BREAKING BARRIERS: AN INTERSECTIONAL ANALYSIS OF LGBTQ+ EDUCATIONAL RIGHTS AND RESERVATION POLICIES IN INDIA THROUGH AMBEDKARITE LENS

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ABSTRACT

This research investigates the complex intersection of gender identity, caste and access to education inside India's reservation system, especially focusing on the experiences of Dalit transgender persons. Employing Intersectionality theory and building upon Ambedkar's critique of caste hierarchy, the study analyzes how transgender individuals from Scheduled Castes (SC), Scheduled Tribes (ST), and Other Backward Classes (OBC) endure increased marginalization that is not sufficiently addressed by the existing legal and policy frameworks in place. The study shows that despite the legal recognition through NALSA v. Union of India (2014) and the Transgender Persons (Protection of Rights) Act 2019, implementation gaps continue, especially with relation to horizontal reservation policies that can address intersectional identities. Census data suggests that about 23% of transgender population in India belongs to historically under-represented caste and tribal backgrounds, yet their literacy rates remain far lower than the national average. This study critically evaluates the limited engagement of National Education Policy 2020's with transgender-specific concerns and argues for comprehensive policy reforms that acknowledge the multiplicity of identities in the transgender community. Following an Ambedkarite structure, the study reveals how the fight for the rights of transgender parallels anti-caste movements, both challenging systems that control identity and perpetuate exclusion. The research concludes that for true liberation there is need to go beyond politics of singular identity towards the transformative coalition-building that comprehensively addresses structural inequalities.

I.   Introduction

Ambedkar constantly advocates social and political changes that can eliminate oppression and exclusion system. He believed that the righteous society must confirm the equal access to opportunities, social fairness and respect all persons of different gender, race or ethnic background. Ambedkar in his work "*Castes in India: Their Mechanism, Genesis, and Development*"[1] discusses the idea of surplus men and women. Surplus men can emerge when wives die before their husbands, surplus women can emerge when husband die before wives. Ambedkar argues that, these surplus bodies had the "potential to transgress" social and ritual

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[1]   B.R. Ambedkar, *Castes in India: Their Mechanism, Genesis and Development* (Lecture 2 Collated Readings, Ambedkar King Study Circle USA, Apr. 2020), *available at:* https://akscusa.org/wp-content/uploads/2020/04/lecture-2-collated-readings.pdf (last visited July 9, 2025).

constraints, by violating caste purity through intercaste marriages. However, the most alarming thing was the violent exercise of "disposing" these bodies in order to reinforce rigid gender roles and to maintain the caste structure by way of forced widowhood, widow burning, and enforced celibacy, among others.

Beyond the context of caste, Ambedkar's examination of how surplus bodies are managed can be applied to non-binary and transgender individuals, which equally disrupts traditional expectations around gender and reproductive roles. Specifically, Dalit transgender individuals are regularly pushed into silence and invisibility by systemic injustice and are labelled as "abject bodies". Analysis of Ambedkar gives a basic foundation to understand organized exclusion and violence - both physically and symbolically - which transgender people face, especially of the lower caste background. Ambedkar criticizes the hierarchy of the caste system, which assigns social position to people on the basis of their birth circumstances. The transgender community which seems to be homogeneous is also subject to this inequality and hierarchy as well. The caste background and gender diversity of the trans people especially from Dalit communities, often becomes the basis for their oppression. Due to their refusal to align with conventional gender norms and due to their caste identity they are also pushed to the shore of the margin.

The dominant LGBTQ+ rights discourse mainly shows the concerns of English-speaking, urban and upper-caste individuals and does not usually reflect the dual burden of caste and gender. Dalit trans individuals, especially those who are economically precarious, struggle with uneven access to resources and ability to live fearlessly. However, despite these obstacles, a new movement of Dalit transgender activism is emerging, demanding positive discrimination policies in view of both gender and gender identity.

Adopting the Ambedkarite philosophy by individuals from both transgender and oppressed castes, is about claiming their right to dignified life. The violence against Dalit transgender not merely subjugate but also expunge from being called out by this emergent wave of Dalit trans activism. Trans Ambedkarite politics not only critiques tokenism in elite queer circles but also emphasises on community-led leadership, and calls for operational modification in the reservations based upon caste, property and reproductive rights, educational access, and healthcare overhauls. This new trans activism is not only looking for incorporation within existing systems but aims to completely modify the systems. Ambedkar's advocacy for

social justice and critique of caste leads to a commendable framework to recognize and backing the hardships of Dalit transgender individuals.[2]

A framework for affirmative actions that mainly addresses historical injustices faced by marginalised community namely Scheduled Castes (SC), Scheduled Tribes (ST), Other Backward Classes (OBC), and more recently, Economically Weaker Sections (EWS) is established by the Indian Constitution, through its various amendments and judicial pronouncements. However, the inclusion of sexual orientation and gender identity as grounds for educational reservations within the existing constitutional and legal framework presents both unprecedented opportunities and significant challenges. India's education system has been significantly changed by the reservation laws which intended to rectify past injustices experienced by marginalised communities. In India, the LGBTQ+ community has faced centuries of discrimination, marginalization, and social exclusion, which is often compounded by intersectional identities that include caste, class, and regional affiliations. For LGBTQ+ community the criminalization of homosexuality under Section 377 of the Indian Penal Code,1860 created additional obstacles to social participation and educational access until it remained in effect until 2018. A turning point in LGBTQ+ rights discourse which opened new possibilities for inclusive educational policies came when Hon'ble Supreme Court in *Navtej Singh Johar v. Union of India (2018)[3]*, decriminalized consensual homosexual acts. However, there is still a dearth of research on the relationship between sexual/gender identity discrimination and caste-based marginalisation.

