



THE QUEER LEGACY

*An Estate Planning Guide for
LGBTQIA+ Individuals*

This report is an independent, non-commissioned piece of work by the Vidhi Centre for Legal Policy, an independent think tank doing legal research to help make better laws.

Published in: August 2025
By the Vidhi Centre for Legal Policy,
A-232, Ratan Lal Sahdev Marg, Defence Colony,
New Delhi 110024

Designed by Malaika Colaso

© Vidhi Centre for Legal Policy.
This work is licensed under Creative Commons Attribution
Share Alike 2.5 India License.
To view a copy, visit <https://creativecommons.org/licenses/by-sa/2.5/in/deed.en>

Authors

Rakshita Goyal and **Hardik Dua** work with the Health Team at the Vidhi Centre for Legal Policy.

Suggested citation: “Rakshita Goyal and Hardik Dua, ‘The Queer Legacy: An Estate Planning Guide for LGBTQIA+ Individuals’ (Vidhi Centre for Legal Policy, 2025).”

Acknowledgements

To start with, the idea of creating such a resource to be linked to Good to Go, India's first-ever death literacy festival, was Smriti Rana's (Pallium India). The document that Pallium developed, titled "Estate Planning- Material Aspects of Advance Care Planning (with special consideration for Women)", tremendously helped us visualise what a similar document specific to queer individuals would entail. We would like to extend the deepest gratitude to Smriti, and the other authors, Muruli Murugesh, Saravanan S., and Dr. Dhanyashri Kamalakannan. We owe a special word of thanks to Shaishavi Kadakia, a partner at Cyril Amarchand Mangaldas (CAM), for her generous and thoughtful technical inputs, which helped us ensure that this document is accurate and practical.

We cannot proceed without acknowledging our partners, Godrej Seeds and Genetics Limited, and Bajaj Finserv Limited. Their continued support and encouragement on our legacy work, related to advance care planning and end-of-life care, is the reason we are independently able to produce valuable resources like these.

At Vidhi, we are really grateful to Malaika Colaso, our exceptional in-house design wizard, for getting the job (that would have ideally taken weeks together) done in whatever little time we could afford at the last stretch of its preparation. We would also like to thank Dhvani Mehta and the entire Health team for their support through this process, especially Rituparna Padhy for proofreading the document. Lastly, we cannot forget to acknowledge the contribution of Amit Chindaliya and others in the Admin team, for ensuring that the final stage of publication was efficient and smooth.

Table of Contents

• <i>Introduction</i>	1
• <i>What is Estate Planning?</i>	3
• <i>Why is it Important for Persons from the LGBTQIA+ Community?</i>	4
• <i>Possible Assets for Accounting</i>	6
• <i>Cost of Inaction</i>	7
• <i>Legal Instruments</i>	9
◦ <i>Wills</i>	9
◦ <i>Trusts</i>	18
◦ <i>Wills v Trusts</i>	22
◦ <i>Power of Attorney (PoA)</i>	23
◦ <i>Gifts</i>	26
• <i>Types of Assets</i>	28
◦ <i>Bank Accounts</i>	28
◦ <i>Life Insurance</i>	30
◦ <i>Digital Assets</i>	31
• <i>Joint Ownership and Custody</i>	34
• <i>Applicable Taxes</i>	36
• <i>Glossary</i>	39
• <i>Additional Resources</i>	41

Estate planning is a subjective and complex area. While this document may function as an explainer, it is important to still seek legal advice from a lawyer working in estate planning, especially to resolve any issues.

For example, this guide does not deal with all the nuances of estate planning for Hindu Undivided Families, different religious communities, or for specific jurisdictions like Goa and Uttarakhand. The legal positions stated here are those as per secular laws like the Indian Succession Act, 1925, unless specified otherwise.

The legal position under the particular religious personal law applicable to you may vary.

Introduction

Queer people in India, prominently addressed as the LGBTQIA+ community, often find themselves challenged at the crossroads of rights, personhood, and heteronormative family structures. The clear affiliation to a category/identity for registering against nominal benefits, following landmark judgments like NALSA¹ in 2014 and Navtej Johar² in 2018, hinders both participation in society at large, and within the community (which itself is criticised as a misnomer). To contextualise briefly, the former legally recognised self-identification in the category of “third gender”, linking it to reservations (as an affirmative action) in both educational institutions and government job opportunities³; the latter, partially striking down the lacerating Section 377 of the erstwhile Indian Penal Code (‘IPC’), decriminalised “consensual sexual conduct between adults of the same sex”⁴.

There are several decisions that become categorically difficult for people in the community in India. Sociologically, it’s “strange” for cis-heterosexual people to discover these bonds in public spaces—in hospitals, institutions of higher education, movie theatres, parks, restaurants, and everything between and beyond. Strange, not because they are uncommon now, but because the courts acknowledged the right to “be” (remain queer) a little too late. Strange also, because what followed from this socio-legal delay in this acceptance was decades (and maybe centuries) of being blocked from the more popular forms of culture; the appearances, even if they did happen, were too sporadic and/or stereotypical, and rooted in an inherent bias portrayed through mockery.

