

RITUAL REVERENCE, SOCIAL REJECTION: HUMAN RIGHTS AND EVERYDAY STRUGGLES OF HIJRAS IN ASSAM

¹Ankita Baruah, ²Debabhuson Borah

¹Assistant Professor, Assam Women's University, Assam

²Associate Professor, Birangana Sati Sadhani Rajyik Vishwavidyalaya

Abstract

The struggle for human rights is universal, but for marginalized communities like the Hijras, these rights often remain aspirational rather than real. This paper explores the lived experiences of the Hijra community in Jorhat district of Assam, a region where social stigma and systemic exclusion intersect to deny them dignity and equal citizenship (Marshall, 1950). Drawing upon primary fieldwork and secondary sources, the study examines the extent of human rights violations and the limited social and political participation of Hijras in local contexts. Findings reveal a paradox: Hijras are revered during religious and cultural rituals yet simultaneously ostracized in everyday life, barred from education, employment, and healthcare. By situating these experiences within broader human rights discourses and the legal framework of India—including the NALSA (Supreme Court of India, 2014) judgment and the Transgender Persons (Protection of Rights) Act—the paper highlights persistent gaps between constitutional promises and lived realities. The study argues for urgent policy reforms, grassroots sensitization, and localized interventions in Assam to ensure justice and dignity for one of India's most marginalized groups.

Keywords: Hijras, Transgender rights, Human rights in India, Gender and law, Assam

Introduction:

On a busy afternoon in Jorhat town, it is not uncommon to see a small group of Hijras blessing newborns or dancing at weddings. Their presence is welcomed during rituals, yet, once the celebrations end, they return to lives marked by exclusion and uncertainty. This contradiction—of reverence and rejection—defines much of the Hijra experience in India.

The term Hijra derives from the Arabic root *hijr*, meaning 'to leave one's tribe,' and historically referred to individuals who departed from conventional gender norms. In South Asia, Hijras have long occupied a unique cultural space, simultaneously feared, respected, and marginalized. They are physiological males who adopt feminine gender roles, though their backgrounds vary: some are born intersex, some undergo ritual castration, and others embrace Hijra identity without medical intervention.

Globally, the recognition of transgender rights has grown significantly, with the United Nations emphasizing dignity and equality as non-negotiable human rights. In India, constitutional guarantees, judicial pronouncements, and policy interventions—most notably the landmark NALSA (Supreme Court of India, 2014) v. Union of India judgment in 2014 and the Transgender Persons (Protection of Rights) Act of 2019—have sought to secure rights for transgender individuals. Yet the everyday realities of Hijras, especially in small towns like Jorhat, tell a different story. Discrimination persists in education, employment, housing, and healthcare, often reinforced by systemic violence and police harassment.

While metropolitan centers like Delhi, Mumbai, and Bangalore have witnessed increased visibility and activism around transgender rights, the narratives from Assam remain underexplored. The present study, therefore, focuses on the Hijras of Jorhat district to uncover the ways in which human rights violations are experienced in the local context and to examine their social and political participation—or lack thereof—within Assamese society.

By doing so, the paper not only contributes to the literature on transgender rights in India but also situates the struggles of Hijras within broader debates on human dignity, identity, and citizenship (Marshall, 1950) in the Global South.

Objectives of the Study

The present study seeks to explore the intersection of transgender identity and human rights violations by focusing on the Hijra community of Jorhat district, Assam. The specific objectives are:

1. To examine the extent and nature of human rights violations experienced by the Hijra community in Jorhat.
2. To analyze the socio-political participation of Hijras in local governance and community life.
3. To situate the struggles of Hijras within the broader discourse of citizenship (Marshall, 1950), human dignity, and social justice in India.

Methodology

Research Design: The study adopts a qualitative case study approach, as it allows for an in-depth understanding of the lived experiences of a marginalized community within a specific socio-cultural setting. The focus on Jorhat provides localized insights that may otherwise remain obscured in national-level studies.

Study Area and Universe: The research was conducted in Jorhat town, Assam, with special attention to the community of Hijras residing in Formud Ali Path (formerly Royal Road). The study universe comprises the eighteen members of the Hijra community who live collectively in this locality.

