
GENUINE VICTIMS OR CRIMINAL IMPOSTORS? THE MENACE OF GENDER IMPERSONATORS VERSUS ACTUAL TRANSGENDER VULNERABILITY

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ABSTRACT

The question of genuine victims versus criminal impostors is intrinsic to the ongoing transformation of India's criminal and welfare law regime. India has a long history of recognising diverse gender identities yet is now navigating modern transgender rights alongside anxieties that the potential misuse of such identities may inadvertently deepen the vulnerabilities of the transgender community itself. Despite constitutional protections, social acceptance of transgender persons remains abysmally low, and they continue to face heavy discrimination in education, employment, and public life. Concurrently, isolated reports from Indian transit hubs describe persons falsely assuming a transgender identity to beg, extort money, or gain undue benefit, occasionally invoking provisions of the Transgender Persons (Protection of Rights) Act, 2019. Public debate has often conflated the two phenomena, portraying transgender persons, particularly trans women, as criminal impersonators infiltrating sex-segregated spaces, a narrative that has fuelled legislative hostility and dehumanised an already marginalised community. This paper examines the narrower phenomenon of impersonation that exploits transgender and other marginalised gender identities to evade law or gain undue advantage and argues that policing such abuse must not come at the cost of genuine transgender rights. India's new criminal codes address impersonation and fraud in their own right; meaningful protection depends on the state's ability to safeguard vulnerable communities without allowing enforcement to erode rights already secured. Drawing on comparative practice from the United Kingdom, South Africa, and Argentina, the paper proposes a framework that keeps questions of identity and questions of criminal intent analytically and statutorily separate.

Key Words: - Gender Impersonation, Transgender Vulnerabilities, Legal Safeguard, India, Bharatiya Nyaya Sanhita, Transgender Protection Act 2019, Legal Misuse, Identity vs. Intent,

Social Discrimination, Gender Identity.

I. Introduction

In October 2025, the Railway Protection Force in Agra announced that over a single fortnight it had apprehended fifty-four individuals for "misusing their identity as transgender individuals" to board trains without tickets and extort money from passengers.¹ Two years earlier, in August 2023, Hyderabad police had detained nineteen people on similar grounds, later stating that seventeen of them had "confessed" to being cisgender men posing as trans women.² Headlines framed both episodes as victories against fraud. Activists called them witch-hunts. Both reactions, were talking about the same kind of incident, and both were partly right.

This is the uncomfortable terrain that this piece sets out to map: the space between the genuine, well-documented vulnerability of India's transgender community and the smaller, murkier phenomenon of people who borrow a marginalised identity for personal gain. It is a distinction that matters enormously, because conflating the two, treating every trans person on a train platform as a suspect or dismissing every fraud complaint as transphobia, does real damage either way. And it matters right now, because 2023, 2024 and 2026 have brought a wave of new criminal and welfare legislation in India that touches this exact fault line: the Bharatiya Nyaya Sanhita, 2023,³ the BharatiyaNagarik Suraksha Sanhita, 2023,⁴ and, most consequentially, a sweeping amendment to the Transgender Persons (Protection of Rights) Act, 2019, introduced in Parliament in March 2026 and, as this paper goes to print, already enacted into law.⁵

II. A Community the Constitution Recognized, but Society Still Doesn't

India's transgender and hijra communities are not a recent legal invention. They appear in classical texts, temple iconography and courtly records long before colonial rule criminalised them under the Criminal Tribes Act of 1871. It took the Supreme Court until 2014, in *NALSA v. Union of India*,⁶ to restore that recognition in constitutional terms, declaring transgender persons a "third gender," reading

¹"54 Held for Misusing Transgender Identity to Extort Money from Rail Passengers," available at: <https://www.obnews.co/Index/newsDetail/id/12600862.html> (last visited on July 24, 2026).

²Lakshmi Priya, "'Begging Racket Crackdown' Sheds Light on Hyd Police's Ignorance About Trans Persons" *The News Minute*, Aug. 26, 2023.

³The Bharatiya Nyaya Sanhita, 2023 (Act 45 of 2023).