Transgender folx have particularly had to deal with a lot of stigmatisation and the related ostracisation because of our collective sustenance of the binaries. It has historically been more difficult for them to carve out individual identities over the sub-group that they are associated with—hijras, for instance, have consistently had poor levels of education, leading to hard lives with unemployment. The lack of sensitisation has also reduced the entire spectrum of transgender or non-conforming gender identities to the sub-category of “hijras” for most Indians. This has led to the double disadvantage of, on the one hand, not recognising identities like transgender men at all, and on the other, assuming “hijras” themselves as a homogeneous group, erasing the extent of structural and cultural violence that some within the group may have been more susceptible to, over the others.

1 National Legal Services Authority v Union of India (2014) 5 SCC 438.

2 Navtej Singh Johar v Union of India (2018) 10 SCC 1.

3 National Legal Services Authority v Union of India (2014) 5 SCC 438.

4 Navtej Singh Johar v Union of India (2018) 10 SCC 1.

Their socialisation and social interaction are also often assumed through the “gharanas” alone, curbing the avenues of their financial independence even further.

Financial endowment is a function of marriage: creation, distribution, and exchange of wealth. With the heteronormative marriages, it becomes easier to facilitate these flows, not only because they are socially recognised but also because they are legally recognised. The documentation, line of descent, beneficiary acknowledgement, coparcenary rights, financial management clauses, and joint asset creation are all systematically structured, in public and private services, for the monogamous partnership of a man and a woman.

What is Estate Planning?

Estate planning is the process of deciding what happens to your money, property, belongings, and other assets—both during your lifetime and after your death. It's a way of making sure your wishes are known and legally enforceable, whether you're distributing assets, planning for medical emergencies, or naming someone to manage your affairs if you're unable to.

There are different tools available to help with this:

- ▶ **A will** lets you decide who should receive your assets after you die.
- ▶ **A trust** can be used to manage and distribute your assets both during your life and after.
- ▶ **A power of attorney** allows someone you trust to make decisions for you while you're still alive, especially in case of illness.
- ▶ **Nominations and gifts** are also part of estate planning and help ensure a smoother transfer and transmission of specific assets.

Each of these tools serves a different purpose, but together, they help you take control of your future and protect the people you care about. The present guide attempts to present forms and strategies through which queer individuals can create and hold assets together in non-heteronormative relationships, and also possibly reclaim rights in the biological family. There are four primary objectives of this guide:

- ▶ **To highlight** why it may be more important for queer individuals (and some sub-groups within) to do estate planning;
- ▶ **To introduce** people to the different tools available for estate planning—such as wills, trusts, powers of attorney, nominations, and gifts—and explain how they work;
- ▶ **To suggest** practical strategies for using these tools optimally, with examples tailored to the unique realities of queer lives and relationships;
- ▶ **To insert** suggestions on how better negotiations can be led on the financial front, through strategy and appropriate information.

Why is it Important for Persons from the LGBTQIA+ Community?

LGBTQIA+ persons face unique challenges that make estate planning particularly important. Much of the wealth creation in the country, like most other things, happens through organisation into composite units—families sit at the top of this pyramid. One of the biggest challenges that consistently appears for queer individuals is finding partnerships and forming durable relationships. Alienation and estrangement from the natal family is widespread in India, due to stigma, lack of social acceptance and in many cases, violence. Some may also be forced to enter into heterosexual marriages against their wishes.

It therefore represents a far more disaggregated community than most counterparts in the West; this may have something to do with the strong aspiration for personal stability (both emotional and financial) through the means of aligning with traditional family structures, and the lack of any parallel models of collective living available here.

Many queer persons rely on “chosen families” for emotional, social, and financial support. These may include friends, partners, and units like hijra gharanas. However, Indian law does not recognise chosen families as legal heirs. In the absence of a will or other estate planning tools, the default rules of inheritance automatically benefit legally recognised relatives (spouses, parents, children, siblings), regardless of the deceased person’s lived relationships.

In the absence of a will...

In the absence of a will, a person’s estate and property are divided according to the default rules of inheritance after their death. These laws recognise and prioritise those recognised as “family” under the law: spouses, children, and family related by blood or adoption.

This places queer individuals at risk of having their assets distributed contrary to their wishes. In many cases, those they leave behind, for whom they were a source of understanding and support, may be left stranded in the absence of proper estate planning.

Things are complicated further by the fact that non-heterosexual partnerships and marriages are not recognised as legally valid in India. As a result, queer partners are not provided the same automatic next-of-kin status and rights as legally recognised spouses, such as inheritance.