Sampling: Given the small population size, a purposive sampling technique was employed to include all available members of the Hijra community in Jorhat. This comprehensive inclusion ensures that diverse perspectives within the group are represented.

Sources of Data:

Primary Data: Collected through semi-structured interviews, informal discussions, and participant observation. The interviews explored personal histories, experiences of discrimination, access to social services, and perceptions of rights and identity. Participant observation provided contextual understanding of their everyday interactions and challenges.

Secondary Data: Drawn from government reports, judicial documents, scholarly publications, NGO reports, and media articles relevant to transgender rights and human rights in India.

Analytical Framework: The data were analyzed thematically using the human rights paradigm as the guiding framework. Particular attention was paid to the intersection of gender identity with social exclusion, caste, class, and local cultural factors. Reflexivity was maintained throughout the study, acknowledging the positionality of the researcher and the challenges of accessing a marginalized community.

Review of Literature

Scholarly engagement with the Hijra community in India has been shaped by anthropological, sociological, and legal perspectives. The earliest systematic ethnographic work on Hijras is by Serena Nanda (1999) in *Neither Man nor Woman: The Hijras of India*, which provides a detailed account of their cultural practices, religious roles, and marginalization. Nanda highlights how Hijras occupy a paradoxical position in Indian society—ritually significant yet socially stigmatized.

Building upon this anthropological foundation, Rajesh Talwar (1999) in *The Third Sex and Human Rights* situates Hijras within broader debates on sexuality and law in South Asia.

Talwar emphasizes how legal non-recognition perpetuates systemic exclusion in spheres such as marriage, adoption, inheritance, and access to civil rights.

Later scholarship has expanded the analysis by linking sexuality and gender non-conformity with broader structures of power. Arvind Narrain and Gautam Bhan (2005) in *Because I Have a Voice: Queer Politics in India* argue that the denial of rights to sexual minorities is not an isolated issue but is intrinsically tied to patriarchy, caste, class, and religious orthodoxy. This perspective situates the struggles of Hijras within the larger framework of social justice.

The colonial legacy has also been examined as a crucial determinant of the marginalization of Hijras. Cohen (1995) discusses how colonial laws, such as the Criminal Tribes Act (Talwar, 1999; Nanda, 1999) of 1871 and its 1897 amendment, criminalized eunuchs, institutionalizing stigma and exclusion that persist to this day. The legal construction of Hijras as 'deviant' reinforced their social ostracization.

Recent legal and policy developments have significantly shaped transgender studies in India. The landmark Supreme Court judgment in *NALSA* (Supreme Court of India, 2014) v. Union of India (2014) recognized the 'third gender' and directed the state to provide reservations, healthcare, and welfare measures for transgender people. However, scholars such as Puri (2016) and Misra (2019) argue that despite progressive jurisprudence, the implementation has been inadequate, with bureaucratic hurdles and persistent societal prejudice continuing to deny transgender persons their rights.

The Transgender Persons (Protection of Rights) Act, 2019 (Government of India, 2019; Kothari, 2021) has attracted substantial criticism from activists and academics alike. Studies by Chakraborty (2020) and Kothari (2021) highlight that the Act undermines the principle of self-identification affirmed in the *NALSA* (Supreme Court of India, 2014) judgment by mandating certification procedures, thereby subjecting transgender persons to further surveillance and control.

Regional scholarship has also begun to focus on the Northeast of India, though it remains limited compared to metropolitan studies. Works such as Das (2021) emphasize that while queer visibility has grown in cities like Delhi and Mumbai, transgender communities in Assam and the Northeast continue to face layered marginalization due to ethnic, linguistic, and cultural factors. This makes localized studies, such as the present one, crucial for understanding the specific challenges faced by Hijras in smaller towns.

In summary, the existing literature establishes three key themes:

1. Cultural Contradictions: Hijras are ritually significant but socially marginalized (Nanda, 1999).
2. Legal and Structural Exclusion: Colonial laws and postcolonial legal neglect have entrenched discrimination (Cohen, 1995; Talwar, 1999).
3. Contemporary Policy Debates: Judicial recognition of transgender rights has not translated into effective grassroots change, particularly in smaller towns and regional contexts (Narrain & Bhan, 2005; Chakraborty, 2020; Das, 2021).