A particular kind of intersectional marginalisation that goes against the established inclusion policies and frameworks of social justice experienced by the students who identify themselves as LGBTQ+ and fall under one of the two reserved categories (SC/ST/OBC). Due to reservation policies historically underprivileged castes and communities now have greater access to education, but LGBTQ+ people in these communities continue to face additional forms of discrimination. The constitutional protections to LGBTQ+ individuals has been extended not by explicit constitutional amendments rather primarily through judicial interpretation. A constitutional foundation for LGBTQ+ rights has been created by the Hon'ble

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[2] Swarupa Deb & Aniket Nandan, *How B.R. Ambedkar's Radical Critique of Caste Could Transform Transgender Activism in India*, Scroll (in deed in *Scroll.in*) (Apr. 14, 2025), *available at:* https://scroll.in/article/1081287/how-br-ambedkars-radical-critique-of-caste-could-transform-transgender-activism-in-india (last visited July 9, 2025).

[3] *Navtej Singh Johar* v. *Union of India*, (2018) 10 SCC 1; AIR 2018 SC 4321 (India).

Supreme Court's affirmation of gender identity and sexual orientation as basic component of human dignity under Article 21 of the Constitution of India[4]. However, it remains a matter of ongoing legal and policy development whether these rights specifically apply to reservation policies or not.

A conceptual gap is created in absence of a strong understanding and mechanism for oppressed communities, especially Dalit transgender individuals. To facilitate the better policy and social reform and to highlight the difficulty faced by them it becomes essential to address this gap. This research fills a significant knowledge vacuum about how students endure several marginalised identities in India's educational system. The research take note of lived experiences of LGBTQ+ students from reserved categories, as well as barriers faced by them in getting access to education and, the effectiveness of India's current institutional support systems and policy framework.

II.   Theoretical Framework

The primary theoretical foundation for this research study is provided by Queer theory and Kimberlé Crenshaw's intersectionality theory.

Queer Theory

The origin of the Queer theory is in earlier theories and movements that questioned the traditional wisdom related to gender and sexuality. The feminist theory, notably the writing of academics such as Judith Butler laid the foundation for queer theory. The idea of gender performativity by Butler, which argues that gender is a collection of behaviours and performances rather than an intrinsic trait, served a pivotal role in the development of queer theoretical point of view.

Furthermore, during the AIDS health emergency in 1980s the activism of the LGBTQ+ movement brought to light the demand for a theoretical model that could handle the intricacies of LGBTQ+ lives. Teresa de Lauretis popularised the term "queer theory" during a lesbian and gay sexuality conference at the University of California, Santa Cruz in 1991. Since then, it has evolved in a large and varied field that covers various subjects and methodology, which are tied together by shared dedication to interrogate traditional wisdom related to gender and sexuality.

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[4] Constitution of India, art. 21.

Judith Butler popularised the term "Performativity" in her groundbreaking book "Gender Trouble," and it is core principle in queer theory. Butler argues that a person's gender is something they do rather than something they are. Gender performance is constituted by a set of socially controlled and reinforced actions, gestures, and behaviours. This performative aspect of gender which implies that identity is contingent and flexible called into question the idea of a consistent, stable identity.

This concept of performativity also applies to sexuality. Queer theory highlights that, sexual identities are created through repeated performances and social expectations rather than being fixed categories. Queer theory highlights the performative aspect of gender and sexuality, emphasising how alternative performances and expressions can subvert and resist normative identities.

Another important idea within queer theoretical framework is heteronormativity, which assumes that heterosexual constitute the normal sexual orientation. This ideology is based on the premise of gender and sexual binaries, which perpetuate the notion that only two genders (male and female) exist. Queer theory challenges heteronormativity by highlighting the ways in which heteronormativity stigmatises and marginalises queer identities and practices. Queer theory aims to upend the binary reasoning that supports heteronormativity by promoting a more diverse understanding of gender and sexuality. By contesting the supremacy of heterosexual norms, queer theory seeks to make room for a greater variety of identities and practices.

The idea of deconstructing binary categories like male/female and heterosexual/homosexual is central to queer theory. The complexity of human experiences are not sufficiently represented by these dichotomies, which are seen as oversimplified and reductive. Instead of reflecting any innate or natural divisions, queer theory asserts that these binaries are socially constructed and upheld through power dynamics.

Queer theory creates new avenues for understanding difference and identity by dismantling these dichotomies. It pushes us to think beyond strict classifications and to accept the flexibility and diversity of identities. It promotes a more complex and inclusive viewpoint by forcing us to reevaluate our presumptions about gender and sexuality. Ultimately aiming to dismantle oppressive structures by challenging rigid categories, queer theory calls for the recognition and validation of diverse identities and experiences.

Intersectionality Theory

The term "intersectionality" was originated by a feminist legal scholar Kimberle Crenshaw. In her 1989 article *"Demarginalizing the Intersection of Race and Sex,"*[5] Crenshaw explain how a single categorical axis of oppression/discrimination (race) theoretically erased a Black women and how this erasure is imported into activism and legal reforms. Crenshaw's paper mostly addressed the oppression of Black women, who experience social inequality in two ways: first, because they are Black, and second, because they are female. She gave an example of a Black woman who felt she was being passed over for a job because of these two intertwining factors. The employer countered that since the company employed black people (black men), she could not have been subjected to racial discrimination. Additionally, they contended that since the company employed women (white women), she could not have been subjected to gender discrimination.