By association, queer persons also face social and legal hurdles in adoption, surrogacy, and parenting. LGBTQIA+ partners cannot adopt children together. While two or more people may be raising children together as parents, only one of them can be the legal parent of the child. Custody and guardianship of the child will thus not automatically pass to the other parent(s) if the legal parent dies. On the other hand, a child will also not have inheritance rights in the property of their parent other than the legal parent.

Queer persons thus cannot rely on personal laws of inheritance or family structures. Until there is full legal parity, LGBTQIA+ persons must rely on detailed legal instruments—such as wills, trusts, and powers of attorney—to secure protections for their partners, chosen family, and children and to ensure that their intentions are respected.

NOTE

Please consult with a lawyer to determine the particular religious personal law rules applicable to you.

For instance, Muslim personal law, for both Shias and Sunnis, allows only 1/3rd of a person's assets/estate to be given away through a will. However, **lifetime bequests**, like gifts and trusts, remain an option for distribution of property during one's lifetime. Hence, if the inheritance scheme does not align with the way you would want your assets to be distributed upon your death, it may be worthwhile to think about their disposal while you are alive, to the extent feasible.



Possible Assets for Accounting

For estate planning purposes, assets can be broadly classified as:

Movable assets: Cash, bank deposits, vehicles, jewellery, art, furniture, electronic goods, and other portable possessions.

Immovable assets: Land, houses, apartments, commercial property, and other fixed real estate.

Increasingly, digital assets...

Digital assets, such as social media accounts and the content created through them, are also important to account for. These can carry monetary value, legal obligations, or contractual rights that need clear asset planning.



Cost of Inaction

There are several known forms of systemic violence against queer people, most of which causally affect their financial status and economic progress. A recent IPSOS survey estimates the Indian LGBTQIA+ population to be more than 135 million⁵, rendering the need for inclusive financial reforms for nearly 10% of the national population. To give you a better picture of how large this number is, this 2021 figure, even if we assume a flatline for the next four years, means that India holds an entire nation of Ethiopia⁶ (the world's 10th most populous country), and more, of queer people. The fact that state policies don't actively reflect on including queer people in financial planning, let alone granting the community the same rights as cis-heterosexual partnerships, is apathetic.

For most transgender persons, the lack of estate and/or its planning often flows from being disowned by their families, and the attached diminished exposure to social and cultural capital. The stigma, the marriage rights, and the skewed adoption policies exacerbate the situation where, again, accumulating or acquiring any wealth becomes difficult. Healthcare choices, which may or may not always be related to transition, do get affected directly because of that. Not only is earning wealth a concern, but holding estate has been said to be more challenging and rarer.

Regardless, it is important for the individuals in the community to actively seek ways to participate in the asset distribution of their families, and also manage whatever they are endowed with, in order to ensure stable futures for themselves, especially when the earning or decision-making capacity is lost, to protect oneself from further exploitation. One mustn't forget that economic resources, and the protective management of them, aren't just for sustenance; they are equally important for participating presently in social life (or the privilege of keeping away from it). It also matters that the transfers not be made to the estranged (members of the) family, based on the common laws on succession.

⁵Rajesh Kumar, 'India court grants hijras right to inherit property' BBC News (London, 15 July 2023) <<https://www.bbc.com/news/world-asia-india-68933715>> accessed 12 August 2025

⁶United Nations, 'World Population Prospects 2022 - Probabilistic Projections for India' <https://population.un.org/wpp/graphs?loc=231&type=Probabilistic%20Projections&category=Population&subcategory=1_Total%20Population> accessed 12 August 2025.

Wills are generally a powerful mechanism for recognising your partners and dependents (or any other loved ones) as the legal heirs of the assets that you currently own. If you wish not to allocate any of your assets to your partner(s), family, friends, or any other dependents, you can also opt for a charitable trust. They also validate the beneficiaries to avoid any conflicts that may arise between your chosen and biological family (or a third party) after you. Wills are also the only way through which you can make sure the nominees for your bank accounts and insurance policies become the beneficiaries and don't just remain safekeepers (more clarity on this offered in the specific section on wills).

Legal Instruments

01 Wills

What is a Will?

A will, also known as a testament, is a legal declaration by a person (the testator) outlining how their property should be distributed after their death.

Importance of Writing a Will

One of the most important reasons to make a will is that it makes it easier for your loved ones to access your assets after your death. If you have clearly stated in your will who should get what, they can often simply present the will to institutions like banks to show that you have authorised them to receive those assets. This can prevent long delays, legal confusion, or the need for your loved ones to go through court procedures just to access money or property.

There is no right or wrong age to write a will.

As long as you are legally an adult—that is, 18 years or older—you can make a will. It doesn't matter how much you own. If you have started earning or acquiring assets, even small ones like savings, jewellery, or digital property, it is a good time to think about how you would want those to be managed or passed on.

Requirements For a Valid Will

In India, the requirements for a valid will are:

- ▶ The testator must be an adult and of sound mind.
- ▶ The will must be in writing.
- ▶ The will must be signed by the testator.
- ▶ Two people should be witnesses and should sign the will. These people should not be beneficiaries (someone receiving assets under the will).

