
THE LEGAL FRONTIER OF GENDER-BINARY STATUTORY FRAMEWORKS IN YOUTH DEFENCE ORGANIZATIONS: A COMPARATIVE ANALYSIS OF TRANSGENDER INCLUSION IN THE NATIONAL CADET CORPS (INDIA) AND INTERNATIONAL CADET SYSTEMS

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ABSTRACT

The statutory architecture governing India's National Cadet Corps (NCC) continues to recognize only a binary of "male" and "female" cadets under Section 6 of the National Cadet Corps Act, 1948, notwithstanding the Supreme Court's constitutional recognition of a "third gender" in *National Legal Services Authority v. Union of India* and the subsequent enactment of the Transgender Persons (Protection of Rights) Act, 2019. This paper undertakes a comparative public international law analysis of transgender inclusion in youth uniformed Defence organizations, situating the Indian experience marked by an unresolved oscillation between judicial inclusion in *Hina Haneefa v. State of Kerala* and judicial restraint in *Janvin Cleetus v. Union of India* against the administrative and policy frameworks of the United Kingdom, the United States, Canada, and Australia. Drawing on the Yogyakarta Principles, the Human Rights Committee's jurisprudence under the International Covenant on Civil and Political Rights in *Toonen v. Australia* and *G. v. Australia*, and the Convention on the Elimination of All Forms of Discrimination against Women as interpretive sources of state obligation, the paper argues that India's continued statutory silence is an outlier among comparable common law jurisdictions, several of which have adopted cadet-specific administrative guidance most notably Canada's CANCDTGEN 006/23 that reconciles institutional operational concerns with gender-identity non-discrimination. The paper concludes with concrete recommendations for legislative amendment of Section 6 and for the promulgation of NCC-specific inclusion guidelines harmonized with the 2019 Act.

Keywords: Transgender Rights, National Cadet Corps, Gender Identity, Comparative Constitutional Law, Public International Law, Yogyakarta Principles, Human Rights Committee, Youth Uniformed Organizations

1. Introduction

1.1 Background and Rationale

The National Cadet Corps (NCC) is India's premier tri-services youth uniformed organization, established under the National Cadet Corps Act, 1948¹, to instil discipline, leadership, and a spirit of national service among school and college-going youth. Enrollment eligibility, however, remains textually confined to "any student of the male sex" and "any student of the female sex" under Section 6 of the Act², a binary formulation that predates by more than six decades the Supreme Court's constitutional recognition of gender identity as a facet of personal autonomy and dignity in *National Legal Services Authority v. Union of India*³. The resulting statutory lacuna has produced a fractured jurisprudence: the Kerala High Court permitted a transgender applicant's enrollment through purposive interpretation in 2021, only to hold four years later, on materially similar facts, that inclusion of transgender cadets remains "a matter of policy" outside the judicial remit.

This tension is not unique to India. Youth cadet and cadre organizations across common law jurisdictions the Combined Cadet Force and Army Cadet Force in the United Kingdom, the Junior Reserve Officers' Training Corps (JROTC) in the United States, the Cadets and Junior Canadian Rangers in Canada, and the Australian Defence Force Cadets have each been compelled to confront the same underlying question: whether an organization modelled on military discipline, communal accommodation, and physical training may lawfully retain a sex-binary enrollment architecture in the face of evolving domestic and international gender-identity jurisprudence. This paper situates the Indian experience within that comparative frame.

1.2 Research Questions

This paper addresses three interrelated questions: first, whether the continued binary formulation of Section 6 of the NCC Act is reconcilable with the constitutional and statutory recognition of transgender identity in Indian law; second, how comparable cadet and youth-Defence organizations in other jurisdictions have reconciled operational concerns shared accommodation, physical training standards, and disciplinary uniformity with gender-identity

¹The National Cadet Corps Act, 1948, No. 31, Acts of Parliament, 1948 (India).

²National Cadet Corps Act, 1948, § 6(1)-(2) (India).