⁴The BharatiyaNagarik Suraksha Sanhita, 2023 (Act 46 of 2023).

⁵The Transgender Persons (Protection of Rights) Amendment Act, 2026 (Bill No. 79 of 2026, assented to on 30 March 2026).

⁶*NALSA v. Union of India*, AIR 2014 SC 1863; (2014) 5 SCC 438.

gender identity into Articles 14, 15, 16, 19 and 21,⁷ and affirming, crucially, the right to self-identify one's gender without being made to undergo surgery or produce medical proof.

Yet more than a decade on, the lived reality for most transgender Indians remains grim. The National Human Rights Commission's own study found that an overwhelming majority of transgender persons are denied any meaningful participation in economic life, pushing many into begging, traditional performance (badhai) or sex work simply to survive.⁸ Housing discrimination, family estrangement, and denial of healthcare compound the problem. The Transgender Persons (Protection of Rights) Act, 2019⁹ meant to translate the NALSA judgment into statute, was itself criticised on arrival for diluting self-identification by requiring a District Magistrate's certificate, and for prescribing punishments for offences against transgender persons (originally six months to two years) that were markedly lighter than equivalent offences under general criminal law.

It is against this backdrop of entrenched, well-evidenced marginalisation that any conversation about "impersonation" must begin. The vulnerability is not contested; it is the baseline.

III. The Impersonator Problem: What Is Actually Being Alleged

The allegation that surfaces periodically at railway stations, traffic signals and transit hubs is narrower than it sounds in headlines. It is not a claim that transgender identity itself is suspect. It is a claim that a small number of cisgender individuals, usually men, dress or present as transgender women specifically to solicit money through intimidation, exploiting both public discomfort and a reluctance to publicly challenge someone assumed to be from a marginalised group.

Reporting on this is patchy but consistent. Railway Protection Force divisions in Agra and elsewhere have run periodic drives against persons "misusing transgender identity," with the Agra RPF citing fifty-four detentions in a single fortnight in 2025, as noted above. Local newspapers in Bengaluru have separately documented turf disputes and aggressive begging at traffic signals involving both transgender persons and other beggars, including one widely covered scuffle on Cubbon Road. These reports blur two very different things, aggressive begging by persons who are transgender, and outright impersonation by persons who are not, and the blurring is itself part of the problem this piece is trying to untangle.

The starkest illustration remains the Hyderabad case of August 2023, where police announced the

⁷The Constitution of India, arts. 14, 15, 16, 19, 21.

⁸NHRC, Study on Human Rights of Transgender as a Third Gender (NHRC, New Delhi, 2017).

⁹The Transgender Persons (Protection of Rights) Act, 2019 (Act 40 of 2019).

arrest of nineteen people for allegedly extorting money while "pretending to be transgender."¹⁰ According to a senior police officer, only two of the nineteen were even suspected of having a genuine trans identity, based on having undergone gender-affirming surgery; the rest, she said, had "confessed" to being cisgender men.¹¹ LGBTQ+ groups pushed back hard, questioning both the interrogation methods used to extract these "confessions" and the framing of the operation itself, which they said cast an entire community under suspicion for the actions of a few.

That pushback is legitimate, and it points to the real danger in this discourse: not that impersonation never happens, but that alleging it becomes a low-cost way to harass, detain and publicly humiliate transgender people who are exactly who they say they are. A police officer's suspicion is not a forensic finding. "Confessions" obtained in custody, particularly from a community with a well-documented history of police abuse, deserve more scepticism than headlines typically allow them.

IV. Why This Narrative Is Dangerous Even When Partly True

Even granting that some fraudulent impersonation occurs, the public narrative around it causes disproportionate harm to the genuine community, for at least three reasons.

First, it inverts the burden of proof in everyday life. Once "fake transgender persons" becomes a familiar news category, every transgender person asking for help, riding public transport, or simply existing in public space can be met with suspicion rather than empathy. The exception becomes the lens through which the entire group is viewed.