Keeping a Will Updated

It is important to review and update your will whenever significant life changes occur, such as:

- ▶ Entering into a new partnership
- ▶ The birth or adoption of a child
- ▶ A substantial change in your financial situation or assets

REMINDER

Even if none of these events happen, it is advisable to review your will periodically, such as every few years, to ensure it still accurately reflects your wishes.

When preparing a new will, remember to include a clear statement that revokes all previous wills, to avoid confusion or conflicts between documents.

Protecting a Will Against Being Challenged

A will can be contested in court after your death. This risk exists for everyone, but it can be especially high for queer individuals—particularly if you are estranged from your natal family or have chosen to leave assets to someone outside the legal definition of “family,” such as a non-legally recognised partner or friend.

These choices are entirely valid, but they may be viewed as “unusual” by others, leading to disputes. Taking certain precautions can help reduce the risk of legal challenges and ensure your wishes are carried out.

Common Grounds for Challenging a Will

A will may be challenged in court on the basis that:

- ▶ The person making the will (the testator) lacked mental capacity
- ▶ The will was made under fraud, coercion or undue influence
- ▶ The will was not executed properly (for example, it was not signed or witnessed according to legal requirements)
- ▶ The will was forged

A will being challenged can lead to costly and lengthy legal proceedings and delay the distribution of assets.

What You Can Do to Minimise Disputes



✓ Clearly explain your intentions

If you are making a bequest that may seem “out of the ordinary”—such as leaving property to a non-legally recognised partner or friend—consider adding a brief note in your will to explain your relationship and reasons. This is **not required legally**, but it may help prevent challenges.

✓ Include a declaration of sound mind

A will is only valid if the person making it has the legal capacity to do so. You can include a statement such as: “I confirm that I am of sound mind and am making this will voluntarily”.

✓ Obtain a doctor’s certificate

This is useful if you are of advanced age or have a medical condition, such as dementia, that might later be used to question your legal capacity. Have a doctor certify that you are of sound mind at the time of making the will.

✓ Make a video recording

You can record yourself preparing and signing the will, stating that you understand its contents and are acting voluntarily. This can help counter claims of coercion.

✓ Register the will

Although registration is **not mandatory**, doing so can add credibility and create proof that you signed it before the local Sub-Registrar in the area where you reside. This can deter claims of forgery or incapacity.

✓ Choose a reliable executor

Appoint someone you trust, who understands your wishes and can firmly carry them out, even in the face of potential opposition (more on this later).



Keep the will updated

Changes in life circumstances may affect your original wishes. Regular updates help ensure the will stays relevant and accurate.



Store your will safely

Keep it in a secure but accessible place, and let your executor or a trusted person know where it is stored. Ensure the same for any video or other notes you may have made when preparing your will.



Selection of witnesses

Make sure that your witnesses are neutral and trustworthy, so that they can give evidence in support of execution of the will if it is challenged.

Including Assets in a Will

A will can include various types of assets, such as:

▶ **Real estate**

▶ **Personal property** (jewellery, furniture, etc.).

Note: This can include property against which you are repaying loans as well. You can give instructions on how the loan should be paid off.

▶ **Bank accounts and bank lockers**

*Note: Nominees on bank accounts/bank lockers **do not** automatically become owners; they hold the money as safekeepers until the legal heirs are determined, under a will or otherwise. Naming the same person as nominee and legal heir in the will can reduce disputes and bank delays. This also applies for other assets where nomination is possible, such as flats in cooperative societies, demat accounts, PPF accounts, etc.*

▶ **Investments** (stocks, bonds, etc.)

▶ **Digital assets** (social media accounts, digital files, etc.)

▶ **Loans advanced**

PRACTICAL NOTE ON NOMINEES

It is advisable to appoint nominees for all assets where a nominee is allowed or required (such as for bank accounts) to simplify access after death.

However, relying on nominee designation alone may cause complications since the nominee does not necessarily become the legal heir in case of many assets. This means that, unless otherwise provided in your will, the nominee may be required to hand over the asset to the legal heirs, who may be people you do not wish to benefit.

To avoid disputes or delays, if you intend for the nominee to also inherit the asset, name the same person as both nominee and legal heir in your will. Also keep nominee details updated across all accounts and investments.

If no nominee is appointed, heirs may need to obtain probate or succession certificates, especially to:

- Collect debts owed to the deceased.
- Access securities or bank accounts of the deceased.

Keeping Track of Your Assets and Making Them Accessible

Even if you've written a will, it is equally important to ensure that your assets don't get lost or forgotten over time, especially financial assets. *India does not have a central asset registry.*

Why This Matters:

- ▶ Unclaimed investments like insurance, provident fund (PF), bank deposits, and postal savings are transferred to separate government-run funds if left untouched for a long time.
- ▶ For most such investments, if unclaimed for 10 years, the assets are transferred to a separate fund.
- ▶ After an additional 15 years, these funds may become inaccessible, and the government can use them for welfare purposes.