³*Nat'l Legal Servs. Auth. v. Union of India*, (2014) 5 S.C.C. 438 (India).

non-discrimination obligations; and third, what normative guidance public international law instruments offer to domestic legislatures and cadet authorities confronting this question.

1.3 Scope and Methodology

The analysis proceeds doctrinally, drawing on primary legislative texts, reported and unreported judicial decisions, and official administrative policy issuances, supplemented by secondary academic and journalistic commentary. The comparative component is confined to four jurisdictions the United Kingdom, the United States, Canada, and Australia selected for their structural similarity to the NCC as school- or community-based cadet organizations operated under, or in close affiliation with, a national ministry of Defence. The paper does not purport to offer an exhaustive survey of all cadet systems worldwide, nor does it take a position on contested empirical claims regarding operational impacts of inclusive enrollment policies; where such claims are made by parties or courts, they are reported as contested rather than adjudicated by the author.

2. Gender Identity in Public International Law: The Conceptual Framework

2.1 Gender Identity as a Human Rights Concern

Public international law does not contain a dedicated treaty instrument addressing gender identity discrimination in youth or military organizations. Instead, protection has been constructed interstitially, through the interpretive extension of general non-discrimination and dignity guarantees found in the International Covenant on Civil and Political Rights (ICCPR)⁴, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)⁵, and the Convention on the Rights of the Child (CRC), the last of which is of particular relevance given that a substantial proportion of cadet enrollees are minors.⁶

2.2 The Yogyakarta Principles

The most direct articulation of gender-identity obligations are found in the Yogyakarta Principles on the Application of International Human Rights Law in Relation to Sexual

⁴International Covenant on Civil and Political Rights arts. 2, 26, Dec. 16, 1966, 999 U.N.T.S. 171.

⁵Convention on the Elimination of All Forms of Discrimination against Women, Dec. 18, 1979, 1249 U.N.T.S. 13.

⁶Convention on the Rights of the Child arts. 2, 3, Nov. 20, 1989, 1577 U.N.T.S. 3.

Orientation and Gender Identity, adopted by a panel of international human rights experts in 2007 and supplemented in 2017 by the Yogyakarta Principles plus 10⁷. Although not a binding treaty, the Principles have acquired substantial interpretive authority: the Indian Supreme Court expressly relied upon them in *NALSA* to hold that the right to self-identified gender is an incident of personal autonomy under Article 21 of the Constitution.⁸ Principle 2 (the right to equality and non-discrimination) and Principle 18 (protection from medical abuse) are of particular relevance to enrollment criteria that condition inclusion on prior medical or surgical intervention, a recurring feature examined in Section 3 below.

2.3 The Doctrine of State Obligation: Positive versus Negative Duties

Human rights doctrine distinguishes between a state's negative obligation to refrain from discriminatory exclusion and its positive obligation to take affirmative steps by the legislative, administrative, or infrastructural to secure substantive equality. This distinction is central to the comparative analysis that follows: courts and administrators repeatedly frame transgender inclusion in cadet organizations not as a question of whether discrimination is impermissible in principle, but as a question of whether the positive infrastructural steps needed to operationalize inclusion (separate accommodation, revised training protocols, medical standards) have been taken. The Kerala High Court's 2025 decision in *Janvin Cleetus*, discussed in Section 3.5, is best understood as resting on precisely this negative/positive obligation distinction.

2.4 UN Human Rights Committee Jurisprudence Extending "Sex" to Gender Identity

The interpretive extension described above rests on a specific doctrinal foundation in the jurisprudence of the Human Rights Committee, the treaty body constituted under the ICCPR. In *Toonen v. Australia*, the Committee held that the reference to "sex" in Articles 2(1) and 26 of the Covenant is to be taken as including sexual orientation, a holding that supplied the interpretive template later extended, in the Committee's subsequent jurisprudence and in the Yogyakarta Principles, to gender identity as a further "other status" ground.⁹

⁷The Yogyakarta Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity (2007); Yogyakarta Principles plus 10 (2017).

⁸*Nat'l Legal Servs. Auth. v. Union of India*, (2014) 5 S.C.C. 438, ¶¶ 22, 59-61 (India) (invoking the Yogyakarta Principles, the ICCPR, and CEDAW).

