper envisions the workplace as a platform that supports employees' personal and professional growth, ensuring their privacy is respected while addressing challenges faced by gender minorities. It argues for the creation of environments where disparities are effectively addressed, and inclusivity becomes a lived reality. In doing so, the paper advances the idea that workplace policies must evolve to embody equality and safety as cornerstones of institutional culture.

To reinforce this vision, this paper outlines a Gender-Inclusive Policy framework that reflects a steadfast commitment to fostering respect, equity, and inclusivity. By addressing systemic inequalities and prioritizing innovative strategies, the policy framework aims to create a workplace where diversity is celebrated and everyone is empowered to reach their fullest potential.

Policy Context: This paper situates the Gender-Inclusive Policy within the broader framework of constitutional principles, emphasizing equality and individual well-being. The policy serves as a blueprint for eradicating discrimination and fostering a workplace culture rooted in respect, safety, and inclusivity. By addressing systemic challenges and advancing comprehensive solutions, it seeks to build environments where diversity is not just acknowledged but celebrated, creating opportunities for individuals to thrive collectively and contribute meaningfully to organizational and societal progress.

The objectives of this paper center on creating a comprehensive framework for gender inclusivity in the workplace. A key focus is on standardization and accessibility, emphasizing the need for a uniform model of gender-inclusive policies that can be consistently adopted across organizations to streamline implementation and promote coherent practices. Additionally, the paper advocates for the development of innovative strategies to address workplace inequalities, aiming to empower gender minorities and establish equitable

professional environments. Another critical goal is to define clear, actionable guidelines that can serve as benchmarks for fostering inclusivity and equity within professional spaces. Furthermore, the paper highlights the importance of enhancing community awareness and engagement by addressing workplace-related concerns about health, safety, and environmental issues. This approach aims to build a culture of responsibility and proactive participation, ultimately contributing to the overall well-being of employees.

CURRENT POSITION OF GENDER MINORITIES IN INDIA IN WORKPLACE:

Understanding Gender Discrimination: A Societal Perspective

Gender discrimination is deeply rooted in societal gender stereotypes, which often portray men as physically strong and women as emotionally sensitive. This arises from a frequent conflation of the terms "gender" and "sex," which are often used interchangeably despite their distinct meanings. While "sex" refers to the biological classification of individuals as male or female, "gender" reflects the roles and expectations assigned to individuals by society. These roles vary across cultures, shaped by prevailing social norms and structures.¹

Although "sex" and "gender" differ in origin, societal expectations often link an individual's societal role to their physical capabilities. Beyond physical attributes, however, individuals must also navigate societal expectations using their mental and emotional capacities. Gender discrimination, in essence, emerges from the rigid determination of roles based on societal norms. It encompasses practices that grant or deny rights or privileges to individuals based solely on their gender. While some societies have historically accepted such practices, often embedding them in cultural or religious traditions, many industrialized nations now view gender discrimination as illegal or inappropriate.

The roots of gender discrimination can often be traced to longstanding cultural, religious, and literary influences. Stories such as the creation of women from a man's rib, practices like dowry payments, and portrayals of women as the "weaker sex" have reinforced unequal gender roles for centuries. These narratives, combined with societal and religious norms, left little space for equitable thinking, entrenching discrimination in societal structures.

While gender discrimination is traditionally perceived as an issue affecting women, it has also impacted men. Social stigmas have historically restricted men from pursuing roles such as nurses, childcare providers, and flight attendants—professions stereotypically associated with

¹ JLS Vol. 1, Issue II, July 2013

women. Over the past few decades, however, gender discrimination has gained significant attention in academic, sociological, and legal spheres, with many equating its severity to that of racial discrimination. In numerous societies, acts of gender discrimination are now met with harsh penalties, reflecting its growing recognition as a serious issue.

Proving gender discrimination, however, remains a challenge. Unlike racial discrimination, which is often overt, gender discrimination can be subtle and difficult to substantiate. Offenders frequently attribute their actions to other factors, such as qualifications or compatibility with workplace culture. For example, if a male applicant claims he was denied a nursing position due to his gender, the employer might counter that his qualifications or demeanour were unsuitable. Such ambiguities make it challenging to prove gender-based bias. Repeated instances of discriminatory practices, such as denying promotions to individuals of a certain gender or paying different wages for identical work, are more likely to result in legal action.