Practical Tips to Prevent Assets from Becoming Unclaimed

- ▶ Inform your nominees, legal heirs and executors: Just naming someone as a nominee or executor is not enough. They should be aware of the specific investments involved and how to access them.
- ▶ Maintain a centralised record of all your assets, with details of the asset, nominee, etc., for instance through a password-protected spreadsheet.
- ▶ Update this record regularly, and share it with at least one trusted person so that your investments are not overlooked or lost.

Importance of Choosing Executors

An executor is the person responsible for ensuring that your will is carried out according to your wishes after your death. They play a crucial role in giving legal effect to your instructions, which includes:

- ▶ Collecting your assets
- ▶ Paying off any loans or liabilities (if directed in the will)
- ▶ Distributing assets as per the will
- ▶ Carrying out additional personal wishes, such as funeral arrangements

In essence, the executor acts as the facilitator of your will.

What Happens if You Don't Appoint an Executor?

While appointing an executor is not mandatory, it greatly simplifies the legal process. If no executor is named:

- ▶ Your legal heirs may have to apply to the court for Letters of Administration (LA).
- ▶ The court then appoints an administrator, who performs the same duties as an executor.
- ▶ This process can be slower, more bureaucratic, and may even cause disputes, especially if there is a lack of trust among heirs about who should apply.

Whom Should You Choose as an Executor?

When selecting an executor, consider someone who is:

- ▶ trustworthy and responsible
- ▶ organised and capable of managing paperwork and deadlines
- ▶ comfortable handling financial matters
- ▶ willing to take on the responsibility

Your executor can be anybody, like a family member, a partner, a close friend, or a professional, such as a lawyer or accountant. It is also perfectly legal for a beneficiary (someone receiving assets under the will) to be your executor. If executors don't execute the will, they may lose the bequest in some cases. Therefore, it is also common to have a clause in wills saying that the bequest for the executor is out of love and affection and not in consideration of them acting as an executor.

For queer persons—particularly those estranged from their natal families or in non-legally recognised partnerships—naming an executor becomes even more important. Without one, the legal system defaults to your legal heirs under succession law. Critical personal decisions (like who should handle your funeral) could be made by someone you wouldn't have chosen.

Process of Probate

Probate is the legal process of proving that a will is valid and authentic. Once granted, the probate certificate confirms that the executor has legal authority to administer the estate as per the will.

When is Probate Required in India?

A probate is legally mandatory only in some cases. For Hindus (including Buddhists, Jains, and Sikhs), probate is compulsory in two situations:

- ▶ If the will was made in Mumbai, Kolkata, or Chennai (the three old Presidency towns), or
- ▶ If the deceased owned immovable property in any of these three cities.

Who Applies for Probate?

- ▶ The executor named in the will must apply to the relevant court for a grant of probate.
- ▶ The process includes:
 1. Filing the will with the probate court
 2. Making an inventory of the deceased person's assets
 3. Paying any debts or taxes
 4. Distributing the remaining assets to beneficiaries

Is Probate Needed in Other Cases?

Even when probate is not mandatory by law, it may still be required in practice. For example, if no nominee is listed for a financial asset (like a bank account), the bank may ask for probate before releasing the funds.

NOTE

It may be helpful to bear in mind that the court will send notices to heirs during probate proceedings, giving them the opportunity to challenge the will.

Court Fees and Cost of Probate

Probate involves court fees that are typically a percentage of the value of the property or estate. These fees can vary by state and are sometimes capped at a maximum limit. Additional expenses may include legal fees, documentation costs, and time spent on administrative procedures. Probate can be a lengthy and costly process, especially in high-value estates or where disputes arise.

For LGBTQIA+ individuals leaving assets to non-legally recognised partners, friends, or chosen family, probate can be both protective and risky. It validates the will, making it harder to contest, but it also makes relationships public. To reduce risks, ensure your will is precise and legally sound, appoint a trusted executor who will defend your wishes, and keep it updated.

Costs Associated With Creating a Will

The cost of making a will depends on how detailed and complex it is and whether you take professional help. A simple will is generally low-cost, but if your will includes multiple beneficiaries, specific instructions, or involves setting up trusts, the cost can increase. Expenses may also include lawyers' fees and fees for securely storing the will.

02 **Trusts**

What are Trusts?

A trust is a legal arrangement where a person (the settlor) creates a trust and places assets under the care of another person (the trustee) for the benefit of one or more persons, which could include the settlor (the beneficiary). Trusts can be created to take effect during a person's lifetime (living trust) or through a will (testamentary trust). Testamentary trusts come into effect after a person's death.

For LGBTQIA+ individuals, especially those who may not have legal recognition of their partnerships or family structures, trusts may offer an important layer of control and protection.