⁹*Toonen v. Australia*, Communication No. 488/1992, U.N. Doc. CCPR/C/50/D/488/1992 (Human Rights Comm. Mar. 31, 1994), ¶ 8.7.

The Committee applied this extended understanding directly to gender-identity claims in *G. v. Australia*, finding that conditioning legal recognition of an applicant's affirmed gender on the dissolution of an existing marriage violated Articles 17 and 26. The decision is significant for the present analysis because it demonstrates that the Committee treats non-recognition of self-identified gender not merely as an administrative inconvenience but as a form of Article 26 discrimination, reinforcing NALSA's domestic holding with an international treaty-body precedent addressed to the same underlying principle.¹⁰

General Comment No. 31 further clarifies that Article 2(1) imposes on States parties both a negative obligation of non-interference and a positive obligation to adopt legislative, judicial, and administrative measures to give effect to Covenant rights, a formulation that maps directly onto the positive/negative distinction developed in Section 2.3 above. The Committee on the Rights of the Child has, in turn, directed States parties to ensure non-discrimination on grounds of gender identity in the treatment of adolescents, a standard of direct relevance given the predominantly minor cadet population addressed in Section 5.2.¹¹

2.5 Soft Law and the Limits of an Emerging Customary Norm

Beyond treaty-body jurisprudence, the UN Human Rights Council has, through a series of resolutions culminating in the creation and renewal of the mandate of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, articulated a soft-law framework addressing gender-identity discrimination at the multilateral level. These resolutions, while not binding, supply further interpretive context for the Yogyakarta Principles and have been invoked by the Independent Expert in country-specific reporting.¹²

It would, however, overstate the position to characterize a gender-identity non-discrimination norm as having crystallized into customary international law binding on India independent of its ICCPR obligations: the divided state practice documented in the comparative survey at

¹⁰*G. v. Australia*, Communication No. 2172/2012, U.N. Doc. CCPR/C/119/D/2172/2012 (Human Rights Comm. Mar. 17, 2017).

¹¹Human Rights Comm., General Comment No. 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (May 26, 2004), ¶ 6-7; Comm. on the Rights of the Child, General Comment No. 20 on the Implementation of the Rights of the Child During Adolescence, U.N. Doc. CRC/C/GC/20 (Dec. 6, 2016), ¶ 33.

¹²Human Rights Council Res. 32/2, U.N. Doc. A/HRC/RES/32/2 (July 15, 2016) (creating the mandate of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity); see also Human Rights Council Res. 17/19, U.N. Doc. A/HRC/RES/17/19 (July 14, 2011).

Section 4 below, including the executive-policy reversals in the United States, is itself evidence against the consistent and general practice, accompanied by *opinio juris*, that custom formation requires. The stronger and more defensible claim, advanced throughout this paper, is the narrower one that India's Article 2 and 26 obligations under a treaty it has ratified, as interpreted by the Committee in *Toonen and G.*, already supply a binding interpretive floor independent of any customary claim.

3. The Indian Framework: The NCC Act and the Binary Statutory Architecture

3.1 The Statutory Text of Section 6

Section 5 of the NCC Act divides the Corps into a Senior Division, a Junior Division, and a Girls Division¹³, while Section 6 restricts enrollment eligibility to “any student of the male sex” (Section 6(1)) and “any student of the female sex” (Section 6(2))¹⁴. No provision of the Act, nor of the National Cadet Corps Regulations framed thereunder, contemplates a third category of enrollee. This textual silence rather than any express exclusionary clause has been the central interpretive battleground in subsequent litigation.

3.2 NALSA v. Union of India: The Constitutional Foundation

In *National Legal Services Authority v. Union of India*, a two-judge bench of the Supreme Court recognized transgender persons as a “third gender” entitled to protection under Articles 14, 15, 16, 19, and 21 of the Constitution¹⁵. The Court held that gender identity refers to “an innate perception of one's gender” rather than chromosomal or anatomical characteristics, and directed Union and State governments to extend reservation and welfare benefits and to treat transgender persons as a socially and educationally backward class¹⁶. Although NALSA did not address cadet or military enrollment directly, its holding that the right to self-identified gender is a facet of Article 21 dignity has been the principal interpretive lever used by transgender applicants seeking NCC enrollment in subsequent litigation.