Ultimately, gender discrimination is the unfair or unequal treatment of individuals based on their sex or gender. It is rooted in stereotypes that associate certain traits with masculinity or femininity, often valuing traits associated with men more highly. While men can also face gender discrimination, women are disproportionately affected, as societal biases continue to place them at a systemic disadvantage. Addressing these inequalities requires a nuanced understanding of their origins and persistent effects across different cultural and social contexts.

In an era increasingly focused on diversity and inclusion, the rights of transgender individuals in the workplace have gained significant attention. Yet, the path to true equality remains fraught with challenges. One of the most critical issues confronting transgender employees in India is the pervasive threat of sexual harassment, which undermines their professional growth and personal well-being. This paper aims to illuminate the issue of sexual harassment faced by transgender individuals in Indian workplaces. It explores the legal protections available to uphold their rights, examines strategies for creating safer work environments, and advocates for a workplace culture that is inclusive and respectful, ensuring dignity and equality for all transgender employees.

Transgender Individuals and Workplace Harassment

The term "transgender" is comprehensively defined under Section 2(h) of the *Transgender Persons (Protection of Rights) Act, 2019* as:

“a person whose gender does not match with the gender assigned to that person at birth and includes trans-man or trans-woman (whether or not such person has undergone Sex Regeneration Surgery or hormone therapy or laser therapy or such other therapy), person with intersex variations, genderqueer and person having such socio-cultural identities as kinner, hijra, aravani and jogta.”

This definition recognizes the diversity within the transgender community, transcending the binary classification of male and female. It marks a significant step in safeguarding the rights and dignity of transgender individuals in India by providing legal recognition to their identities.

Sexual Harassment Faced by Transgender Employees

Workplaces should ideally serve as environments where every individual is treated with respect, dignity, and fairness. Unfortunately, for many transgender employees in India, this ideal is overshadowed by the harsh reality of sexual harassment. This pervasive issue not only undermines the well-being of transgender individuals but also impedes their professional progress and overall quality of life.

Transgender employees face unique vulnerabilities to harassment, stemming from both their gender identity and societal prejudices. Harassment can manifest in numerous ways, including derogatory comments, inappropriate advances, exclusion, discrimination, or even physical assault. The compounded effects of these experiences can be devastating, eroding self-esteem, causing emotional distress, and fostering hostile work environments that stifle productivity and career advancement.

The fear of being “outed” or subjected to stigmatization further exacerbates the challenges transgender individuals face, often deterring them from reporting incidents or seeking help. Sexual harassment in these cases becomes not only a personal ordeal but also a systemic violation of their fundamental rights. Under Article 14 of the Constitution of India, every individual is guaranteed equality before the law, while Article 19(1)(g) protects the right to pursue any profession, occupation, trade, or business. Harassment that targets transgender employees violates these constitutional protections, infringing on their rights to equality and professional autonomy.

Legal Protections and Challenges

In recent years, there have been significant strides in the Indian legal framework to address the harassment of transgender employees. The *Transgender Persons (Protection of Rights) Act*,

2019 explicitly recognizes their rights, while the *Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013* provides mechanisms for reporting and addressing harassment. Together, these laws form a foundation for combating workplace discrimination and harassment.

However, the effectiveness of these legal provisions depends heavily on their implementation. Despite the existence of these frameworks, many transgender individuals continue to face barriers in accessing justice and finding recourse for their grievances. Addressing these challenges requires not only robust enforcement of existing laws but also a cultural shift within organizations to actively foster inclusive and safe workplace environments for all employees.

