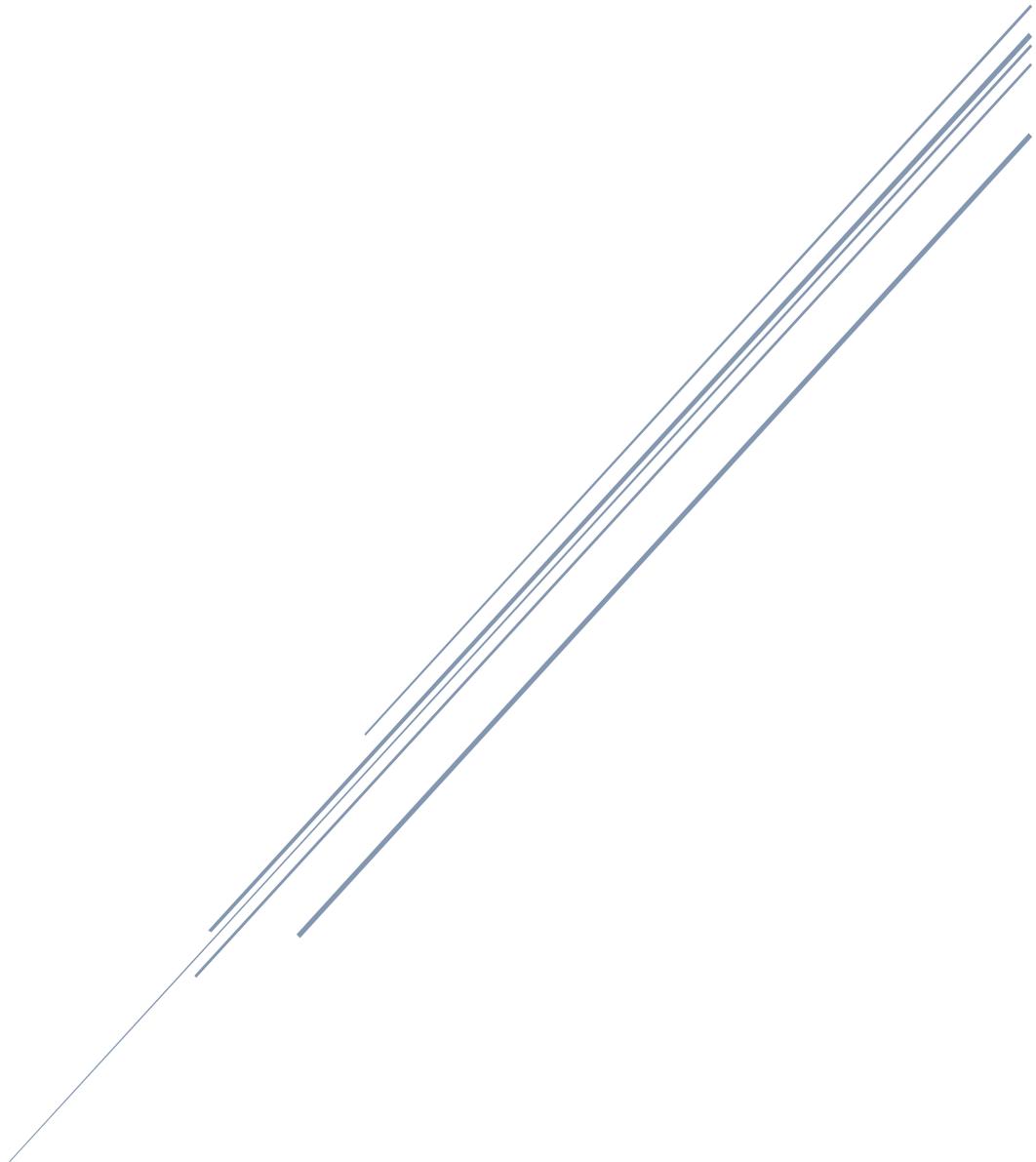


# REPORT

Webinar on effect of COVID 19 on transgender persons and using the law



Human Rights Law Network  
Sexuality and Gender Minorities Initiative

## Introduction

Due to the COVID 19 Pandemic there are a number of issues that transgender persons faced both due to the global pandemic and the lockdown imposed by the government. Transgender Persons largely depended on two types of work at large:

1. Begging – Badhai Toli, Blessings
2. Sex Work

Due to the high contact nature of the occupation people refused to engage with transgender persons on either of these fronts. Therefore with no access to income or employment of any kind transgender persons across the country were left without any means for subsistence.