¹³National Cadet Corps Act, 1948, § 5 (India).

¹⁴National Cadet Corps Act, 1948, § 6(1)-(2) (India).

¹⁵Nat'l Legal Servs. Auth. v. Union of India, (2014) 5 S.C.C. 438, ¶ 129 (India); see also A.I.R. 2014 S.C. 1863.

¹⁶Nat'l Legal Servs. Auth., (2014) 5 S.C.C. 438, ¶¶ 66, 129(3).

3.3 The Transgender Persons (Protection of Rights) Act, 2019

Parliament subsequently enacted the Transgender Persons (Protection of Rights) Act, 2019¹⁷, which under Section 4 recognizes a transgender person's right to self-perceived gender identity and under Section 7 prescribes a certification procedure through a District Magistrate. Section 3 of the 2019 Act prohibits discrimination against transgender persons in, inter alia, education and employment, though the Act does not specifically enumerate cadet or paramilitary enrollment among its illustrative heads of discrimination. Commentators have observed that the 2019 Act's certification-based model requiring a District Magistrate's certificate for legal gender recognition sits in some tension with the pure self-identification standard articulated in NALSA, a tension inherited by the NCC enrollment cases discussed below.

3.4 Hina Haneefa v. State of Kerala (2021) Judicial Inclusion

In Hina Haneefa alias Muhammed Ashif Ali N. v. State of Kerala, the petitioner, a transgender woman who had undergone gender-affirmation surgery and obtained a transgender identity card reflecting her gender as female, was denied enrollment in the NCC's Girls Division on the ground that Section 6 recognized only male and female cadets¹⁸. Justice Anu Sivaraman held that, read in light of NALSA and the 2019 Act, the petitioner was entitled to enrollment in the Girls Division in accordance with her self-perceived gender identity, and directed the Union government to consider amending Section 6 to expressly provide for transgender enrollment¹⁹. A division bench subsequently upheld the petitioner's individual right to enrollment while setting aside the direction to amend the statute, on the ground that a writ court could not compel Parliament to legislate, though it expressed the hope that the Union government would do so in light of NALSA and the 2019 Act.²⁰

Commentators have noted an internal tension in the Hina Haneefa reasoning: the Court's emphasis on the petitioner's having "undergone" sex-reassignment surgery as evidentiary support for her self-perception as female sits uneasily with NALSA's holding that gender identity is a matter of self-perception independent of any medical intervention a point of

¹⁷The Transgender Persons (Protection of Rights) Act, 2019, No. 40, Acts of Parliament, 2019 (India).

¹⁸Hina Haneefa alias Muhammed Ashif Ali N. v. State of Kerala, W.P.(C) No. 23404 of 2020, judgment (Ker. H.C. Mar. 15, 2021).

¹⁹Id.

²⁰See Kerala HC Allows Transgender to Enroll as NCC Cadet, ONMANORAMA (Mar. 4, 2024), <https://www.onmanorama.com/news/kerala/2024/03/04/high-court-transgender-enroll-ncc-cadet.html>.

doctrinal friction that recurs, in sharper form, in Janvin Cleetus.