Crenshaw argues that the oppression of black women was frequently disregarded due to a lack of awareness in society about the interconnectedness of factors that can oppress individuals in different ways. As a legal scholar, Crenshaw analysed three court cases to support her claims. She described the issue with a doctrinal response to discrimination, which requires that the experiences of sexism and racism be matched with those of white women and Black men, respectively. Black women were therefore only protected to the degree that their experiences aligned with those of either of the two groups. The court in *DeGraffenreid v. General Motors*[6] rejected the idea that black female employees face compounded discrimination. Utilising white female employment records as the "historical base" for the conditions of female employment within the company, they examined the plaintiff's claims. White female employees' experiences did not illustrate the highly specific types of discrimination that Black female employees faced. A woman who claimed to have experienced discrimination because she was Black was denied access to the company's overall sex disparity statistics in *Moore v. Hughes Helicopter, Inc.*[7] Regardless of what the statistics suggested, a Black woman's experience of sexism was not regarded as sexism at all. The court ruled in *Payne v. Travenol*[8] that Black women could not speak for a whole Black community because of alleged class conflicts in situations where Black women were further disadvantaged by sex.

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[5] Kimberlé Crenshaw, "Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics", 1989 *U. Chi. Legal F.* 139.

[6] *DeGraffenreid* v. *Gen. Motors Assem. Div*., 413 F. Supp. 142 (E.D. Mo. 1976).

[7] *Moore* v. *Hughes Helicopters*, Inc., 708 F.2d 475 (9th Cir. 1983).

[8] *Payne* v. *Travenol Labs*., Inc., 673 F.2d 798 (5th Cir. 1982).

Therefore, Black men might not be able to participate in the remedy in the few instances where Black women are permitted to use overall statistics showing racially disparate treatment (Crenshaw 1989, 148).

What does this signify? Due to their Blackness or femininity, Black women's needs and viewpoints are still marginalised in the feminist and Black civil rights agendas. In terms of rights, theory, jurisprudence, and justice, the burden's singularity—one's race, sex, or class—becomes the defining characteristic.

The most vulnerable members of society are put in precarious positions by this type of rigid identity thinking, both from a policy and public opinion standpoint. As an activist or policymaker, will you consider the caste oppression of the villagers when you think of a poor village with a large Dalit population? Their extreme poverty? Their segregation in spite of India's ban on untouchability? The village's dearth of civil facilities and educational opportunities? Why not everything at once? There's a chance that you will have a better understanding of the situation if you see the problems as interconnected and intersecting. Based on your own preconceived notions, people will probably tell you that it is always a good idea to work with people rather than for them. That's precisely what Crenshaw promoted.

Intersectionality theory is a framework for comprehending how various social identities and oppressive systems interconnect to produce distinct pattern privilege and marginalisation. This approach of intersectionality serves as tool to study how cultural, sexual, racial, and religious differences intersect to form identity construction within campus and off campus. The theory helps explain why LGBTQ+ individuals from reserved categories may face different challenges than their upper-caste LGBTQ+ peers or their heterosexual caste peers.

The concept of intersectionality becomes particularly relevant when examining LGBTQ+ individuals who also belong to SC, ST, OBC, or EWS categories. The educational disadvantages of these individuals get compounded as they face multiple forms of discrimination and marginalization. For illustration, an LGBTQ+ person from a Scheduled Caste background, may face unique barriers to educational access and success because of discrimination based on both their sexual orientation or gender identity and their caste identity.

It is also important to see the economic dimensions of this intersectionality. Upon disclosure of their identity the LGBTQ+ individuals from economically weaker sections may face family rejection and loss of financial support, increasing the economic barriers they

already face in accessing quality education. This intersection of economic vulnerability and LGBTQ+ identity creates a compelling case for specific affirmative action measures.

Indian educational institutions should consider the complex questions about how to address these intersectional identities within existing reservation frameworks. Should an LGBTQ+ individual from an SC background be eligible for both SC reservation and potential LGBTQ+ reservation? How should institutions balance competing claims for limited reserved seats? These questions require a policy response that recognizes the complexity of intersectional identities while maintaining the integrity of existing reservation systems.

III.   National Framework On LGBTQ+ Rights on Education: Legal and Policy Analysis

Census Data Analysis: Transgender Population Demographics and Educational Marginalization

In 2011 census of India total 4,87,803 transgenders were plotted across all states and Union Territories. The statistics reveals only Uttar Pradesh accounting for 1,37,465 transgenders, which is 28% of the nation's transgender population. This is followed by Andhra Pradesh 43,769 (9%) of transgenders and then Maharashtra having 40,891 (8%). Only two transgender people belongs to Lakshadweep caught last position. As per data related to the literacy rate among transgenders in India, overall literacy rate scores to only 56.07%. Among states Mizoram tops list with the highest of 87.14% of the literate transgender; followed by Kerala 84.61% and Daman & Diu have 75.51% respectively; Tamil Nadu recorded only 57.78% of literacy rate and placed 22nd position among 35; Bihar scores the least 44.35% of the transgender having literateness.[9]

The data reveals a concerning picture of educational marginalization among transgender persons from SC/ST backgrounds. With an overall transgender literacy rate of 56.07% - already below the national average 74.04% - the situation becomes more complex when examining the intersectional disadvantages faced by those from scheduled castes and tribes. Out of 487,803 transgender individuals counted, 78,811 (16.2%) belong to SC communities and 33,293 (6.8%) to ST communities. This means nearly 23% of India's

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[9] "Transgender in India," *Census 2011 India*, *available at:* https://www.census2011.co.in/transgender.php (last visited July 9, 2025).

transgender population comes from historically marginalized caste and tribal backgrounds, suggesting multiple layers of social exclusion.