Benefits of Creating Trusts

- ▶ They can ensure long-term care or financial support for partners, friends, or chosen family, especially if those relationships aren't legally recognised.
- ▶ They can be useful for ensuring assets are distributed in a specific way, especially for minors, dependents, or chosen family.
- ▶ They allow flexibility. You can specify how and when beneficiaries should receive assets—immediately, in stages, or on fulfilling certain conditions (e.g., completing education, acting as a caregiver, etc.).
- ▶ Unlike wills, which can become public during probate, trusts generally remain private (unless it is a testamentary trust).
- ▶ A trust can be a helpful way to protect assets from being misused or contested by estranged family members.

Types of Trusts

BASED ON ABILITY TO CHANGE

Revocable Trusts: These trusts and their terms can be revoked by the settlor (the person who creates the trust) during their lifetime. They offer flexibility in managing and updating the trust.

Irrevocable Trusts: Once created, the assets in the trust cannot be revoked and reclaimed by the settlor without the consent of all the beneficiaries or as specified in the trust deed. These trusts offer strong asset protection.

BASED ON WHEN THEY TAKE EFFECT

Testamentary Trusts: These are created through a will and take effect after the settlor's death.

Living Trusts: These are created during the settlor's lifetime. These trusts can be revocable or irrevocable. They allow for management of assets while the settlor is alive and can help avoid probate after their death.

BASED ON THE LEVEL OF DISCRETION THE TRUSTEE HAS OVER MANAGING THE TRUST

Discretionary Trusts: The trustee may, at their discretion, decide the share of the beneficiaries from within the named beneficiaries and the quantum and time of distribution of the trust property and/or income to the beneficiaries.

Non-Discretionary Trusts: The share of the beneficiaries in the trust property and its income is pre-determined and spelt out in the trust deed.



Practical Example

Say you are a transgender person estranged from your natal family and caring for a non-biological child or elderly friend. You can set up a trust to:

- ▶ ensure they continue to receive financial support
- ▶ appoint a trustee who will handle and distribute assets responsibly
- ▶ protect these arrangements from legal challenges

How Do I Set Up a Trust?

Setting up a trust involves a few key steps:

- ▶ Decide what kind of trust suits your needs (for example, a living trust or a testamentary trust).
- ▶ Choose a trustee who will be responsible for managing the trust.
- ▶ Prepare a trust deed or agreement that outlines how the trust will operate—this includes who the beneficiaries are, what assets are involved, and how they should be used or distributed.
- ▶ Sign the trust document, ideally in the presence of witnesses or a notary, depending on legal requirements. Stamp duty is payable depending on the state and the value of property contributed.
- ▶ Register the trust deed especially if the trust is intended to hold immovable property.
- ▶ Legally transfer the intended assets into the trust.

Who is a Trustee?

A trustee can be anyone you can rely on. This could be a family member, a close friend, or a professional such as a lawyer, accountant, or a trust company. The key is to choose someone who is dependable, understands financial and legal responsibilities, and is willing to act in the best interests of your beneficiaries. A trustee is responsible for overseeing the trust and making sure it is run according to your instructions.

Their duties include:

- ▶ Managing and making decisions about the trust's assets
- ▶ Distributing assets to the beneficiaries based on what the trust document says
- ▶ Keeping proper records and regularly updating beneficiaries
- ▶ Handling any tax-related matters for the trust
- ▶ Acting fairly, honestly, and always in the best interest of the beneficiaries

If the trustee is an individual, then also name a successor trustee in case of death or incapacity of the trustee.

Things to Keep in Mind

- ▶ Trusts are more expensive to set up and administer than wills but can save legal costs and conflicts later.
- ▶ For people whose chosen family members may not have legal status, a trust is a strong tool to uphold autonomy and support systems after death.

NOTE

A crucial element here is income tax. Under section 56(2)(x) of the Income Tax Act, 1961, only those trusts which are for the benefit of 'relatives' are exempt from paying tax on contribution of assets to the trust. This does not apply when shares are moved to a trust under a will.

FEATURE	WILL	TRUST
When It Takes Effect	After the testator's death	Can take effect during lifetime (living trust) or after death (testamentary trust)
Legal Process Required	May require probate (court process)	Can avoid probate if assets are transferred properly
Privacy	Becomes public during probate	Remains private unless contested
Control Over Distribution	One-time distribution after death	Allows for phased, conditional, or long-term distribution
Suitable For	Simple estate plans	Complex arrangements, dependents, or asset protection
Flexibility	Easy to change before death	Revocable trusts offer flexibility; irrevocable trusts less so
Costs	Lower upfront cost	Higher setup and legal costs
Tax Planning	There is no income tax on assets inherited under a will (inheritance tax), including through a testamentary trust	Offers some opportunities for tax efficiency and protection, though moving assets into a trust may lead to income tax implications, as explained above
Relevance for LGBTQIA+ Persons	Ensures assets go to chosen family or partners; must be carefully written to avoid default inheritance rules	Offers stronger protection for chosen family and dependents; useful for non-traditional arrangements or long-term care