Legal Protections for LGBTQ+ Rights in Employment: Comparative Insights and Challenges

In the landmark decision of *Bostock v. Clayton County, Georgia*,² the United States Supreme Court held that terminating an employee solely because of their sexual orientation or gender identity constitutes unlawful discrimination based on sex under the *Civil Rights Act of 1964*.³ The employers in the case argued that such terminations were predicated on sexual orientation or gender identity, rather than sex.⁴ However, the court applied the "but-for" causation standard to conclude that discrimination against individuals based on their homosexuality or transgender status inherently involves treating them differently because of their sex. Consequently, such actions violate the statutory prohibition against sex-based discrimination.

The Supreme Court of India adopted a broader interpretation in the case of *National Legal Services Authority (NALSA) v. Union of India*.⁵ It extended the constitutional prohibition of discrimination on the grounds of sex under Articles 15 and 16 to encompass gender identity. The court recognized that "sex" is not confined to biological attributes but includes self-perception, gender expression, and sexual identity. Consequently, the constitutional protections against discrimination transcend the traditional gender binary. Moreover, the court affirmed that self-determination of gender identity and its expression are protected under Articles 19 and 21 of the Constitution. This progressive ruling not only recognized a "third gender" but also underscored the right to self-determination, marking a significant victory for transgender rights

² 140 S. Ct. 1731 (2020)

³ Civil Rights Act of 1964; 7/2/1964

⁴ Agrima Awasthi & Shivanshu Sharma, *LGBTQ+ Allyship at the Workplace*, India Bus. L.J., July 31, 2024

⁵ AIR 2014 SC 1863

in India.

Building on the principles articulated in *NALSA*, the Indian Parliament enacted the *Transgender Persons (Protection of Rights) Act, 2019*.⁶ The Act prohibits discrimination against transgender individuals in both public and private employment. This includes prohibitions on unfair treatment, denial of employment, termination, and inequities in recruitment, promotions, benefits, and workplace accommodations. Additionally, the Act mandates establishments to adopt equal opportunity policies for transgender employees and appoint a designated complaints officer to address grievances.

Despite its progressive intent, the Act has faced criticism. One contentious provision requires gender-affirming surgery for the legal recognition of an individual's self-determined gender, a stipulation that contradicts the principles established in *NALSA*, which emphasized the right to self-identify without medical intervention.

Beyond the *Transgender Persons Act*, the broader landscape of anti-discrimination laws for the LGBTQ+ community in India remains underdeveloped. The *Anti-Discrimination and Equality Bill, 2016*,⁷ a private member's initiative, lapsed with the dissolution of the Lok Sabha in 2019. While significant legislative reforms are still awaited, employers must adhere to existing legal requirements and proactively enhance diversity, equity, and inclusion (DEI) initiatives.

Global frameworks, such as the *Standards of Conduct for Business: Tackling Discrimination against LGBTI People* published by the UN High Commissioner for Human Rights, provide valuable guidance for fostering inclusive workplace cultures. These standards emphasize the importance of effective policies that articulate a commitment to diversity, engagement with local stakeholders, and the creation of support networks, such as employee resource groups, to drive meaningful change.

Establishing safe, inclusive, and equitable workplaces for LGBTQ+ individuals is not just a legal or ethical imperative—it is the foundation of allyship and a step toward building a fairer employment ecosystem.

⁶ Act No. 40 of 2019 [1]

⁷ Anti-discrimination and Equality Bill, 2016 (Bill No. 289 of 2016).

Reevaluating the POSH Act: Toward a Gender-Inclusive Framework

The *Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 (POSH Act)*⁸ marked a significant milestone in addressing workplace harassment in India. Applicable to both public and private employers, it offers a framework to define sexual harassment clearly and decentralizes the resolution of such disputes. By mandating the establishment of local committees—either by employers or local authorities—the Act provides survivors with a mechanism to address grievances without solely relying on the criminal justice system. While survivors retain the option to pursue criminal cases under the *Indian Penal Code, 1860*⁹, the specialized committees ensure quicker resolutions, offering remedies such as restraining orders and employment-related penalties for perpetrators.

However, a critical limitation of the POSH Act is its lack of gender neutrality. The law explicitly caters to “aggrieved women,” leaving individuals outside the gender binary without specific redressal mechanisms unless employers adopt inclusive internal policies. This exclusion stems partly from the Act’s roots in women’s rights frameworks like the *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*.¹⁰ The legislation was designed to address a historically unequal landscape for women in the workforce, ensuring their safety and encouraging participation without fear of harassment.