The present study builds on this body of work by documenting the lived realities of Hijras in Jorhat district, thereby contributing to the underexplored field of transgender rights in Northeast India.

Human Rights in the Indian Context

Human rights, understood as the inalienable entitlements that flow from the inherent dignity of every human being, have been central to the evolution of the Indian democratic framework. At the international level, India is a signatory to foundational documents such as the Universal Declaration of Human Rights (UN General Assembly, 1948) (UDHR, 1948), the International Covenant on Civil and Political Rights (UN General Assembly, 1966) (ICCPR, 1966), and the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966). These commitments established the baseline for constitutional and legal recognition of rights in the Indian context.

The Indian Constitution embodies these principles through its Preamble, which commits the state to securing *justice, liberty, equality, and fraternity* for all citizens. The Fundamental Rights (Part III) guarantee equality before law (Article 14), protection from discrimination (Article 15), and the right to life and personal liberty (Article 21). These provisions, read expansively by the judiciary, have become the fulcrum of rights-based claims for marginalized communities. Equally significant are the Directive Principles of State Policy (Part IV), which, while non-justiciable, guide state policy towards social justice, education, health, and welfare.

Over the decades, a range of legislations and institutional mechanisms have been adopted to strengthen the human rights regime, including the *Protection of Human Rights Act, 1993* (which established the National Human Rights Commission), Special legislations addressing caste, gender, and minority issues such as the *Protection of Civil Rights Act (1955)*, the *Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (1989)*, and the *National Commission for Women Act (1990)*, Policy frameworks on child rights, disability rights, and minority protection.

Despite these legal and institutional guarantees, implementation has remained uneven. Marginalized communities such as Dalits, Adivasis, religious minorities, women, and sexual and gender minorities frequently experience rights violations in practice. In the case of transgender persons, the contradiction is especially stark: while the Constitution promises equality, structural and social barriers deny them access to education, healthcare, housing, and employment. This disjuncture underscores a key tension in India's human rights paradigm—between formal legal recognition and substantive realization.

Hijras and Human Rights: Historical Marginalization

The Hijras, irrespective of their physiological ambiguities, are human beings and should therefore be entitled to human rights like any other. The *U.N. Charter* itself calls for “universal respect for, and observance of human rights and freedom for all without discrimination as to race, sex, language, or religion.” Yet, despite such safeguards, violations remain pervasive.

India is home to nearly one million transgender people, of whom Hijras form a distinct socio-cultural segment. They are paradoxically revered during auspicious occasions such as weddings and childbirth ceremonies but otherwise ostracized in everyday life. Exclusion from education, employment, and housing has left many dependent on sex work or ritual performances for survival.

Historically, Hijras were part of a well-established “eunuch culture” in West Asia and South Asia, enjoying sanctioned roles in royal courts and temples. Colonial legislation, however, transformed them into outcasts. The Criminal Tribes Act (Talwar, 1999; Nanda, 1999) of 1871, and particularly its 1897 amendment, explicitly targeted “eunuchs” by requiring official registration, denying them guardianship rights, and criminalizing their existence under

suspicion of “unnatural offences” (Section 377 IPC). This legal construction of Hijras as deviant entrenched their stigmatization in law and society.

Even after independence, Indian law—by recognizing only two sexes—systematically denied Hijras civil rights such as voting, marriage, inheritance, and access to ration cards, passports, and driving licenses. This legal invisibility compounded their vulnerability to police harassment, abuse in custody, teasing in public spaces, and systemic violence reinforced by the family, media, and medical institutions.

Contemporary Rights Framework

The past two decades, however, have witnessed significant legal and policy changes. The Supreme Court’s landmark decision in *NALSA* (Supreme Court of India, 2014) v. Union of India (2014) recognized transgender persons as the “third gender” and affirmed their rights under Articles 14, 15, 16, and 21 of the Constitution. The Court emphasized self-identification of gender and mandated reservations, welfare schemes, and healthcare.

Parliament subsequently enacted the Transgender Persons (Protection of Rights) Act, 2019 (Government of India, 2019; Kothari, 2021), which prohibits discrimination in education, employment, healthcare, and housing. However, it has been criticized for undermining the principle of self-identification by requiring certification through bureaucratic processes. For many Hijras, this law represents both progress and persistent state control. Reports by UNDP and the Government of India (2010; UNDP & NACO, 2012) similarly highlight that legal reforms without social acceptance remain insufficient.