3.5 Janvin Cleetus v. Union of India (2025): Judicial Restraint

Four years later, in Janvin Cleetus v. Union of India, a differently constituted Single Judge Bench of the Kerala High Court, again per Justice N. Nagaresh, dismissed a materially similar petition brought by a transgender student who had satisfied all eligibility conditions for enrollment in the 30(K) Battalion, NCC, Calicut Group, but was informed at the interview stage that enrollment was impermissible on account of his transgender status²¹. The Court held that “the National Cadet Corps Act, 1948, as it stands now, does not contemplate an NCC Division for Transgenders”, and that the formation of a separate transgender division or any comparable inclusive arrangement required a sufficient population of transgender applicants to justify a dedicated division, a determination the Court characterized as a matter of executive policy requiring “sufficient studies” rather than judicial fiat²². Notably, the Court did not purport to overrule Hina Haneefa; rather, it emphasized that the petitioner before it had not undergone any surgical or medical gender-affirmation procedure and sought enrollment on a pure self-identification basis, a factual distinction the Court treated as material despite NALSA’s general holding that self-perception, not medical intervention, is the touchstone of gender identity. The Court nonetheless directed that a copy of the judgment be forwarded to the Union Ministries of Defence and Law and Justice for consideration of policy reform.²³

3.6 Doctrinal Tension: Self-identification versus Institutional Capacity

Read together, Hina Haneefa and Janvin Cleetus expose an unresolved doctrinal fault line in Indian transgender-rights jurisprudence as applied to uniformed youth organizations: whether the constitutional right to self-identified gender recognized in NALSA translates into an individually enforceable right of enrollment, or whether it is instead a programmatic directive addressed to the political branches, actionable only once threshold institutional infrastructure: separate divisions, revised training protocols, medical and psychological support structures has

²¹Janvin Cleetus v. Union of India, W.P.(C) No. 33642 of 2024, 2025:KER:86180 (Ker. H.C. Nov. 13, 2025); see also Inclusion of Transgender Cadets in NCC Matter of Policy, SCC ONLINE BLOG (Nov. 14, 2025), <https://www.scconline.com/blog/post/2025/11/14/inclusion-of-transgender-cadets-in-ncc-matter-of-policy-ker-hc/>.

²²Janvin Cleetus, *supra*; see also Transgender Student Cannot Be Enrolled in National Cadet Corps Under Present Law: Kerala High Court, BAR & BENCH (Nov. 14, 2025), <https://www.barandbench.com/news/transgender-student-cannot-be-enrolled-in-national-cadet-corps-under-present-law-kerala-high-court>.

²³See *id.*

been established. The Kerala High Court's own oscillation on this question within a single jurisdiction over a four-year period suggests that the tension is not one of judicial inconsistency alone, but reflects a genuine structural gap in the statutory and administrative scheme that only legislative or executive action can resolve.

4. Comparative International Cadet Systems

4.1 United Kingdom: Cadet Forces and Ministry of Defence Policy

The United Kingdom's cadet organizations the Combined Cadet Force, Army Cadet Force, Air Training Corps, and Sea Cadet Corps operate under Ministry of Defence sponsorship but are not directly addressed by a cadet-specific transgender policy instrument. The Ministry of Defence's Joint Service Publication 889 (JSP 889) governs the recruitment and management of transgender personnel in the regular armed forces, providing for record amendment to an affirmed gender and medical care guidance²⁴, but its terms are addressed to enlisted service personnel rather than school-age cadets. Freedom-of-information disclosures obtained from the Ministry of Defence indicate the absence, at least as of the mid-2010s, of any dedicated transgender-inclusion guidance specific to the Army Cadet Force, a gap one former cadet's Freedom of Information Act request specifically highlighted in describing the organization as "a very gendered organisation" offering no LGBT-inclusion information²⁵. The United Kingdom thus illustrates a jurisdiction in which the parent armed service has adopted a comprehensive inclusive policy while the affiliated youth cadet structure has, at least on available public evidence, lagged behind in cadet-specific implementation.

4.2 United States: JROTC, ROTC, and an Oscillating Department of Defense Policy

The United States presents the starkest illustration of policy volatility. The Department of Defense's approach to transgender service, and by extension to Reserve Officers' Training Corps (ROTC) cadets at the collegiate level, has reversed direction across successive administrations: an inclusive open-service policy adopted in 2016 was displaced by a 2018 restriction barring accession of individuals who had undergone gender-transition-related

²⁴U.K. MINISTRY OF DEFENCE, JSP 889: POLICY FOR THE RECRUITMENT AND MANAGEMENT OF TRANSGENDER SERVICE PERSONNEL (2019), <https://assets.publishing.service.gov.uk/media/5dd3c2da40f0b606f39e340a/JSP889.pdf>.