#	State	Transgenders	Child(0-6)	SC	ST	Literacy
-	India	487,803	54,854	78,811	33,293	56.07%
1	Uttar Pradesh	137,465	18,734	26,404	639	55.80%
2	Andhra Pradesh	43,769	4,082	6,226	3,225	53.33%
3	Maharashtra	40,891	4,101	4,691	3,529	67.57%
4	Bihar	40,827	5,971	6,295	506	44.35%
5	West Bengal	30,349	2,376	6,474	1,474	58.83%
6	Madhya Pradesh	29,597	3,409	4,361	5,260	53.01%
7	Tamil Nadu	22,364	1,289	4,203	180	57.78%
8	Orissa	20,332	2,125	3,236	4,553	54.35%
9	Karnataka	20,266	1,771	3,275	1,324	58.82%
10	Rajasthan	16,517	2,012	2,961	1,805	48.34%
11	Jharkhand	13,463	1,593	1,499	3,735	47.58%
12	Gujarat	11,544	1,028	664	1,238	62.82%
13	Assam	11,374	1,348	774	1,223	53.69%
14	Punjab	10,243	813	3,055	0	59.75%
15	Haryana	8,422	1,107	1,456	0	62.11%
16	Chhattisgarh	6,591	706	742	1,963	51.35%
17	Uttarakhand	4,555	512	731	95	62.65%
18	Delhi	4,213	311	490	0	62.99%
19	Jammu and Kashmir	4,137	487	207	385	49.29%
20	Kerala	3,902	295	337	51	84.61%
21	Himachal Pradesh	2,051	154	433	118	62.10%
22	Manipur	1,343	177	40	378	67.50%

#	State	Transgenders	Child(0-6)	SC	ST	Literacy
-	India	487,803	54,854	78,811	33,293	56.07%
23	Tripura	833	66	172	181	71.19%
24	Meghalaya	627	134	3	540	57.40%
25	Arunachal Pradesh	495	64	0	311	52.20%
26	Goa	398	34	9	33	73.90%
27	Nagaland	398	63	0	335	70.75%
28	Puducherry	252	16	40	0	60.59%
29	Mizoram	166	26	1	146	87.14%
30	Chandigarh	142	16	22	0	72.22%
31	Sikkim	126	14	9	37	65.18%
32	Daman and Diu	59	10	1	2	75.51%
33	Andaman and Nicobar Islands	47	5	0	3	73.81%
34	Dadra and Nagar Haveli	43	5	0	22	73.68%
35	Lakshadweep	2	0	0	2	50.00%

Figure[10]

The state-wise analysis reveals stark inequalities. While states like Mizoram (87.14%) and Kerala (84.61%) show exceptional literacy rates among transgender persons, states with large SC/ST transgender populations like Uttar Pradesh (55.80%) and Bihar (44.35%) lag significantly behind. This pattern suggests that regions with higher SC/ST populations may have compounded barriers to education. The educational challenges faced by transgender persons from SC/ST communities represent a clear case of intersectional discrimination. They face barriers not just due to their gender identity, but also due to caste-based discrimination and, in the case of tribal communities, geographical isolation and cultural barriers. The census data doesn't provide literacy rates specifically for SC/ST transgender individuals, making it

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10 *Ibid.*

impossible to directly assess how caste and tribal identity compound educational disadvantages within the transgender community.

NALSA v. *Union of India* and Implementation Challenges

In year 2014 in its landmark verdict in *NALSA v. Union of India*[11] Supreme Court not only granted transgender individual the right to self-identify their gender but also recognized them as a socially and economically backward class (SEBC) and extend all kinds of reservation in education and employment as available to members of Other Backward Classes (hereinafter OBCs) category. While the recommended affirmative action provisions are yet to be implemented (Amin, 2023[12]; Sasikumar, 2023[13]).

Evolving jurisprudence on LGBTQ+ rights provides important legal foundations for potential reservation policies. The Court's recognition of dignity, equality, and non-discrimination as fundamental rights applicable to LGBTQ+ individuals creates a constitutional basis for affirmative action measures. However, the Court has also maintained tht reservations must be based on identifiable criteria of social and educational backwardness, which requires careful documentation and evidence-gathering regarding the specific disadvantages faced by LGBTQ+ communities.

Another important legal challenge is presented by the process of identification and verification. LGBTQ+ identity verification process includes questions relating to privacy, self-identification, unlike caste-based reservations, which rely on established documentation systems, and thus there exist high potential for misuse. By respecting individual privacy and dignity legal frameworks must balance the need for verification.

The scope of Article 15 of the Constitution of India and the question whether sexual orientation and gender identity can be considered as grounds for special provisions put a significant constitutional challenges to LGBTQ+ reservations. Another important question which Indian legal system will need to navigate is whether LGBTQ+ status constitutes a form of social and educational backwardness that justifies affirmative action measures.

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[11] *National Legal Service Authority.* v. *Union of India*, (2014) 5 S.C.C. 438 (India).

[12] Aisiri Amin, *The Long Fight for Horizontal Reservation for Transgender People*, *Mint Lounge* (Apr. 18, 2023), *available at:* https://lifestyle.livemint.com/news/talking-point/the-long-fight-for-horizontal-reservation-for-transgender-people-111681814106470.html (last visited July 9, 2025).

[13] M. Sasikumar, *Explained: Why Trans People Are Demanding Horizontal Reservation Across Castes*, *The Quint* (Apr. 20, 2023), *available at:* https://www.thequint.com/explainers/trans-people-fight-for-horizontal-reservations-across-castes (last visited July 9, 2025).

Several pioneering steps to create more inclusive educational environments are being taken in recent past by many state governments and educational institutions. State like Kerala, Tamil Nadu, and several others have begun to address the specific needs of LGBTQ+ students and have implemented anti-discrimination policies in educational institutions. Though initiatives relating to gender-neutral facilities, inclusive admission policies, support systems for LGBTQ+ students, remain scattered and inconsistent across the country but some universities have taken welcoming steps to address the same.

University Grants Commission (UGC) has issued guidelines for higher education institutions to eliminate discrimination based on gender identity and sexual orientation. However, these guidelines primarily focus on anti-discrimination measures rather than affirmative action or reservation policies. The gap between anti-discrimination measures and positive affirmation through reservations represents a significant area for policy development.