Despite these legal developments, social acceptance lags behind. Human rights organizations in India, including the People’s Union for Civil Liberties (PUCL), have historically prioritized issues of poverty, caste, and gender over sexuality and gender identity, reflecting a broader marginalization of sexual minorities within the human rights discourse. This neglect ignores how sexuality intersects with structures of patriarchy, caste, and capitalism, making the struggle for Hijra rights inseparable from broader struggles for economic, political, and social liberation.

Their paradoxical position—revered in rituals, rejected in society—underscores the urgent need for a human rights paradigm that goes beyond token legal recognition to transformative social inclusion. Only then can the promises of India’s Constitution and international human rights commitments be realized in the everyday lives of Hijras.

Findings and Analysis

The fieldwork conducted among the Hijra community in Jorhat district revealed a complex interplay of identity, exclusion, and resilience. The findings are organized thematically to highlight key dimensions of their lived experiences.

1. Identity and Self-Recognition

Despite the official recognition of a “third gender” category on electoral rolls and other government documents, most Hijras in Jorhat continue to identify themselves under the female (“F”) category. This reflects both a lack of awareness regarding legal recognition and the persistence of social pressures to conform within the binary gender framework. The act of misclassification denies them the symbolic affirmation of identity that legal reforms seek to provide. Most respondents spoke about the difficulty of obtaining basic identity cards. A 32-year-old Hijra, who preferred to be called *Mona*, explained:

“I applied for an Aadhaar card three times. The officer asked me whether I am a man or a woman. When I said ‘third gender,’ he laughed and said, ‘We don’t have such people in our village.’”

This shows the gap between formal recognition under the NALSA (2014) judgment and the everyday practice at the local level. While the law promises recognition, bureaucratic gatekeeping continues to deny Hijras the dignity of legal identity.

2. Educational and Employment Exclusion

The study found that none of the respondents had access to formal education beyond primary schooling. Many dropped out by adolescence due to bullying, name-calling, and ridicule from peers and sometimes even teachers. One younger participant recalled: *“The boys pulled my dupatta and called me half-woman. The headmaster told my parents I was a ‘bad influence.’ That was my last day in school.”*

Such experiences underline how gender non-conformity intersects with caste and class, making education spaces unsafe and exclusionary. The absence of targeted educational initiatives or vocational training schemes for transgender persons in Jorhat has restricted their employment opportunities. Consequently, their livelihood options remain limited to traditional practices such as singing, dancing, and blessing at ceremonies, or precarious work such as begging and sex work. This exclusion from mainstream economic life exemplifies structural violence, where systemic denial of opportunities perpetuates cycles of marginalization.

3. Social Stigma and Everyday Discrimination

Respondents narrated experiences of ridicule, verbal abuse, and social ostracization in public spaces such as markets, schools, and health facilities. Encounters with the police were particularly fraught, with accounts of harassment, extortion, and, in some cases, physical violence. Such interactions reinforce the perception of Hijras as “outsiders” in society, unworthy of the dignity accorded to other citizens. The persistence of stigma underscores the disconnect between legal recognition and societal acceptance. Almost all respondents reported experiences of **harassment in public spaces**. The fear of being stopped by police, mocked in markets, or teased on buses is part of daily life. One Hijra described:

“If we walk together, people stare and shout. If we go alone, men follow us and say dirty things. We are safe nowhere.”

This demonstrates how violence is not just physical but embedded in the everyday textures of social life.

4. Healthcare and Vulnerability

The Hijra community reported significant barriers in accessing healthcare, including discriminatory treatment from medical staff and reluctance to seek medical help due to fear of humiliation. Many respondents linked poor health outcomes to unsafe castration practices, lack of reproductive healthcare, and limited awareness of HIV/AIDS interventions. The absence of transgender-sensitive healthcare facilities in Jorhat further exacerbates their vulnerability.