²⁵Freedom of Information Request: Army Cadet Force – Transgender Inclusion Policy, WHATDOTHEYKNOW (2015), https://www.whatdotheyknow.com/request/army_cadet_force_transgender_inc.

medical treatment²⁶, itself later superseded by a 2021 instruction permitting open service and self-identified gender accession²⁷, and subsequently displaced again by Executive Order No. 14183, “Prioritizing Military Excellence and Readiness,” issued in January 2025, which directed the Department of Defense to bar transgender, nonbinary, and gender-nonconforming individuals from military service, with express application to accessions at the Service academies and ROTC²⁸. Junior ROTC (JROTC), the high-school-level analogue most structurally comparable to the NCC, has not been the subject of a dedicated gender-identity enrollment policy of its own; reported reforms to JROTC in the 2024 National Defense Authorization Act have concerned student protection from instructor misconduct rather than gender-identity enrollment criteria²⁹. The American case study thus demonstrates the vulnerability of administratively (rather than legislatively) grounded inclusion policies to reversal with each change in executive branch leadership, a structural risk of direct relevance to any recommendation, considered in Section 7, that India adopt policy rather than statutory reform.

4.3 Canada: Cadets and Junior Canadian Rangers: CANCDTGEN 006/23

Canada offers the most directly transferable comparator. The Cadets and Junior Canadian Rangers Group, administered by the Department of National Defence, issued Cadet General Order CANCDTGEN 006/23 in 2023, providing interim guidance on gender inclusion applicable specifically to cadet organizations rather than to the regular forces alone³⁰. The Order rescinded a prior standing order specific to “transgender cadets” and replaced it with a broader inclusive framework requiring that cadets be addressed by their pronouns of choice, and committing the organization to “a culture where all people feel welcomed, valued, respected, connected, and safe physically, psychologically, and emotionally”³¹. Significantly, the Canadian model situates its inclusion guidance expressly within domestic human rights and constitutional instruments, the Canadian Human Rights Act and the Canadian Charter of Rights

²⁶DoD Instr. 1300.28, In-Service Transition for Transgender Service Members (Mar. 31, 2021) (describing the policy history); DoD Instr. 6130.03, Vol. 1, Medical Standards for Military Service (Mar. 31, 2021).

²⁷DoD Instr. 1300.28 (2021), *supra*.

²⁸Exec. Order No. 14,183, 90 Fed. Reg. 8763 (Jan. 27, 2025); see also Memorandum from Sec’y of Def. Pete Hegseth (Feb. 7, 2025).

²⁹Press Release, Sen. Elizabeth Warren, Warren’s JROTC Reforms in Action (Oct. 17, 2024), <https://www.warren.senate.gov/newsroom/press-releases/warrens-jrotc-reforms-in-action-defense-department-puts-key-protections-in-place-to-protect-students>.

³⁰Cadets & Junior Canadian Rangers Grp., CANCDTGEN 006/23: Interim Guidance on Gender Inclusion (2023), <https://www.canada.ca/en/department-national-defence/services/cadets-junior-canadian-rangers/cjcr-policy/cancdtgens/2023/cancdtgen006-23.html>.

³¹*Id.*

and Freedoms rather than leaving the matter to be inferred from parent-service policy, providing a template for a cadet-specific administrative instrument grounded in constitutional non-discrimination guarantees.

4.4 Australia: Australian Defence Force Cadets and the “Cadet X” Precedent

The Australian Defence Force (ADF) has permitted transgender personnel to serve openly and transition while in service since 2010³², and the Royal Australian Air Force has published Gender Transition Guidelines specifically addressed to Air Force Cadets³³. A widely reported 2017 case involving a second-year Australian Army cadet who identifies outside the male/female binary (referred to in press coverage as “Cadet X”) resulted in the cadet’s transfer to mixed-gender accommodation and an instruction to instructing staff to cease using gendered terms of address, illustrating an administrative, case-by-case accommodation model operating without amendment to any enabling cadet statute³⁴. The Australian approach thus relies on the ADF’s broad case-by-case assessment framework for transgender and gender-diverse applicants applied uniformly across cadet and regular-force accession rather than a cadet-specific statutory carve-out.