During special discourse on '*Affirmative Action and Constitution of India*' hosted by the India International University of Legal Education and Research (IIULER) when Ex-Chief Justice Hon'ble Justice U.U. Lalit was asked about potential inclusion of LGBTQ+ community within the ambit of constitutional affirmative action/reservation, he was of view, *"Theoretically yes, but if I give the counter argument, not to belittle the idea, but to see that my birth in a community like SC, ST or OBC is something beyond my capacity while sexual orientation is my choice." "It is not thrust upon me as an accident of birth. So it is not through my sexual orientation that I am deprived of anything. Someone who is born as a third gender is a matter of accident of birth and there the affirmative action is a yes. But for most of the LGBTQ community the orientation is their own choice."*[14]

He further differentiated between vertical and horizontal reservation by stating that the Constitution has recognized "vertical reservation" for SCs, STs, OBCs which means an SC cannot be an ST or OBC and vice versa. This kind of reservation is for vertically separate compartments. For physically disabled and women there are horizontal reservations which means one will be taking a slice out of the individual vertical column without increasing the total reservation quota size. Thus, similarly the LGBTQ can be a horizontal reservation category.

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[14] No 'Vertical' Reservation on Lines of SC, ST, OBC for LGBTQ Members, Says Former CJI Lalit, *The Print* (Jan. 11, 2024), *available at:* https://www.theprint.in/india/no-vertical-reservation-on-lines-of-sc-st-obc-for-lgbtq-members-says-former-cji-lalit/1920355/ (last visited July 9, 2025).

IV.   Analysis of The Transgender Persons (Protection of Rights) Act, 2019

International human rights law provides additional legal support for LGBTQ+ educational rights. India's commitments under various international human rights instruments, including the "*International Covenant on Civil and Political Rights*" and the "*International Covenant on Economic, Social and Cultural Rights*", create obligations to ensure non-discrimination and equal access to education for all individuals, including LGBTQ+ persons.

The Transgender Persons (Protection of Rights) Act of 2019 was then passed with objective of preventing discrimination against the transgender community, and explicitly addressing discrimination in educational institutions. The objective of this legislation is to ensure the inclusion of transgender individuals within educational system and to protect the rights of transgender individual. Further, the Act clearly defines who is considered a transgender. "Transgender person" means 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 Reassignment 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 (Government of India, 2019[15], p. 2).

This oversimplified definition of transgender overlooks another important aspect of transgender people's identity, which is the caste and class in the Indian context. Naik et al. (2023[16]) highlight that many transgender people come from scheduled castes and scheduled tribes, usually from economically weaker sections, and the fluid nature of their gender can be due to their sociocultural context. While the transgender identity in India includes various dimensions depending on culture, region, religion, caste, class, and many more, the definition in the Act fails to give space to all these intersectionalities in the conceptualisation, leading to various issues such as the case of reservation for transgender people in education and job opportunities. The debate between vertical reservations (treating transgender as a single category) and horizontal reservations (recognising intersectional identities) emerged directly from the Act's limited conceptualisation of transgender identity. The transgender people belonging to the SC community support the horizontal reservation due to experiencing double

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[15] The Transgender (Protection of Rights) Act, 2019, No. 40 of 2019, Acts of Parliament, 2019 (India), *available at:* https://www.indiacode.nic.in/bitstream/123456789/13091/1/a2019-40.pdf (last visited Sept. 15, 2023).

[16] N.M. Naik, S. Gharge & S. Unisa, *A Snapshot of Transgender Community in India*, 52(2) Demography India 60 (2023), *available at:* https://iasp.ac.in/uploads/journal/005-1708491768.pdf.

marginalisation in contrast to transgender people, who consider transgender as a single identity and need to be seen separately.

These neglects of complexities and intersectionality of transgender identity within legal conceptualisation reflect what Spivak (1988[17]) terms the "paradox of representation," where attempts to give voice to marginalised groups often reinforce their silence. The law's development was shaped predominantly by globally connected elite transgender activists highlighted by Dutt and Roy (2014[18]), who have the economic and cultural capital to make their voice as "the voice" for the entire transgender community. These activists, equipped with the linguistic competence to engage with legal discourse, international networks, and economic resources, become what Bourdieu (1991[19]) calls "authorised speech". This creates a framework that privileges certain articulations of transgender identity while rendering others illegible to the state. The subaltern transgender communities, particularly those from lower castes and economically marginalised backgrounds, find themselves in what Spivak describes as a "double blind" – needing legal recognition but having that recognition filtered through elite interpretations of their identity that fundamentally mis-recognise their lived experiences and ways of being.

Recent scholarship (Chatterjee, 2018[20]; Rath, 2019[21]) underscores the need to decolonise trans studies in India by integrating regional histories, caste politics, and socio-economic disparities into the conversation. The Transgender Persons (Protection of Rights) Act, 2019, has been criticised for failing to adequately engage with these complexities, as it imposes a medicalised and bureaucratic framework onto communities that historically functioned with a more fluid gender system (Gupta, 2022[22]). Furthermore, Mishra (2023[23])

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[17] Gayatri Chakravorty Spivak, *Can the Subaltern Speak?*, in *Marxism and the Interpretation of Culture* 271 (Cary Nelson & Lawrence Grossberg eds., Macmillan 1988).

[18] A. Dutta & R. Roy, "Decolonizing Transgender in India", *1 TSQ: Transgender Stud. Q.* 320 (2014), *available at:* https://doi.org/10.1215/23289252-2685615.

[19] Pierre Bourdieu, *Language and Symbolic Power* (Harvard Univ. Press 1991).

