



## **Government of Karnataka**

### **State Policy for Transgenders in Karnataka, 2014 (draft)**

#### **1. Preamble**

The Hon'ble Supreme Court vide judgement dated 15<sup>th</sup> April, 2014 has recognized transgenders as the third gender apart from the existing binary genders for the purpose of safeguarding their constitutional rights as well as the right to self-identify as male, female or third gender. The judgement has also directed the Centre and State Governments to grant legal recognition of their gender identity, to treat them as socially and educationally backward classes and to extend all kinds of reservation in cases of admission in educational institutions and for public appointments. Centre and State Governments have also been directed to operate separate HIV Sero-surveillance Centres since Transgenders face several sexual health issues.

The problems being faced by Transgenders such as fear, shame, gender dysphoria, social discrimination, depression, suicidal tendencies, social stigma, etc. and any insistence for SRS for declaring one's gender is immoral and illegal should be taken up seriously. Proper measures should be taken up to provide medical care to TGs in the hospitals and also provide them separate public toilets and other facilities. Various social welfare schemes should be framed for their development and mainstreaming them into society. Steps to create public awareness should be taken so that TGs feel that they are also part of the society, regain their respect and are not to be treated as untouchables. The solution to their problems requires concerted efforts to mainstream them and adoption of an inclusive approach in all spheres of life.

Taking into account the judgement it is necessary for the State Government to frame a Policy for the transgenders covering the areas of health, education, employment, housing, protection from harassment and abuse. The solution to their problems would require concerted efforts to mainstream them by adopting an inclusive approach in all spheres of life. All Departments of the State Government should include development of transgender community in their policies, programmes, schemes.

Rather than calling them as third gender, the nomenclature transgenders should be used. The policy will cover all categories of transgenders, i.e. Jogappas, Hijras, Female to Male transgenders, Male to Female transgenders, intersex people, kothis and jogtas, shivshakthis and Aravanis. The categories will be defined in the subsequent Government Orders.

## **2. Objective of the Policy**

The basic objectives of the Policy are the following -

- Include them in society, provide social protection to the transgenders, and provide them with proper educational facilities, health facilities, and basic amenities such as water supply, sanitation, housing facilities, and provision of employment.
- Provide a mechanism for self-identification of gender as man, woman or transgenders
- Encourage all Government Departments and public authorities to extend a non-discriminatory treatment to the transgenders in legal aspects and in providing barrier free access to public transport, parks and other public places. Guidelines in this regard should be framed and there should be a mechanism to ensure that these guidelines are followed.
- Ensure qualitative services provided by Government/NGOs
- Sensitise the parents, teachers, students, doctors, police and other members of the Society so that there is no discrimination and that they are treated as proper citizens and can live with self-respect and dignity.
- Effective implementation and monitoring of the schemes being proposed especially for the transgenders for their socio-economic improvement and livelihood issues.
- To converge existing schemes across Departments for a more targeted and focused approach towards welfare of Transgender community.
- To provide policy and institutional reforms to enable access to social protection schemes for the community especially for those who are more marginalised among them.

## **3. Creating an Enabling Environment for the Transgenders and Governance**

### **(a) Administrative Set-up**

In order to ensure that transgender lead a decent life and mainstream them into the society, a Cell for the Transgenders will be established in the **Directorate of Women and Child Development**. The Cell could be headed by a senior officer and would be assisted by - (i) Joint Director (Admin), (ii) Joint Director (Training and awareness generation) and (iii) Joint Director (Welfare Programmes). At the State level there would be a Transgender Support Unit. There would also be a Coordination Committee.

At the district level, the Deputy Director, Department of Women and Child Development (DWCD) would take responsibility of implementing and monitoring of schemes, and take feedback from the NGOs/CBOs working with transgenders in that particular district. The Child Development Project Officer would periodically report to the officer heading the Cell for transgenders in **Directorate of Women and Child Development** and Joint Director (Welfare Programmes) about the progress in the implementation of schemes. At the district level also there would be a Transgender Support Unit.