During its formulation, the possibility of making the law gender-neutral was discussed, but such debates were largely framed as a male versus female issue, often sidelining the nuanced needs of other gender identities. The Parliamentary Standing Committee on the POSH Act in 2011 recommended keeping the law gender-specific, emphasizing that rampant harassment had historically disempowered women in the workplace. This approach reflected an intent to redress longstanding inequities and bolster women’s workforce participation.

However, India’s legal and societal frameworks have evolved significantly since the Act’s enactment, warranting a reexamination of its gender-specific focus. In *National Legal Services Authority (NALSA) v. Union of India (2014)*¹¹, the Supreme Court of India affirmed the fundamental rights of transgender individuals, recognizing their right to self-identification and highlighting the pervasive discrimination and harassment faced by this community. This

⁸ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, No. 14, Acts of Parliament, 2013 (India).

⁹ Indian Penal Code, 1860, No. 45, Acts of Parliament, 1860 (India)

¹⁰ Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, 1249 U.N.T.S. 13.

¹¹ AIR 2014 SC 1863

judgment was a landmark moment, acknowledging the need for an inclusive framework that protects individuals beyond the gender binary.

Historically, transgender individuals in India have faced systemic ostracism, harassment, and even criminalization under archaic laws like the *Telangana Eunuchs Act, 1919*. While steps have been taken to rectify these injustices, such as the *Transgender Persons (Protection of Rights) Act, 2019*, formal employment opportunities remain scarce for trans persons due to enduring societal prejudices. Despite progress in public representation and private-sector diversity initiatives, the inclusion of trans individuals in the workplace remains limited.

Beyond the Binary: Addressing the Gaps in Inclusion

Discussions on workplace harassment and inclusion often fail to move beyond the male-female binary, marginalizing the experiences of transgender individuals. Narratives highlighting the harassment faced by trans persons in formal employment or during job applications are notably absent. The lack of systemic acknowledgment limits opportunities for trans individuals and stifles their representation in the formal economy.¹²

While current laws aim to equalize opportunities for men and women, legislative frameworks have the potential to address emerging issues proactively. For instance, India's enactment of the POSH Act predated global movements like #MeToo, demonstrating the power of law to drive societal change. A similar visionary approach is now required to extend workplace protections to transgender individuals.

The necessity of this inclusion is further underscored by legal developments such as the Delhi High Court's 2018 ruling, which allowed transgender individuals to invoke provisions under criminal law addressing sexual harassment. This step toward equality within penal law should be mirrored in civil statutes like the POSH Act to provide comprehensive protections against workplace harassment.¹³

Barriers Faced by Transgender Individuals in the Workplace

Even when trans individuals gain employment in the formal sector, they encounter numerous procedural and social challenges that hinder their full participation. These barriers include

¹² Gnanaselvam NA, Joseph B. Prevention of Gender-Based Violence and Harassment at Workplace in India. *Indian J Occup Environ Med.* 2023 Jul-Sep;27(3):193-196. doi: 10.4103/ijoem.ijoem_234_23. Epub 2023 Oct 6. PMID: 38047169; PMCID: PMC10691520.

¹³ Jessamine Mathew, 'Transitioning to Inclusion: Expanding the Ambit of Workplace Sexual Harassment Law', The Leaflet

difficulties in obtaining official documentation reflecting their gender identity, lack of access to safe restroom facilities, and pervasive discrimination from peers and superiors. The psychological toll of these challenges cannot be overstated, necessitating both societal and governmental efforts to address these inequities.

India's judiciary has played a pivotal role in advancing LGBTQ+ rights, most notably in its 2018 judgment decriminalizing consensual same-sex relationships. While such rulings mark significant progress, legislative action and societal acceptance must follow to ensure meaningful change.