[20] S. Chatterjee, "Transgender Shifts," 5 *TSQ: Transgender Stud. Q.* 311 (2018), *available at:* https://doi.org/10.1215/23289252-6900696.

[21] V.V. Chaudhry, "Centering the "Evil Twin": Rethinking Transgender in Queer Theory", *25 GLQ: J. Lesbian & Gay Stud.* 45 (2019), *available at:* https://doi.org/10.1215/10642684-7275278.

[22] N.K. Gupta, "Ruptures and Resurgences: Marking the Spatiality of Transgender Identity in India Since the Enactment of Transgender Persons Act 2019", 4 *Front. Pol. Sci. Art.* 963033 (2022), *available at:* https://doi.org/10.3389/fpos.2022.963033.

[23] V. Mishra, *Transgenders in India: An Introduction* (Taylor & Francis 2023).

highlights how educational access remains deeply tied to socio-economic status, reinforcing disparities even within trans-inclusive policy frameworks.

V.   National education Policy 2020 and Transgender Rights

Moving to NEP (2020), India first enacted the Right to Education (RTE) Act in 2009[24] to achieve universal elementary education. Under RTE, initially transgender children did not get any space in the Act. Transgender children are classified as part of the "disadvantaged section" with 25% reservation under the RTE Act in 2014. However, this inclusion remains largely superficial, with continued barriers to full participation (Biwas & Soora, 2021[25]). NEP 2020 built upon RTE 2009, focusing on sustainable development goal 4 of equitable education. It provides a limited roadmap for transgender people's inclusion in mainstream education. In the NEP (2020[26]) 65-page document, the term "transgender" is mentioned only four times under subtheme 6 "Equitable and Inclusive Education: Learning for All" (p. 24). Even though including the term in the sixth subtheme is a step forward, a closer look shows major problems that are caused by larger systemic injustices. The minimal space allocated to transgender rights within this document exemplifies what Bourdieu (2018[27]) terms "symbolic violence" – the "subtle ways in which power structures maintain social hierarchies through seemingly neutral bureaucratic processes." Despite being one of the most marginalised groups, facing systematic abuse leading to high dropout rates, reliance on precarious means of survival, such as begging and sex work, etc. (Virupaksha & Muralidhar, 2018[28]), transgender people receive no specific section in NEP (2020) on educational provisioning, which reflects a tokenistic inclusion rather than meaningful policy intervention.

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[24] Right of Children to Free and Compulsory Education Act, No. 35 of 2009, India Code (2009), *available at:* https://www.indiacode.nic.in/bitstream/123456789/2079/1/A2009-35.pdf (last visited July 3, 2025).

[25] A. Biswas & S. Nandini, *Education of Transgenders in India: Status & Challenges*, 4(5) Int'l J. L. Mgmt. & Human. 415 (2021), *available at:* https://doi.org/10.10000/IJLMH.111902.

[26] Ministry of Human Resource Development, *National Education Policy 2020* (2020), *available at:* https://www.education.gov.in/sites/upload_files/mhrd/files/NEP_Final_English_0.pdf (last visited Sept. 15, 2023).

[27] Pierre Bourdieu, *The Forms of Capital*, in *The Sociology of Economic Life* 78 (Mark Granovetter & Richard Swedberg eds., 3d ed. 2018).

[28] H.G. Virupaksha & D. Muralidhar, *Resilience Among Transgender Persons: Indian Perspective*, 34 Indian J. Soc. Psychiatry 111 (2018), *available at:* https://doi.org/10.4103/ijsp.ijsp_25_17.

The NEP introduced the new terminology in nomenclature that is "Socio-Economically Disadvantaged Groups (SEDGs)". NEP (2020[29]) defines:

the Socio-Economically Disadvantaged Groups (SEDGs) can be broadly categorised based on gender identities (particularly female and transgender individuals), sociocultural identities (such as Scheduled Castes, Scheduled Tribes, OBCs, and minorities), geographical identities (such as students from villages, small towns, and aspirational districts), disabilities (including learning disabilities), and socioeconomic conditions (such as migrant communities, low- income households, children in vulnerable situations, victims of or children of victims of trafficking, orphans including child beggars in urban areas, and the urban poor). (p. 24)

This broader definition provides the scope of understanding the intersectionality of different marginalised groups in India. However, this conceptualisation is Foucault's concept of governmentality (Foucault, 1991[30]), revealing how administrative simplification can perpetuate more marginalisation of these communities. Subsequently, this oversimplified approach fundamentally undermines the unique challenges and needs of more vulnerable subgroups, particularly the transgender community who comes from Schedule caste, Schedule tribe and Other Backward Classes in India. Such blanket categorisation often allows more politically organised and socially visible marginalised groups to monopolise resources, attention, and advocacy platforms, effectively drowning out transgender voices. This administrative convenience perpetuates a dangerous hierarchy within marginalised communities, where transgender individuals from SC, ST and OBC, who face distinct forms of discrimination in healthcare, employment, education, and social acceptance, find their specific concerns diluted or ignored in favour of broader, more politically established issues.

While the policy explicitly on page number 25 mentions the educational marginalisation of tribal children, children from scheduled castes, children from other backward castes, and children with disabilities, Namaste (2000[31]) describes the absence of transgender-specific concerns as a reflection of "erasure" – the way institutional policies and practices render the struggles of transgender people invisible. The infrastructure provisions

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[29] Ministry of Human Resource Development, *National Education Policy 2020* (2020), *available at:* https://www.education.gov.in/sites/upload_files/mhrd/files/NEP_Final_English_0.pdf

[30] Michel Foucault, *The Foucault Effect: Studies in Governmentality* (Univ. of Chi. Press 1991).