5. Comparative Analysis

5.1 Divergent Institutional Models

Three distinct institutional models emerge from the comparative survey. First, the legislative-silence model, exemplified by India, in which a founding statute enacted in a pre-constitutional or early-constitutional gender framework has never been amended to contemplate a non-binary category, leaving inclusion to be litigated case by case before constitutional courts. Second, the executive-policy model, exemplified by the United States, in which inclusion is governed by Department of Defense instruction rather than statute, rendering it acutely vulnerable to reversal with each change in political executive, as the 2016-2018-2021-2025 policy oscillation demonstrates. Third, the cadet-specific administrative-guidance model, exemplified by

³²ADF’s Three Decades of Pride, DEP’T OF DEFENCE (Austl.) (Nov. 21, 2022), <https://www.defence.gov.au/news-events/news/2022-11-01/adfs-three-decades-pride>.

³³See Sexual Orientation and Gender Identity in the Australian Military, MILITARY WIKI (Fandom); Defence Force Gay & Lesbian Info. Serv. (DEFGLIS), Gender Identity – Transgender Information, <https://defglis.com.au/resources/gender-identity/>.

³⁴Is the ADF Winding Back on Protections for ‘Cadet X’ and Other Non-Binary Personnel?, SBS NEWS (Sept. 22, 2017), <https://www.sbs.com.au/news/article/is-the-adf-winding-back-on-protections-for-cadet-x-and-other-non-binary-personnel/p5uwqq5v1>.

Canada's CANCDTGEN 006/23 and, to a lesser extent, Australia's RAAF Gender Transition Guidelines, in which the cadet organization itself rather than the parent armed service alone issues a dedicated, publicly available instrument addressing gender inclusion in cadet-specific operational contexts such as accommodation and address.

5.2 The Age and Consent Variable

A feature distinguishing cadet organization from adult military recruitment, and one this paper submits has been insufficiently addressed in the comparative literature, is that a substantial proportion of cadet enrollees are minors under the CRC's definition. This raises distinct considerations parental consent to gender-affirming documentation, the applicability of child-specific best-interest standards, and the appropriateness of medical-certification thresholds such as those found in Section 7 of India's 2019 Act that do not arise, or arise differently, in adult service-accession contexts. None of the four comparator jurisdictions surveyed in Section 4 has published cadet-specific guidance expressly reconciling gender-identity inclusion with child-specific consent and welfare standards, suggesting a shared gap across all five jurisdictions examined in this paper, India included.

5.3 Operational Justifications Advanced by Cadet Authorities

Across jurisdictions, the operational justifications advanced for maintaining or delaying binary enrollment are remarkably consistent: shared field accommodation, close-contact physical training, and the practical difficulty of constituting a viable third division absent a critical mass of applicants. The NCC's submissions before the Kerala High Court in both Hina Haneefa and Janvin Cleetus track closely the concerns articulated in the Australian "Cadet X" reporting and in the United Kingdom's historical silence on cadet-specific policy. The Canadian CANCDTGEN 006/23, by contrast, demonstrates that these operational concerns are administratively soluble through individualized accommodation arrangements and address-by-preference protocols without requiring either a dedicated third division or a threshold population of transgender cadets, directly rebutting the premise underlying the Kerala High Court's reasoning in Janvin Cleetus that a "sufficient number" of transgender applicants is a precondition to any accommodation at all.

5.4 Public International Law as a Point of Normative Convergence

Notwithstanding the divergence in domestic institutional models, all five jurisdictions surveyed are

parties to the ICCPR, and the interpretive extension of Articles 2 and 26 to gender-identity discrimination as reflected in the Yogyakarta Principles and expressly adopted by the Indian Supreme Court in NALSA provides a shared normative baseline against which each domestic model may be measured. The comparative survey suggests that public international law functions in this domain less as a source of directly enforceable individual entitlement and more as an interpretive resource that domestic courts and administrators invoke selectively fully in NALSA and Hina Haneefa, more equivocally in Janvin Cleetus to justify or limit the scope of domestic inclusion.