## **(b) Counselling Centres**

Addressing stigma, discrimination and violence faced by transgenders – Awareness generation and sensitisation are required for parents to support and accept their gender non-conforming children. Counselling and other mental health services that confirm the child's gender identity are required for the children as well as the parents. Besides this, they have to be counselled to cope up with the trauma of violence and abuse. Counselling Centres would be set up on the model of Rape and Crisis Intervention Centres. These Centres may be provided in all districts of the State. Additionally, District Protection Officers, Anganwadi Workers, Health Workers and Self Help Groups may be oriented on transgender issues and involved in providing information to parents of gender-non conforming youth. Educational institutions/Universities would be encouraged to establish an anti-discrimination cell to monitor any form of discrimination/harassment against gender non-conforming students.

## **(c) Safeguarding the transgenders**

Proper mechanism is to be put in place to safeguard the transgenders through sensitisation of teachers, staff and other children and through periodical sensitisation events by collaborating with organisations working with transgender.

## **(d) Short stay homes/Hostels etc.**

While it is imperative that every effort be made to make available transgender children safe residence, there is a requirement to ensure that short-stay homes, orphanages, adoption and fostering services are sensitive to the needs and concerns of gender non-conforming children.

## **(e) Sensitization**

Workplaces/Offices in public and private sector need to sensitize employers and employees on issues of transgenders. Anti-discrimination policies must be instituted and meaningfully implemented in the processes of hiring, retention, promotion and employee benefits. Workplace sexual harassment policies should be made transgender inclusive.

The legal and law enforcement systems must be sensitised on issues of transgenders and action should be taken up such as – (i) action against parents who desert or abuse their gender non-conforming children and against doctors who undertake electro-shock or other kinds of unethical conversion therapy; (ii) free legal aid to be provided to transgenders seeking redress against discrimination and violence; (iii) sexual assault, sexual harassment and domestic violence laws should be transgender inclusive. Presently, Section 375 of IPC does not cover the transgenders as victims of sexual assault. Hence the Central Government should consider amending Section 375 to make it gender neutral in respect of the victim; (iv) Section 36-A of the Karnataka Police Act which criminalizes hijras and other transgenders in the State should be repealed; (v) every police station should record and compile statistics of crime against transgenders; (vi) the Juvenile Justice Act should also address the concerns of transgender children and therefore the Act should be suitably modified/amended.

#### **4. Functions of the Cell for Transgenders**

The function of the Cell would be as follows- (i) the Cell would initiate welfare programmes for the upliftment of Transgenders, (ii) acquire funds from Government and distribute to various projects approved by the Government, (iii) issue ID Cards to transgenders, (iv) conduct awareness programmes to sensitise public about transgenders through mass media and other method of publicity campaign.

In order to enlist the transgenders as members of the community and provide transgenders welfare measures, the process currently being followed should continue. The process requires a self-declared affidavit along with a form that is to be submitted to the CDPO of the district which serves as a basis for being declared as a transgender. To issue identity cards, a Committee comprising of CDPO, Medical Officer, Taluk Social Welfare officer and Tahsildar will be constituted. The Tahsildar will issue the identity cards. The identity cards issued should be acceptable to all authorities for indicating the gender on official documents like ration cards, passport, birth certificate, aadhaar card, for opening bank accounts, monthly bus pass, driving license, etc. Directives will be issued to the relevant Authorities to accept the identity cards to issue such official documents.

#### **5. Schemes for the welfare of transgenders**

**a) Schemes that generate jobs and income** – (i) Self-employment grants for taking up small business (ii) Provide vocational training to TGs in different areas including jewellery making, tailoring, beautician, artist, etc. Reservation of at least 5 seats should be provided to TGs in ITIs and Polytechnics. This would enable them to look for better job opportunities and lead to their economic empowerment. (iii) Design customised vocational training programmes for the transgenders as per their needs and interest and establish effective linkages with vocational training centres run by private and government agencies, (iv) Training by NGOs on formation and governance of TG SHGs at the rate fixed by the Government from time to time. The existing Udyogini scheme should be extended to cover transgenders and gradually the scope of extending similar schemes such as NRLM, NULM, MGNREGS, etc. may also be explored. Helpline for career guidance and online placement support should be established. Capacity building and entrepreneurship development for transgender community is a must. Efforts should also be made to register transgenders in the Employment Exchange of the State. Liberal credit facilities and other needed support for economic activities should be provided.