## Rachana

Since the NASLA Judgement was passed in 2014 there have been a lot of struggles in various High Courts to implement it. During COVID we saw the number of violations against transgender persons. Due to the lockdown people could not step out during the lockdown and couldn't earn money. Right to food was a major concern since people couldn't earn money to buy food. Neither did they have government documentation with their chosen gender identity to get entitlements. Not the gender identity in which they were born, but the ones which

they self-identify with. Because of which they didn't have Aadhar Card, PAN Card and ration card as well.

Since they didn't have ration cards they couldn't get ration from the government from the government schemes. A lot of Civil Society Organisations, Collectives and individuals collected to get ration delivered to transgender persons in the country. But there was no assistance from the government. Subsidized food cards for Transgender Persons in all states need to be given, it may be there but not in their chosen gender.

The subsidized ration cards are also linked to a number of other schemes, such as in Telangana the white ration card is related the housing schemes released by the government. A number of transgender persons were evicted from their households, landlords evicted them out of their houses. Right to housing was a major concern that has to be dealt with. Since places where transgender persons were staying in few numbers, it became crowded because there were multiple people.

With regard to access to health especially during the COVID period where testing and quarantine are necessary. Only in Manipur and West Bengal were there notifications for separate testing and quarantine centres. In other states no such initiative was taken up, on the same lines there were a number of news reports of trans persons being abused and harassed in male and female quarantine centres.

In Kerala there was process for Kudumbasree where pension could be given them. In no other state was financial assistance provided. Therefore in most states there was no relief that was provided to transgender persons, even though there were transgender persons who were facing symptoms they were afraid to come out and report their status.

Those transgender persons who were transitioning, needed hormone treatment on a regular basis. Due to inaccessibility they couldn't get hormones. CSOs were the ones who were able to provide hormones for HRT.

There were letters written to the Ministry of Social Welfare Department to provide assistance to Transgender Persons. Then Central Government released a kit of ₹1500 to be distributed, for those who didn't have bank accounts the government said that the money would be given through the District Magistrate.

This covered just about 4000 transgender persons, according to the 2011 Census there are about 4.98 Lakh Transgender persons in the country. The validity of the census itself is questionable, since according to a study by University of California, on an average there are 10 persons who are transgender persons in a population of 1000. So there would be at least a population of 25 Lakh transgender persons. Philip mentioned the Transgender Rules, 2020 which was released during the lockdown. It was during this lockdown only that the Transgender Rules, 2020 was released. It was during this lockdown that the government released that transgender persons would be hired in the Army. It was

during this lockdown that transgender persons would be given free SRS. All of this was what we found out through media and not through government gazette or notification. Everything has been included in Transgender Rules, 2020. The Act itself we have challenged, against which notices have been sent. But without replying to the notices the government has chosen to add rules. We have to look at how to challenge the government, we have already challenged the Act and trying to implement NALSA. But now there are new challenges that have come up like introduction of rules.

What are the other things we can do in states, such as considering transgender persons as socially and economic backward classes? A good order from Tamil Nadu High Court is something that is there, but we must approach individual high courts. There are a number of privileges and play a role in the social position of transgender persons. Such as caste, class, religion and education. We need to ensure that transgender persons who cross across through a number of these hurdles are not then stuck in sex work or begging but brought into the mainstream.

We also need to look at how to look at housing rights. There would be a need for new consideration of housing rights. Similar to the law on bonded labour, similar issues have been raised in the Act. So on those lines we are to look at whether transgender persons within Hijra Gharanas would be considered as bonded labour and rescued and rehabilitated. As of now we can live independently and are free to live wherever we want to live. There is no need to be rescued. So these are a

few options but there are a number of processes that we can take up creatively as to how to go ahead.

Ranjita Sinha, Kolkata

Legal Services are not easily available to transgender persons everywhere. There are a number of issues we have faced during COVID. The Civil Society Organizations have been of hardly any help. People have been left homeless, there is an increase in violence. There is greater mental and physical harassment transgender persons are facing in the country. Interventions end up increasing the harassment they face. The support system is something that we need to build.