03 Power of Attorney (PoA)

In case of being absent (in the country at a specific time) or incapacitated (due to an injury or life-limiting condition), the instrument of “power of attorney” (PoA) essentially helps you in choosing an agent for taking financial, legal, and medical decisions on your behalf. In India, you cannot make a PoA for situation where you may have mental incapacity. There are several types of PoAs that can be constructed based on the specific needs of the “principal” (initiator of the document), which are listed below⁷:

- ▶ **General Power of Attorney:** Grants broad powers to the agent to act on behalf of the principal.
- ▶ **Limited (or Special) Power of Attorney:** Grants specific powers for a limited time or purpose.
- ▶ **Healthcare Power of Attorney:** Grants the agent authority to make medical decisions on behalf of the principal.
- ▶ **Financial Power of Attorney:** Grants the agent authority to manage financial affairs.

The individual given charge of the said functions through a PoA by a principal is called an agent or attorney-in-fact. These instruments are particularly powerful because they aren’t brought into force only in the event of death, like wills and most trusts, and they can be especially beneficial when the principal is not in a position to make decisions primarily due to health concerns.

How Can Queer Persons Benefit From a PoA?

Adoption and custody: While joint adoption of a child is not legally valid for queer partnerships in India, the rights of medical and financial management for the child under the legal parentage of one of the partners can be granted to the other using different powers of attorney. This is particularly helpful because the courts may consider transferring the full custody of the child to the adopting parent’s family in case of their death, which might not be ideal for most queer persons estranged from their natal homes (in some

⁷ Text borrowed directly from a parallel document on estate planning by Pallium India, titled “Estate Planning- Material aspects of Advance Care Planning. With special consideration for Women.”

cases, the families may even refuse to take the custody, which will probably lead to a child spending the rest of their life in a care home). In some way, this can be assumed as an alternative to (limited) custody available to cis-heterosexual couples. There are, again, not really any illustrations of how this would operate under specific cases in India, and how the courts would treat it in dispute, but this is worth recognising/exploring as a viable option in case one of the partners (the legal parent) isn't available for co-parenting for a long period of time.

Legal and financial representation: To act on matters primarily related to property, taxation, and disputes, a partner can nominate the other to represent their interests. This is particularly beneficial when one of the partners may not be living in India, or frequently travels abroad, and may require someone to sign off documents or be present in the court (or any other public offices) on their behalf.

Healthcare decision-making: One of the most emotionally and financially testing times for an individual is their period of illness. To avoid the stress and the risk of losing capacity that can occur during the progression of any terminal or life-limiting condition, they might want to transfer the decision-making rights to a person they trust (in queer relationships, probably, their partners), not just with their health, but also in the financial choices attached to it. To ensure that you always have a backup option, you can institute a “springing” power of attorney, whose role will become active only when you lose decision-making capacity.

This is of primary significance in end-of-life care, where pain mitigation and the right to refuse treatment (based on cost and physiological implications) can be crucial for the patient. Since, in practice, the medical fraternity will (by default) rely on the consent of the biological family in such situations, the absence of transferring decision-making rights to your significant other(s) through a healthcare power of attorney, or what is now legally recognised as an “advance medical directive” (AMD)⁸, can lead to a clear violation of dignity for the dying individual.

⁸ You can access more information on AMDs here: Vidhi Centre for Legal Policy, End of Life Care Toolkit <<https://vidhilegalpolicy.in/eolctoolkit/>> accessed 12 August 2025.

Other features

- ▶ If there is a role beyond healthcare that may require functioning while you are unavailable or wish for someone to act on your behalf, as well as after you are incapacitated, you can opt for a “durable power of attorney”.
- ▶ PoAs are retractable by the principal and can be edited, as long as they are recognised to be of sound mind.
- ▶ PoAs can be challenged in court if the families, or anyone else, believe that the agent may be performing the role in a different way than what was originally prescribed by the principal.

04 Gifts

What Counts as a Gift?

According to the Transfer of Property Act, 1882, “gifts” are specific transfers of “certain existing movable and immovable property made voluntarily and without consideration” from a “donor” to a “donee”⁹. The transfer must happen within the lifetime of the donor, and the donee must also accept it within the same time frame.

Are Gifts Liable to Taxes?

The limit of what can be considered a gift every year may change with the tax brackets, and currently, the entire value of untaxed gifts cannot exceed Rs. 50,000. Beyond the said limit, the monetary benefits or (movable or immovable) property received in the accounts of the transferee shall be liable under “income from other sources” of the Income Tax Act. The specific tax amount will be consistent with the tax brackets of the existing financial year, valuing the non-cash transfer at the price in that year. Movable gifts essentially require no document/receipt, or contract; so, it’s probably the most convenient form of transfer, the significance of which is only through the attached taxes. Immovable property as gifts, though, entail both stamp and registration fees.