Second, it is disproportionately amplified relative to its actual scale. Fifty-four detentions in one railway division, or nineteen arrests in one city, are treated as evidence of a widespread "racket," while the National Human Rights Commission's far larger and more rigorously documented finding, that the overwhelming majority of transgender applicants face rejection in formal jobs, pushing most of the community toward begging or sex work out of necessity rather than fraud, receives comparatively little sustained coverage.¹²

Third, and most consequentially, this narrative supplies a ready-made justification for legislative rollback. When policymakers can point to "misuse" of protective provisions, it becomes politically easier to tighten definitions, raise evidentiary hurdles, and walk back self-identification measures that burden every genuine transgender person to guard against a comparatively small number of bad-faith actors. This

¹⁰Supra note 2.

¹¹Ibid.

¹²Supra note 5.

is precisely what has now unfolded in 2026.

V. The New Criminal Laws: BNS, and the Silence on Trans Victims

The Bharatiya Nyaya Sanhita, 2023 (BNS), which replaced the Indian Penal Code from July 2024, is frequently cited as evidence that India's criminal law has modernised. In one narrow sense it has: Section 2(10) of the BNS widens the definition of "gender" to expressly include transgender persons,¹³ a symbolic improvement over the IPC. But this inclusion is cosmetic where it matters most. Section 63, the rape provision, retains the IPC's framing of rape as something only a man can perpetrate against a woman, leaving transgender victims of sexual violence with no equivalent offence to invoke.¹⁴ The BNS also repealed Section 377 of the erstwhile Indian Penal Code, 1860¹⁵ without a gender-neutral replacement, removing what had functioned, however imperfectly, as the only statutory route for male and transgender survivors of non-consensual sexual acts to seek redress.

In other words, the "new criminal laws" that this year's conference theme references have, on the sexual-violence front, left transgender India roughly where it was, recognised in name under Section 10, but structurally invisible in the very provisions meant to protect bodily autonomy. The impersonation narrative and this legislative gap are connected: a community failed by the law on the one hand is, on the other, treated with heightened suspicion whenever it seeks the law's protection.

VI. The 2026 Amendment: When "Reform" Becomes Restriction

The clearest recent example of the impersonator narrative shaping policy is the Transgender Persons (Protection of Rights) Amendment Bill, 2026, introduced in the Lok Sabha on 13 March 2026.¹⁶ Its Statement of Objects and Reasons argues that the 2019 Act's definition of "transgender person" has proven too broad for authorities to administer, and that it should be narrowed so the Act "works only for those in actual need of protection," language that closely echoes the identity-versus-intent framing this piece has been examining. As legal commentary on the Bill notes, the 2019 definition was deliberately simple and self-identification-based: anyone whose gender did not match the sex assigned at birth, including trans-men, trans-women, intersex persons, and those with socio-cultural identities such as

¹³The Bharatiya Nyaya Sanhita, 2023 (Act 45 of 2023), s. 2(10).

¹⁴The Bharatiya Nyaya Sanhita, 2023 (Act 45 of 2023), s. 63.

¹⁵The Indian Penal Code, 1860 (Act 45 of 1860), s. 377 (repealed by the Bharatiya Nyaya Sanhita, 2023).

¹⁶Transgender Persons (Protection of Rights) Amendment Bill, 2026, Bill No. 79 of 2026, available at: <https://prsindia.org/billtrack/the-transgender-persons-protection-of-rights-amendment-bill-2026> (last visited on July 24, 2026).

kinnar, hijra, aravani or jogta, regardless of surgery or hormone therapy.¹⁷

The Bill replaces this with a clinical, five-factor biological test, primary sexual characteristics, external genitalia, chromosomal pattern, gonadal development, and endogenous hormone production, and then closes the door explicitly, stating the definition "shall not include, nor shall ever have been so included, persons with different sexual orientations and self-perceived sexual identities." This is a direct reversal of the self-identification principle that NALSA constitutionally guaranteed in 2014. Anyone who identifies as transgender without a qualifying birth-linked biological variance, on this definition, simply falls outside the Act's protection altogether.