Toward a Harassment-Free Workplace for All

Protecting the right to work and earn a livelihood is integral to upholding individual dignity and societal sustainability. Transgender individuals, like all others, deserve workplaces free from harassment and discrimination. Amending the POSH Act to include protections for trans persons explicitly would be a crucial step toward achieving this goal.

Only when every individual, irrespective of gender, enjoys equal protection under the law can workplaces become truly inclusive. By addressing the gaps in current legal frameworks and fostering an equitable work environment, India can lead the way in creating a harassment-free workplace for all.

MAKING A SAFE ENVIRONMENT FOR ALL: POLICIES THAT NEED TO BE IMPLEMENTED IN A WORKPLACE

Businesses have a responsibility to respect and promote human rights within their operations, supply chains, and the communities they affect. This principle is enshrined in the United Nations Guiding Principles on Business and Human Rights. Organizations can support employees by ensuring access to clinical health treatments, fostering transparent communication, and raising awareness of their rights and resources.

ADDRESSING SEXUAL HARASSMENT

Sexual harassment in the workplace has severe implications for both the mental and physical well-being of employees. Preventative and punitive mechanisms are essential to addressing this issue effectively. This paper highlights several proposed measures:

1. **Enhanced Workplace Safety:** The installation of surveillance cameras in common workspaces and back-office areas, accompanied by monthly checks and accountability

registers, aims to create a secure environment.

2. **Revised Hiring Policies:** Applicants will be required to disclose past incidents of workplace harassment involving them, supported by relevant documentation. This ensures thorough background checks for new hires.
3. **Disclosure of Personal Relationships:** Employees must report personal relationships within the workplace to the employer. This information, held confidential under privacy policies, facilitates accountability. Anonymous harassment reporting forms will also be made accessible, with direct communication channels to address complaints.
4. **Employee Education:** Biannual seminars will educate employees on acceptable workplace behavior, highlight the consequences of policy violations, and serve as a forum for revisiting and updating relevant policies.

TRANSITIONING CARE:

Gender-Affirming Hormone Therapy

Recognizing the medical necessity of hormone therapy for individuals experiencing gender dysphoria, as classified under the *International Classification of Diseases (ICD-11)* by the World Health Organization, this paper outlines essential measures to support such individuals in the workplace. Confidentiality is paramount, ensuring that no personal details regarding hormone therapy are disclosed without explicit written consent, except where required by law. Healthcare providers with expertise in gender-affirming hormone therapy should be accessible in a manner that guarantees privacy.

Organizations should provide employees with reliable information on regional medical professionals specializing in hormone therapy. While this guidance is helpful, employees must retain the autonomy to choose their preferred healthcare providers. Adherence to the *Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002* should be ensured to safeguard the confidentiality of medical records. Additionally, expenses related to hormone therapy should be covered to the fullest extent possible, either through medical allowances or insurance policies. Employees should also be encouraged to review their healthcare plans to understand available benefits.

Reimbursement mechanisms should be established to enable employees to claim expenses by submitting the necessary documentation. This framework should align with relevant labor

laws, such as the *Maternity Benefit (Amendment) Act, 2017*. Furthermore, access to mental health services addressing gender identity issues should be prioritized, consistent with the *National Mental Health Policy (2017)* and related legislation.

Gender-Confirmation Surgery (GCS) Support

Pre-Surgery Support: Gender-confirmation surgery is recognized as a medical necessity for individuals with gender dysphoria. Pre-surgical consultations with qualified healthcare professionals experienced in GCS should be provided to discuss options, risks, and recovery expectations. Partnerships with LGBTQ+ healthcare networks can facilitate referrals to specialized surgeons. Financial assistance for consultations, lab tests, and mental health support should also be made available.

Post-Surgery Recovery: Post-surgical recovery requires thoughtful planning. Employers should comply with legal requirements for paid medical leave and consider extending leave based on the complexity of the surgery. Temporary disability benefits and supplementary income protection schemes should be explored to minimize financial strain during recovery. A GCS Expense Reimbursement Program, with clearly defined eligibility and limits, could provide further financial support, supplemented by collaborations with philanthropic organizations. Corporate-wide fundraising initiatives can also help establish dedicated internal support funds for such surgeries.