[31] Viviane Namaste, *Invisible Lives: The Erasure of Transsexual and Transgendered People* (Univ. of Chi. Press 2000).

have been mentioned in various sections, ranging from promoting early childhood education to effective governance through the school complexes/clusters section. The absence of specific guidelines for gender-neutral facilities and safe spaces reflects a deeper policy blindness to the embodied experiences of trans gender students in educational settings.

Professional Development (CPD) section, page number 21 of the policy, shows another critical weakness. There are no concrete requirements or guidelines for training educators and staff in transgender-specific sensitivity and support. This gap in professional preparation leaves educational professionals ill-equipped to address the unique challenges and needs of transgender students, potentially leading to inadvertent discrimination or inadequate support.

The administrative framework of NEP 2020, particularly its Gender-Inclusion Fund on page 26, provides minimal guidance on how this resource should be used to support transgender students specifically. Critical administrative issues such as name changes, gender marker updates, admission processes, and anti-discrimination policies remain unaddressed. Perhaps most importantly, the policy lacks implementation and monitoring strategies for transgender inclusion initiatives. Overall, these half-baked provisions reflect the broader issue of adapting inclusive provisioning without engaging with it at ground level.[32]

India should add specific implementation guidelines to NEP 2020 to go along with the general language about inclusion that comes from Malta's Gender Identity, Gender Expression, and Sex Characteristics Act (GIGESC Act) of 2015. Malta's legislation, considered among the most comprehensive globally, includes detailed educational protocols that India could adapt. The current broad categorisation of transgender students within SEDGs fails to address their unique educational needs. Malta's model provides clear guidance for school policies, educator training, and curricular integration that would give Indian educational institutions clear direction. Also, transgender-inclusive curriculum standards like the ones made for Malta's school system would help people understand and accept transgender people better, fixing the careless way that inclusion is handled now that we found in our analysis.

VI. The Role of Universities in LGBTQ+ Inclusion

In terms of LGBTQ+ inclusion and awareness, the higher education industry has advanced significantly. It was not unusual for pupils to who were "caught" engaging in same-

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[32] Nabeela Ata, Suman Chaudhary & Tanmay Kulshrestha, "A policy discourse analysis of educational provisions for the transgender community in India," 77(5) *Educational Review* 1564-1584 (2025). DOI: 10.1080/00131911.2025.2505677

sex activities on campus to be silently expelled for a significant portion of the 20th century (Renn, 2010[33]), implying that these were awkward circumstances for colleges to handle and would rather not be brought to light. Higher education institutions only began to realise the importance of actively ensuring that students from sexual minorities feel safer on campus as the century drew to a close (Renn, 2010). But as was already mentioned, there are still horrendous rates of violence and harassment against LGBTQI+ students on campus (Ellis, 2009[34]; National Union of Students, 2014). Evidence from the US showed that LGBT university students are more likely to experience sexual assault than their heterosexual and cisgender peers (Coulter & Rankin, 2020[35]), while research from the UK shows that 7% of trans students have experienced physical attacks by other students or staff because of their gender identity (Stonewall, 2018[36]). This indicates that there is still more work to be done to address these problems at the institutional level. For example, Grimwood (2017)[37] noted the need to combat homophobia, biphobia, and transphobia in higher education as well as to create the conditions necessary to lessen the effects of discriminatory practices on campus, based on data gathered from a large survey of LGBT university students in the UK.

By planning events like inviting outside speakers to discuss sexual minority issues, offering "safe zone" training, and hosting other focused extracurricular activities, some universities aim to foster more inclusive environments. Even though these initiatives are good, they might end up drawing in people who are already conscious of and sensitive to these problems, which would have the effect of "preaching to the converted" without really addressing the more serious problems of prejudice and discrimination in higher education. To solve these problems, more strategic and systemic measures must be implemented.

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[33] Kristen A. Renn, "LGBT and Queer Research in Higher Education: The State and Status of the Field," *39 Educ. Researcher* 132 (2010).

[34] S.J. Ellis, "Diversity and Inclusivity at University: A Survey of the Experiences of Lesbian, Gay, Bisexual and Trans (LGBT) Students in the UK," 57 *Higher Educ.* 723 (2009).

[35] R.W. Coulter & S.R. Rankin, "College Sexual Assault and Campus Climate for Sexual- and Gender-Minority Undergraduate Students," 35(5–6) *J. Interpersonal Violence* 1351 (2020).

[36] Stonewall, *LGBT in Britain: University Report* (2018), *available at:* https://www.stonewall.org.uk/resources/lgbt-britain-university-report-2018 (last visited July 3, 2025).

[37] M.E. Grimwood, "What Do LGBTQ Students Say About Their Experience of University in the UK?", 21(4) *Persps.: Pol'y & Prac. in Higher Educ.*140 (2017).

Ellis (2009)[38] offered some suggestions on how colleges can deal with persistent problems of harassment and discrimination on campus in order to create a zero-tolerance policy regarding these problems. These suggestions were to:

i. Include LGBT issues in the curriculum;

ii. Put policy and monitoring procedures into place;

iii. Establish penalties for discriminatory behaviour; and

iv. Include LGBT issues in the broader inclusivity practices

Curriculum as a window and a mirror

Style (1996[39]) offers a helpful metaphor for thinking about the necessity of LGBTQ+ representation in education: "curriculum as window and as mirror". The author claims that one of the curriculum's key purposes is to introduce students to new perspectives on the world. This is achieved by exposing students to a variety of academic fields as well as by offering them multiple identity windows and mirrors (such as multicultural staff), allowing them to feel accepted in the context of higher education and gain insight into the realities of those who are different from them. This fulfils the crucial function of helping to acknowledge people with disabilities and other groups that are often overlooked in conventional and mainstream higher education.