The Bill also amends Section 18, the offences provision, in ways that reveal how the impersonator framing gets operationalised. It introduces a new offence of inducing or "alluring" a person, particularly a child, to "dress, present, or conduct themselves outwardly as a transgender person." For adults, the offence requires that this be against their will; for children, remarkably, no such qualifier is used, meaning even a willing minor who is encouraged or assisted in presenting as transgender by a friend, sibling or mentor exposes that second person to prosecution. Legal commentators have pointed out the obvious tension: many people's first understanding of their own gender identity comes precisely through a friend or confidante who introduces the possibility that gender need not follow the sex assigned at birth. Criminalising that conversation does not protect vulnerable children from exploitation, it isolates questioning children from the very peer support that research on adolescent mental health consistently identifies as protective.

None of this is to say the underlying harms the Bill gestures at, forced genital mutilation, coercion into begging networks, trafficking, are imaginary. They are real, documented, and deserve serious punishment. But India's general criminal law, including the grievous-hurt provisions of the BNS, already reaches most of this conduct. Routing it instead through a narrowed welfare statute, at the cost of self-identification for the entire community, looks less like protecting transgender people from bad actors and more like using the spectre of the bad actor to redefine who counts as transgender at all.

The Bill has, in the time since it was drafted, ceased to be a proposal. It was passed by the Lok Sabha on 24 March 2026 and by the Rajya Sabha the following day, in each case amid an Opposition walkout, and received the President's assent on 30 March 2026, making it the Transgender Persons (Protection of

¹⁷Centre for Law & Policy Research, "The 2026 Transgender Amendment Bill and Its Roll-Back of Constitutional Rights," available at: <https://clpr.org.in/blog/the-2026-transgender-amendment-bill-and-its-roll-back-of-constitutional-rights/> (last visited on July 24, 2026).

Rights) Amendment Act, 2026.¹⁸ Two members of the statutory National Council for Transgender Persons resigned in protest, describing the amendment as a step backward for the community's rights to self-identification and dignity.¹⁹ That the impersonator narrative helped carry a constitutional reversal of this magnitude through Parliament in under two weeks, without reference to a standing committee, is itself the clearest evidence of the argument this paper makes: allegations of fraud, however narrow their factual basis, travel far more easily through the legislative process than the far larger, better-documented case for protecting a marginalised community.

VII. Untangling Identity from Intent

The way through this is not to deny that fraud exists, nor to treat every allegation of impersonation as manufactured. It is to insist, at every stage, policing, media reporting, and legislative drafting, on a sharp distinction between identity and intent.

Identity is a matter of self-perception and lived experience, and India's highest court has already settled, correctly, that the state has no business demanding surgical or medical proof of it. Intent to defraud, by contrast, is a matter of conduct: coercive begging, extortion through intimidation, unauthorised travel, organised exploitation. These are already criminal acts under ordinary law, prosecutable regardless of how the accused person identifies. There is no need to reopen the question of who qualifies as transgender in order to prosecute someone for extortion, the extortion is illegal either way. Conflating the two questions allows the harder, evidence-based work of proving specific fraudulent conduct to be replaced by the much easier, and much more damaging, work of policing gender presentation itself.

A workable framework, consistent with both NALSA and basic due process, would keep these strands separate: prosecute proven acts of extortion, coercion or unauthorised conduct under existing penal provisions, regardless of the accused's gender identity; resist policy responses that make every transgender person's legal status contingent on satisfying a biological test designed to catch a small number of bad-faith actors; and treat police claims of "confessed impersonation" with the same evidentiary scepticism applied to any custodial statement, particularly involving a community with a documented history of custodial mistreatment.

¹⁸Supra note 12.

¹⁹India Development Review, "The Trans Amendment Bill: Everything You Need to Know," available at: <https://idronline.org/article/rights/the-trans-amendment-bill-everything-you-need-to-know/> (last visited on July 24, 2026).