5. Political Participation and Representation

While the NALSA (Supreme Court of India, 2014) judgment (2014) and subsequent reforms enabled Hijras to register as voters under the “third gender” category, actual political participation remains negligible. Respondents expressed disillusionment with mainstream politics, stating that political parties rarely address their concerns beyond token gestures. While Hijras in India were recognized as voters since 2014, in Jorhat few have actively engaged in politics. Many explained that they lacked trust in local leaders. *“Politicians come during elections, click photos with us, and then disappear,”* said one participant.

This lack of substantive engagement has resulted in near invisibility of Hijras in local governance and decision-making structures in Assam.

6. The Paradox of Ritual Reverence and Social Exclusion

A recurring theme in the findings is the paradoxical social positioning of Hijras. On the one hand, they are invited to perform ritual blessings at weddings and childbirth ceremonies, a practice that draws on centuries of cultural tradition. On the other hand, once the ritual ends, they are relegated to the margins, often mocked, feared, or ignored. This duality reflects a symbolic reverence that does not translate into tangible rights or social inclusion.

7. Civil Society Interventions and Limitations

Although NGOs such as the Salaam Initiative and Shanti Seva have contributed to raising awareness on HIV/AIDS, vocational training, and advocacy for sexual minorities, their interventions remain concentrated in metropolitan centres. The Hijras of Jorhat reported little direct engagement with such organizations, pointing to a geographical gap in civil society outreach. This highlights the need for localized, context-sensitive interventions in smaller towns of Assam.

The findings suggest that the Hijra community in Jorhat experiences layered forms of exclusion—legal, social, and economic. While formal recognition through law and policy has created a framework for inclusion, the ground realities demonstrate persistent denial of fundamental human rights. The paradoxical respect and rejection of Hijras reflect deep cultural ambivalence, where ritual symbolism coexists with structural violence.

From a human rights perspective, the situation of Hijras in Jorhat illustrates the gap between citizenship (Marshall, 1950) in principle and citizenship (Marshall, 1950) in practice. Their struggles underscore that legal recognition is a necessary but insufficient condition for inclusion; without sustained efforts in education, healthcare, sensitization of institutions, and political representation, recognition remains hollow.

Discussion

The findings from Jorhat reveal that the Hijra community remains trapped in a paradoxical existence: ritually acknowledged yet socially marginalized, legally recognized yet practically excluded. This tension highlights the limitations of rights-based frameworks when they are not matched by cultural transformation and institutional accountability. This dilemma resonates with Fraser's (1995) argument on the tension between redistribution and recognition.

From a theoretical standpoint, the experiences of Hijras exemplify intersectionality (Crenshaw, 1991). Their exclusion is not solely based on gender non-conformity but is compounded by class, caste, and regional marginality. Hijras from relatively well-to-do families are still forced into precarious livelihoods once they embrace their identity, underscoring the pervasive nature of social stigma.

The study also resonates with citizenship theory (Marshall, 1950), which distinguishes between civil, political, and social rights. While Hijras in Jorhat formally enjoy civil rights (such as the right to vote), their exclusion from education, healthcare, and employment reflects a denial of social citizenship. The lack of political representation further weakens their claim to substantive citizenship, reducing them to symbolic rather than active participants in democracy. This reflects Arendt's (1951) notion of the 'right to have rights,' highlighting their statelessness within their own nation.

The legal context in India provides both opportunities and contradictions. The NALSA (Supreme Court of India, 2014) v. Union of India (2014) judgment was groundbreaking in recognizing the right of transgender persons to self-identify their gender and mandating affirmative action. However, the Transgender Persons (Protection of Rights) Act, 2019 (Government of India, 2019; Kothari, 2021) diluted this principle by imposing certification

requirements, thus bureaucratizing identity. The dissonance between jurisprudential recognition and legislative provisions creates legal ambiguity, which translates into administrative apathy at the local level.

In Assam, these challenges are magnified by the absence of localized policies and the limited presence of civil society organizations focusing on transgender rights. Unlike in metropolitan contexts where activism and NGO networks provide some support, the Hijras of Jorhat remain largely invisible in regional policy debates. This invisibility not only reinforces their marginality but also perpetuates the cycle of neglect.

Conclusion

The case of the Hijra community in Jorhat district underscores the persistent gap between **constitutional promises and lived realities**. While India has made significant progress in legally recognizing transgender identities, the absence of effective grassroots implementation has left communities like the Hijras of Assam vulnerable to systemic exclusion.