Even though Style (1996) addresses this in relation to gender and ethnicity, it is easily applicable to gay, lesbian, bisexual, trans, and queer students, who are frequently faced with a large number of heterosexual and cisgender representations in higher education and a relatively small number of individuals with whom they may identify. Students who identify as heterosexual or cisgender must also be given access to windows into the identities and realities of others.

Including sexual minorities in the curriculum may also serve to balance out the "discursive violence" that in daily life, LGBTQ+ individuals are exposed to "words, tone, gestures, and images that are used to differentially treat, degrade, pathologise, and represent lesbian and gay and bisexual, trans, queer, and other experiences" (Yep, 2002, p.170)[40]. The lecturer should strive to offer open windows and identity mirrors in two key ways. One of them

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[38] *Supra* note 34.

[39] Emily Style, "Curriculum as Window and Mirror", *Social Sci. Rec*. 35, Fall 1996.

[40] G.A. Yep, "From Homophobia and Heterosexism to Heteronormativity: Toward the Development of a Model of Queer Interventions in the University Classroom," 6 *J. Lesbian Stud*. 163 (2002).

is aesthetically through using pictures of a variety of people to depict lecture presentations and handouts. He should made a conscious effort to find pictures that might depict a range of identities in terms of sexual orientation, gender, age, and ethnicity. Incorporating writers from sexual minorities and research and theory focused on LGBTQ+ individuals and issues into lessons is another way to go about this. Additionally, including representation of sexual minorities in the curriculum will give students a sense of the background and progression of the ongoing struggle for LGBTQ+ rights, which began decades ago with trailblazers like Hirschfeld (Ellis et al., 2019)[41]. By introducing differences in the form of representations that non-LGBTQ+ students are less accustomed to encountering in academic settings, exposure to these concepts, historical contexts, and influential individuals may help open windows and bring in "fresh air" for them. Knowing that some important figures in their field have been identified as LGBTQ+ may also upset a potential sense of "ownership" of the academic field of their choice. Therefore, these challenges to heteronormativity might make them more conscious of their advantages and show them how sexual hierarchies negatively impact things like individual freedom, creativity, and expression (Yep, 2002).

Coming out at university: Opportunities and challenges

The topic of LGBTQ+ representations in education brings up issues regarding how staff members who identify as sexual minorities can contribute to the diversity and inclusivity of higher education environments for students. Many young mind will first encounter (positive) role models of LGBTQ+ professionals at university because of the general acceptance of sexual diversity among university staff. For LGBTQ+ academics who want to increase LGBTQ+ visibility within their institution face complex challenges as whether, when, how, and to whom they should disclose their gender identity or sexual orientation. Generally non-LGBTQ+ university employees don't need to worry about these issues, which already seem like fairly significant and difficult ones to consider and ultimately take action on. Ellis (2009).[42]

VII. Conclusion: A Shared Struggle, A Shared Future

This research reveals that the fight for recognition of transgender rights in India cannot be divorced from the broader anti-caste movement, as both challenge systems that control

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[41] S.J. Ellis, D.W. Riggs & E. Peel, *Lesbian, Gay, Bisexual, Trans, Intersex, and Queer Psychology: An Introduction* (Cambridge Univ. Press 2019).

[42] Nuno Nodin, "Queering the Curriculum. Reflections on LGBT+ inclusivity in Higher Education", 28 *Psychology Teaching Review* (2022).

identity and perpetuate exclusion. The study demonstrates that Dalit transgender individuals face a unique form of intersectional marginalization that existing legal and policy frameworks inadequately address.

The analysis of current policies starting from the Transgender Persons (Protection of Rights) Act, 2019 till the National Education Policy, 2020 effectively reveals significant gaps in understanding and addressing the complex realities of caste-based discrimination within the transgender community. The dominant narrative of transgender rights, shaped by elite activists with greater cultural and economic capital, often renders invisible the experiences of those at the intersection of caste and gender marginalization.

Ambedkar true approach to transgender liberation, requires transcending identity based politics to embrace transformative politics. This requires collective empowerment through coalition with other marginalised community such as indigenous people, disabled people and sex workers. Such approach reflects Ambedkar philosophy that identity and social norms are neither fixed nor inherent but dynamic, and are shaped by socio-cultural forces and institutional practices.

It is the strong attempt to erase the concerns of the transgender individuals by concreate vision of uniform and casteless transgender community, because dealing with the uninformity may affect the state's response and welfare programs which was already introduced. The analogy of Ambedkar in caste reservation may help the Dalit transgenders in policies related to academic, legal and work engagements.

Concerns of Dalit transgender individuals are erased by the strong vision as a uniform and castless of transgender communities as it affects the state's response and welfare programs towards them. Ambedcarite perspective can help the Dalit Trans Activation Academic, Legal and Worker's Engagement Proceeding Policy.

The implementation of horizontal reservation can be prove a historical step for transgender individuals from Dalit community. As compare to the vertical reservations where benefits cut across. This will lead to a transgender from Dalit community to receive benefits from the Scheduled Caste category (vertical reservation) and as a transgender individual (horizontal reservation).

Moreover, Promoting Dalit Trans leadership within the widespread queer activism movement to include Dalits and Trans stories and improving the academic course may increase over time. The coated historical injustices and marginalisation of transgender individuals

belonging to the Dalit community in society should be given adequate attention while drafting and amending policies and guidelines.

The critique given by Ambedkar on the caste was a critical evaluation of the institutionalized inequality legitimized through traditionalist discourse. Although his insights were rooted in caste but the ethos can be stretched to marginalisation of transgender community. Transgender rights movement and anti-caste movements are not separate struggles. They are parallel conflict against the ruling systems that dominate "*who we are allowed to be*". Only through this intersectional understanding can India move toward the inclusive society that Ambedkar intended to ensure dignity for all, social justice, equal opportunities and , regardless of gender, caste, or identity.