VIII. Lessons From Elsewhere

India is not the only jurisdiction to have wrestled with the tension between preventing fraud and preserving self-identification, and comparative practice is instructive precisely because most mature democracies have resolved it the opposite way from the 2026 Amendment. The United Kingdom's Gender Recognition Act, 2004²⁰ and the reformed sexual-offences framework that followed it define offences of fraud, extortion and coercion in purely conduct-based terms; an extortionist is prosecuted for extortion, full stop, without any inquiry into the accused's underlying gender identity. South Africa's Alteration of Sex Description and Sex Status Act, 2003²¹ similarly keeps identity recognition and criminal liability in entirely separate statutory tracks. Argentina's Gender Identity Law, often cited as a global benchmark, permits self-identification with no medical or biological gatekeeping whatsoever,²² while ordinary criminal law continues to handle fraud and impersonation offences unrelated to gender status.

The common thread is structural separation: welfare and recognition statutes answer the question "who is entitled to protection," while penal statutes answer the question "who committed a punishable act," and the two are never allowed to collapse into a single biological test. India's own Transgender Persons Act, 2019, whatever its other flaws, originally reflected this same separation, self-identification for recognition, ordinary criminal law for offences. The 2026 Amendment abandons that architecture, and in doing so moves India out of step with the very international practice that NALSA itself drew upon in 2014.

IX. A Workable Way Forward

None of this means the concerns motivating the impersonator narrative should be waved away. Passengers who are intimidated into paying money at railway stations have a legitimate grievance, and organised begging rackets, whoever runs them, deserve investigation. The question is not whether to act, but how to act without making an entire community collateral damage. A few concrete, evidence-based steps would serve both goals better than a biological redefinition of transgender identity.

First, law enforcement agencies investigating extortion or unauthorised conduct should be required to frame charges around the specific criminal act, extortion, criminal intimidation, trespass, rather than around the accused person's claimed or suspected gender identity, which is irrelevant to whether the act itself occurred. Second, any claim that a person has "confessed" to falsely presenting as transgender while in police custody should be corroborated independently before it is publicised, given the well-documented

²⁰The Gender Recognition Act 2004 (UK), 2004 c. 7.

²¹The Alteration of Sex Description and Sex Status Act, 2003 (South Africa), Act No. 49 of 2003.

²²Law No. 26.743 on Gender Identity (Argentina, 2012).

risk of coerced statements against a community with limited access to legal aid. Third, the National Council for Transgender Persons, established under the 2019 Act, should be tasked with monitoring how frequently impersonation allegations are actually substantiated in court, rather than allowing arrest figures alone to drive public perception and policy. Fourth, welfare and identity-recognition provisions should remain governed by self-identification, consistent with NALSA, while any new offences genuinely aimed at trafficking, coercion or forced procedures should be inserted into general criminal law, where they can be prosecuted regardless of the victim's or accused's gender status, rather than into a statute whose core purpose is protecting a marginalised community.

Taken together, these steps would allow the state to prosecute genuine fraud as vigorously as it wishes, while leaving the constitutional guarantee of self-identified gender identity, the single most hard-won principle of the NALSA judgment, fully intact.

X. Conclusion

Genuine victims and criminal impostors are not, in the end, two sides of a single story competing for public sympathy. They are two entirely separate questions that Indian law and Indian media persistently and conveniently merge into one. The vulnerability of transgender Indians is documented, structural and largely unaddressed by the new criminal codes that were supposed to modernise the system. The menace of a handful of impersonators exploiting public discomfort for extortion is real but narrow, already punishable under ordinary criminal law, and does not require dismantling a decade of hard-won constitutional recognition to address.

What the Transgender Persons (Protection of Rights) Amendment Act, 2026 has done is resolve this tension in exactly the wrong direction, making an entire community's legal existence conditional on proving they are not impostors, rather than making impostors answerable under the laws that already exist. Its passage within two weeks of introduction, and without meaningful engagement with the statutory body created to represent transgender Indians, illustrates how readily a narrow and largely unsubstantiated fraud narrative can be converted into a rollback of hard-won constitutional protection once it enters the legislative arena unchallenged. As India continues to legislate its way through the aftermath of the BNS and BNSS, the least it owes a community that has waited over a decade since NALSA is a framework that punishes fraud without first assuming everyone is capable of it. Future research and litigation, including any constitutional challenge to the 2026 Amendment Act before the Supreme Court, will need to test whether this framework of identity-versus-intent can be restored through judicial rather than legislative means.