The study highlights several urgent needs:

1. **Educational and Vocational Inclusion:** Targeted scholarships, skill development programs, and affirmative action measures must be extended to transgender persons in smaller towns.
2. **Healthcare Access:** Establishment of transgender-sensitive health facilities and sensitization training for medical staff are critical to addressing their health vulnerabilities.
3. **Political Representation:** Mechanisms to ensure meaningful participation of Hijras in local governance can bridge the gap between formal recognition and substantive citizenship (Marshall, 1950).
4. **Civil Society Outreach in Assam:** NGOs and activist networks need to expand beyond metropolitan areas to engage with marginalized transgender groups in the Northeast.
5. **Cultural Sensitization:** Public awareness campaigns, media representation, and educational reforms are essential for dismantling stigma and promoting dignity.

Ultimately, the struggle of Hijras in Jorhat is not just about access to rights but about the affirmation of humanity itself. Ensuring their dignity requires moving beyond token recognition towards systemic transformation—where citizenship (Marshall, 1950), justice, and equality are realized not only in law but also in everyday life.

References

- Chakraborty, S. (2020). Contesting the Transgender Persons Act: Legal struggles and lived realities. *Economic and Political Weekly*, 55(33), 21–25.
- Cohen, L. (1995). The pleasures of castration: The postoperative status of hijras (Nanda, 1999; Misra, 2019), jankhas, and academics. In P. R. Abramson & S. D. Pinkerton (Eds.), *Sexual nature, sexual culture* (pp. 276–304). University of Chicago Press.
- Crenshaw, K. (1991). Mapping the margins: Intersectionality (Crenshaw, 1991), identity politics, and violence against women of color. *Stanford Law Review*, 43(6), 1241–1299.
- Das, P. (2021). Transgender rights and marginalities in Northeast India: Cultural invisibility and resistance. *Journal of Northeast Studies*, 12(1), 45–63.
- Kothari, J. (2021). Transgender Persons Act and its discontents. *Indian Law Review*, 5(2), 178–199.
- Marshall, T. H. (1950). *Citizenship and social class*. Cambridge University Press.

- Misra, G. (2019). Negotiating rights: The transgender community and law in India. *Indian Journal of Gender Studies*, 26(1-2), 25–46.
- Nanda, S. (1999). *Neither man nor woman: The hijras (Nanda, 1999; Misra, 2019) of India*. Wadsworth.
- Narrain, A., & Bhan, G. (2005). *Because I have a voice: Queer politics in India*. Yoda Press.
- Puri, J. (2016). *Sexual states: Governance and the struggle against the anti-sodomy law in India*. Duke University Press.
- Talwar, R. (1999). *The third sex and human rights*. Gyan Publishing House.
- UN General Assembly. (1948). *Universal Declaration of Human Rights (UN General Assembly, 1948)*. United Nations.
- UN General Assembly. (1966). *International Covenant on Civil and Political Rights (UN General Assembly, 1966)*. United Nations.
- UN General Assembly. (1966). *International Covenant on Economic, Social and Cultural Rights (UN General Assembly, 1966)*. United Nations.
- Supreme Court of India. (2014). *National Legal Services Authority v. Union of India (NALSA (Supreme Court of India, 2014))*, Writ Petition (Civil) No. 400 of 2012.
- Government of India. (2019). *The Transgender Persons (Protection of Rights) Act, 2019 (Government of India, 2019; Kothari, 2021)*. Ministry of Law and Justice.
- Arendt, H. (1951). *The origins of totalitarianism*. Harcourt, Brace & Company.
- Fraser, N. (1995). From redistribution to recognition? Dilemmas of justice in a ‘post-socialist’ age. *New Left Review*, 212(July–August), 68–93.
- Reddy, G. (2005). *With respect to sex: Negotiating hijra identity in South India*. University of Chicago Press.
- United Nations Development Programme (UNDP) & Government of India. (2010). *Hijras/Transgender women in India: HIV, human rights and social exclusion*. UNDP India.
- United Nations Development Programme (UNDP) & National AIDS Control Organisation (NACO). (2012). *Mainstreaming transgender concerns: Issues and perspectives*. UNDP India.