Managerial and Emotional Considerations: The workplace environment plays a critical role in supporting individuals undergoing gender transitions. Teams should respect employees' journeys by embracing their new identities, names, and pronouns. Any transphobic remarks or jokes should be treated as harassment and addressed under strict organizational policies. Specific measures include:

- Educating teams on hormonal changes and potential health implications post-surgery to foster empathy.
- Promoting respect for individuals' chosen pronouns and legal name changes.
- Celebrating the *International Transgender Day of Visibility* (March 31) to promote inclusivity.

MENTAL HEALTH SUPPORT FOR WOMEN AND GENDER MINORITIES:

The Healthy Minds Program: Acknowledging the psychological challenges associated with

gender dysphoria, this program underscores the importance of mental health. Access to Employee Assistance Programs (EAPs) should include short-term counselling with professionals knowledgeable about gender identity issues. Support groups for transgender employees can offer secure spaces for connection and peer assistance.

Resources provided under the program may include educational materials, online tools, and referrals to mental health practitioners specializing in gender identity. Flexible work arrangements and leave policies should accommodate mental health needs, while confidentiality must be strictly maintained. Regular assessments and employee feedback can guide enhancements to mental health services.

Healthy Minds App: A dedicated mobile application could centralize mental health resources, offering features such as anonymous support groups, self-evaluation tools, and extensive educational content. Stringent data privacy protocols would ensure the confidentiality of user information.

Gender Committee: A gender committee could oversee the implementation of policies and address specific workplace needs, including:

- Ensuring access to reproductive health supplies and medications for menstruation-related discomfort.
- Conducting biannual reviews to update policies based on employee feedback.
- Facilitating mentorship programs for women and gender minorities to foster professional development.
- Conducting regular salary audits to ensure pay equity.
- Collaborating with external organizations to advance workplace gender equality.
- Organizing workshops and awareness campaigns on unconscious bias, gender diversity, and sensitivity training.

MENSTRUAL CARE

To foster a "period-safe space," workplaces must address the challenges menstruating employees face. Proposed measures include:

1. **Menstrual Leave:** Employees may take two days of partially paid leave per month, with no requirement to provide detailed justification.

2. **Hybrid Work Option:** Menstruating employees can work remotely for up to three fully paid days each month.
3. **Accessible Sanitary Products:** Bathrooms will be stocked with sanitary products, monitored through usage registers to ensure consistent availability.
4. **Heat Packs for Discomfort:** Employees can request electric heat packs through departmental service staff.
5. **Awareness Seminars:** Biannual seminars, with mandatory attendance, will address menstruation-related challenges, aiming to destigmatize the issue and promote inclusivity.

CONCLUSION:

There is a definitional quandary that needs to be legally explained and codified. A community that is loosely clubbed together as the third gender just because it does not conform to the gender dyad lacks the right to legal identification. This paper unpacks the indeterminacy of such identities in legal terms. Further there is inadequate data needed for policy makers to work with. Research on the national impact of socially stigmatized and sexually marginalized group cannot be gauged and translated into policy making unless there is adequate data on identity formation, occupational patterns of such a diverse community.

The Indian LGBT Workplace Climate Survey 2016 found that more than 40% of LGBTQI+ were subjected to workplace harassment primary in the form of homophobia. This is not only a reductive attitude but also addresses a lack of proper mechanism that addresses the plurality of such a diverse community.

Even after the NALSA and the 2019 decriminalisation of the 377 Act, the judicial activism has not translated into policy implementation on many scores mainly due to the lack of clarity in that policy. The POSH or the ICC mandated by it has not really proved gender-neutral. It seems make gender minorities even more invisible than ever.

Anti-discriminatory policies should be in place so that gender minorities can seek grievance redressal without the humiliation of identifying themselves as third gender by a higher executive authority. This is in clear violation of the Articles 14-19 of the Indian constitution. The policy of being certified as a gender-ambiguous category itself causes psychological trauma to a free citizen.

Finally, policy making should be based on quantitative research on development indices including health, education, housing, employment and other indices such as control over material and political environment, social connectedness and respectability.