We can't just talk about food or housing, we need to talk about domestic violence. There is an urgent need for short stay homes. There is an increase in discrimination in hospitals where transgender persons are not allowed in hospitals at all, which is why the government came out with a notification to have separate hospitals.

Sarita

I want to tell Ranjitaji that the cases of domestic violence and housing, we need to sit with Ranjita on building a workplan. The cases, issues and violence needs to be dealt with along with the West Bengal Team.

We could talk either after the meeting or prior to the meeting

Ranjita

There are issues with the National Transgender Council as well, since there has been no collaboration or cohesiveness. Nor has there been any consultation.

Sanjana

In Madhya Pradesh, like every state has a particular situation Madhya Pradesh also has a varied issues. There are a number of financial issues that transgender persons are facing in Madhya Pradesh. Unlike me who works in Government Service, most of them are dependent on Badhai or Toli. If we are talking about documentation, none of the transgender persons have any government documentation because of which we can't access government subsidies and schemes. Therefore we don't have a number of transgender persons in the state. I talked to government officials about issues faced by transgender persons. There is a listing happening where people are given ration cards so by next week or so we might get assistance. Though at national level there is a lot that is happening we still need to get things done in the state. Thus there needs to be greater involvement of people from the states. We need to be together to aid people in various states.

I am Sandhya from Indore while helping out a number of people from our community itself are opposed to us. How does one deal with those issues.

## Rachana

There are a few people from our community who do oppose which then affects everyone in the community. Especially those who are poor and marginalized. As of now COVID has become a part of our life, like HIV became in the 1990s. There are two groups like always that is protecting the rights of persons and those who ignore the need for rights.

This is not an issue just in Madhya Pradesh but across the country. Such as accessing ART have been extremely difficult to access in rural areas it is easier in urban areas. But we need to make policy changes. Another thing is that there have been few things that began through legal changes in 2014, now there needs to a constant fight that is to be done. If there are people who don't want assistance then it can be for themselves but that shouldn't stop everyone from accessing aid.

## Ankan

Input from West Bengal, I want to file a petition for reservation in West Bengal. File a case in Judicial Services Examination, there is a quota in the State of West Bengal. I would like to be the petitioner for the case. In the sector of Criminal Law there needs to be changes which I would want to be a petitioner. Whether a transgender person can be charged of sexual molestation, whether sexual violence against transgender persons is a criminal offence as of now.

## Issues with identity cards of transgender persons

### Rachana

As of now the rules have come out which describes a procedure. The Act which is unconstitutional is already in place, rules described how it that the process is take place is. The Government will also send the details to the individual states. Till the Act comes about we need to take up the use of NALSA

### Ankan

As of now the Act has been challenged and is in the Supreme Court. We will use the process of NALSA, I will share the affidavit I used for my name and gender change which you can submit it to your District Magistrate. Then get an advertisement in the newspaper and get the gazette notification which we can then use to change name and gender in Aadhar Card, PAN Card and Driving License.

### Vihaan

I am Vihaan and I work at Nazariya. Due to COVID in Delhi and issues faced by transmen the largest issue faced by transmen has been that of domestic violence. Due to which there were a number of distress calls that came to our organization due to domestic violence. The issues of inaccessibility to hormones were also brought about. Since testosterone was stopped for transmen they started menstruating again. Can hormones be considered to be emergency treatment that

is to be given to trans persons all the time. Government also didn't provide ration to transgender persons.

A number of trans men lost their jobs during this period and still don't have it. Therefore they lost livelihood and the lack of livelihood has to be something that has to be brought about. Most trans men take HRT or testosterone from a doctor or a nurse. Working class transmen didn't have money to buy hormones at all. There were a number of transwomen organisations and civil society that collected money to give ration

Anindya

Reservation in jobs and education needs to be brought about immediately

Meera Parida

Odisha state government has been working on a lot of issues like issues of transgender persons, such as ration and shelter. During COVID we heard that due to the non-availability of Aadhar cards or ID cards, we felt that they weren't getting any ration. Due to Corona Badhai, Blessing and Sex Work had stopped completely. Ayesha along with HRLN filed a case in the High Court when the High Court said that those who didn't have ration cards they should be given ration cards. Another point that was raised with regard to education, such as national education policy including transgender persons within it we need to look

at it. Such that the National Education Policy does not have transphobic elements within it. Similarly in political and health spaces we also need to take action