6. Findings

Three findings follow from the foregoing analysis. First, India's continued reliance on Section 6's binary formulation, unamended since 1948, is a comparative outlier: even jurisdictions without a comprehensive statutory transgender-rights framework comparable to India's 2019 Act have adopted cadet-specific administrative guidance (Canada) or extended parent-service inclusive policy to cadet cohorts (Australia). Second, the Kerala High Court's own divided jurisprudence indicates that judicial innovation, however constitutionally grounded, cannot substitute for legislative or executive infrastructure-building; the recurring judicial invitation to the Union government to amend Section 6, repeated in materially identical terms in 2021, 2024, and 2025, has to date gone unanswered. Third, the comparative evidence from Canada in particular indicates that the operational objections most frequently advanced against inclusion shared accommodation and the absence of a threshold population are administratively addressable without either a dedicated third division or a numerical precondition, undermining the premise of the "matter of policy" holding in Janvin Cleetus.

7. Recommendations

7.1 Legislative Amendment of Section 6

Parliament should amend Section 6 of the National Cadet Corps Act, 1948, to extend eligibility to transgender students in terms consistent with Sections 4 and 7 of the Transgender Persons (Protection of Rights) Act, 2019, thereby resolving on a durable statutory footing the interpretive uncertainty that has produced conflicting Kerala High Court outcomes across 2021, 2024, and 2025.

7.2 Administrative Guidelines Modelled on CANCDTGEN 006/23

Pending legislative amendment, the Directorate General of NCC should promulgate cadet-specific

administrative guidance modelled on Canada's CANCDTGEN 006/23 addressing accommodation, address and pronoun protocols, and training-group assignment for transgender cadets on an individualized, case-by-case basis, expressly disclaiming any numerical threshold as a precondition to accommodation.

7.3 Harmonization with the 2019 Act's Certification Framework

Any administrative or legislative reform should clarify the relationship between the self-identification standard articulated in NALSA and the District Magistrate certification procedure under Section 7 of the 2019 Act, so as to avoid the doctrinal inconsistency evident in the differing treatment of surgically-affirmed and non-surgically-affirmed applicants in Hina Haneefa and Janvin Cleetus respectively that has thus far characterized NCC-related litigation.

8. Conclusion

The comparative survey undertaken in this paper demonstrates that India's unamended, binary statutory architecture for NCC enrollment is neither compelled by international legal obligation nor mirrored uniformly among comparable common law jurisdictions. While the United States illustrates the instability of a purely executive-policy approach, and the United Kingdom illustrates the risk of cadet-specific policy lagging behind parent-service reform, Canada's CANCDTGEN 006/23 demonstrates that a dedicated, rights-grounded cadet administrative instrument is both feasible and capable of resolving the operational objections that have, to date, stalled reform of Section 6 of the NCC Act. The recurring judicial invitation extended by the Kerala High Court to the Union government since 2021 remains, as of this writing, unanswered; the comparative evidence assembled here suggests that answer is both overdue and readily achievable. A Division Bench of the Kerala High Court has since admitted an appeal against the Janvin Cleetus judgment and issued notice to the Union government and the NCC, so the question addressed in this paper is, as of the date of this revision, sub judice at the appellate stage.³⁵

³⁵Kerala High Court Issues Notice To Centre, NCC On Appeal Against Exclusion Of Transgender Persons From National Cadet Corps, LIVELAW (Apr. 6, 2026), <https://www.livelaw.in/amp/high-court/kerala-high-court/kerala-high-court-ncc-transgender-constitutionality-529480>; Appeal in Kerala High Court Challenges Refusal to Include Transgender Candidates in National Cadet Corps, BAR & BENCH, <https://www.barandbench.com/news/appeal-in-kerala-high-court-challenges-refusal-to-include-transgender-candidates-in-national-cadet-corps>.