**b) Schemes for Housing/Shelter** - Santhwana Centres, which are run with assistance from various NGOs and provide temporary shelter to women who have been subjected to atrocities can also be utilised as one stop crisis centres for transgenders. Simultaneously, five shelter homes may be opened in different parts of the State for the exclusive use of transgenders according to the population of transgenders in those areas. Under the schemes such as Indira Awaas Yojana,

Valmiki Ambedkar Awaas Yojana, Rajiv Awaas Yojana, etc. subsidies or grants may be provided to TGs for constructing houses. Day care centres for older transgenders should also be made available. The possibility of providing registered land to transgenders for constructing houses should also be considered. The assistance given for housing of transgenders can be a combination of grants, subsidies, loans depending on the income of the beneficiary.

- c) Schemes for Education** – Education grants will be provided to gender non-conforming students as per the norms of scholarship given to OBC students. Government schools and colleges will be open to gender non-conforming students. Hostel facilities should also be provided to gender non-conforming students. Separate toilets in schools should be constructed for gender non-conforming students. Government should provide fee-waiver, free textbooks, free hostel accommodation and other facilities at subsidized rates for gender non-conforming students. The fulfilment of obligations under RTE Act is critical for the improvement in the educational conditions of transgender community. All benefits available to BPL card holders should also be provided to gender non-conforming students.
- d) Schemes for Healthcare** – Transgenders should be included in the Rashtriya Swasthya Bima Yojana and all other health insurance schemes of the State. SHGs or Societies of transgenders can avail the benefits under Yeshaswini scheme also. Health insurance card should be issued to the transgenders. Government will provide financial assistance for Sex Reassignment Surgery (SRS) in select Government hospitals. Directives will be issued by the Health and Family Welfare Department to all hospitals to provide health care facilities to them without any discrimination so that they can access all hospitals without hesitation. Proper counselling to transgenders will be given about options available in relation to gender transition and proper post-operative follow-up counselling and support. All public hospitals would have policies and will include registration and admission of transgenders, training and sensitization of health care providers about transgenders and their health issues. Separate HIV Sero-surveillance Centres will be operated since transgenders face several sexual health issues. All benefits available to BPL card holders should also be provided to transgenders.
- e) Scheme on provision of food** – BPL/Ration food cards under Public Distribution System should be given to the transgenders to provide food at free/subsidised cost.
- f) Monthly pension scheme for destitute transgenders** – Financial assistance will be provided as monthly pension for destitute transgenders.
- g) Other programmes** – Awareness generation programmes, providing job opportunities in areas where they have been trained on contract basis and also in MGNREGS, generation of livelihood opportunities and higher education. Organising events regularly with NGOs working for the welfare of Transgenders and other Transgender Associations to discuss all issues and solutions for transgenders to

enable finalise future strategies for their welfare. There should be large scale awareness generation and sensitisation programmes by Government through mass media so that the transgenders could be a part of mainstream and are not discriminated against. The Police department officials will be sensitized through trainings so that transgenders are not seen as law and order problem. Transport Department and Urban Development Department should ensure that public toilets for transgenders are made available in public places such as bus stands, shopping places, cinema halls, hospitals, railway stations, etc.

**h) Legal rights** – The existing Legal Aid Authority will also provide assistance to transgenders facing problems/harassment without prejudice as is being done for other marginalised sections of the society so that they can seek redressal under law for any problem faced by them. Efforts will be made to create awareness among transgenders about their legal rights. The helplines presently available for women and children should be extended to transgenders as well. Similarly, the facilities of the existing Santhwana Centres and other One Stop Crisis Centres should be extended to Transgenders also.

## **6. Policy implementation and review**

A Monitoring Committee would be constituted to review the implementation of the programmes to ensure welfare of transgenders. The Committee would comprise of Chief Secretary as the Chairperson, the official members would be Principal Secretaries/Secretaries of Departments of Social Welfare, Law, Education, Health and Family Welfare, Employment and Training, Rural Development and Panchayat Raj, Housing and Finance. There would be at least four non-official members who would be from TG community. There would also be experts on the subject related to transgenders in the Committee.

There are a number of Acts such as Domestic Violence Act, Juvenile Justice Act etc. where amendments will be required to include transgenders under the Acts.

Suitable schemes are to be identified and launched specifically for transgenders in various sectors such as food security, education, health, housing, skill development & capacity building and social welfare.