What is the Relevance of Gifts to the Queer Community?

It’s the exemption of taxes that primarily excludes queer individuals in the viability of this instrument in India: gifts between relatives and/or those received at the event of marriage are not liable to taxes. Since queer partners cannot be considered relatives and/or their unions cannot be legally registered, any gifts that they receive, let’s say in the form of property, will have the additional element of a gift tax, over and above the property tax.

One recent case with the Bombay High Court that is contesting this bias is now in the national headlines, too¹⁰.

⁹ The Transfer of Property Act, 1882
<<https://www.indiacode.nic.in/bitstream/123456789/2338/1/A1882-04.pdf>> accessed 18 August 2025.

¹⁰ S Ghosh and M Vyas, ‘Gift tax bias against same-sex couples lands in High Court’ The Economic Times (15 August 2025) <[Ghosh, S., & Vyas, M. \(2025, August 15\). Gift tax bias against same-sex couples lands in High Court. The Economic Times. https://economictimes.indiatimes.com/news/india/same-sex-couple-moves-court-against-income-tax-act/articleshow/123309639.cms?from=mdr](https://economictimes.indiatimes.com/news/india/same-sex-couple-moves-court-against-income-tax-act/articleshow/123309639.cms?from=mdr)> accessed 20 August 2025.

What is of relief here, though, is that anything received under a will, or in “contemplation of the death of the donor”¹¹, even from a stranger, will perhaps remain immune to a gift tax under Section 191 of the Indian Succession Act, 1925. By this principle, transfers greater than the taxable limit received at the event of the death of one of the partners can be processed through the category of “gifts”. A person who is seriously ill and believes they are near death can give possession of movable property to someone else as a gift “in contemplation of death”, with the condition that the gift will take effect only if the donor dies from that illness.

How can you use this instrument to your benefit as a queer person?

- ▶ For partners, or any other friend or family, any property—whether movable or immovable—can be transferred as a gift upon the death of one partner, either through a legally stamped “anticipation of death” declaration (gift deed) or through a valid will.
- ▶ In case of families, it is important to ensure, as a queer person, that the assets you benefit through that line are stated in the will, or are assumed as gifts in case any taxation disputes arise in the event of being disowned by the family.

¹¹ 'How Are Gifts Taxed in India?' <<https://cleartax.in/s/how-are-gifts-taxed>> accessed 12 August 2025.

Types of Assets



01 **Bank Accounts**

What would it include?

Savings and salary account balances, deposits (fixed, term, recurring, tax-saving, etc.), and market-linked instruments (stocks, bonds, mutual funds, etc.), gold monetisation, and any other financial services linked to the bank.

What do you ensure?

▶ Allocating more (if not the entire) monetary value for the partners and significant others, so that the law doesn't credit your wealth to the estranged (members of the) family.

▶ Making clear, exhaustive instructions in the will on each asset, even its components, if you anticipate a complication.

▶ Writing down the details of your cards, (account) passwords/keys, and drawing out clear instructions of maturity, withdrawal, deductions, estimated taxes, interest, etc., for the several deposits, financial instruments, and vaults. You can call this a "finance sheet". Share this with at least two people close to you, and inform them about the other person (you are sharing this sheet with), as well.

▶ Whenever you share sensitive information like this with somebody, do it electronically as well, perhaps through a password-protected document that only they will be able to access. This will ensure that, especially in unfortunate circumstances of your death, there is a record of this conversation.

▶ Aligning nominations to beneficiaries, so that they don't remain safekeepers alone.

You can also use this “finance sheet” principle with the social media accounts. This document can, of course, be shared with another set of people you trust with this set of information.

Who is a nominee?

Nomination: The savings accounts and all other bank-related instruments, including deposits and other investments, require you to ascertain nominations when you initiate these services. These nominations can typically be changed any time before the maturity date.

Nominees are not automatically beneficiaries of the money in the account, unless they are legal heirs or listed as the beneficiary in the will.

How can I secure the money in my accounts?

The role of a nominee is more like a safekeeper, and they hold the money till the legal heir is decided, or the heir is a minor.

▶ The money can technically be withdrawn by them, after submitting the claims, but only to be distributed to legal heirs.

▶ Declare the beneficiaries, outlining their specific share in a specific account, along with the nominees, clearly in the will. If you wish for the nominee to receive the benefit, or create a condition around it (for instance, the absence/death of a beneficiary at a given time or place), state that as well. This helps avoid confusion and chaos after your death.

▶ Regardless of whether the money goes to the nominees after your death or not, make sure that your nominations are made for people you trust, or else it may lead to disputes after your death.

▶ As a queer depositor, if the nominee of your account is not somebody from the family (as the beneficiary of the account) would know, please provide this information in the finance sheet (mentioned above), maybe with reference to why they may have been selected as the nominee.

▶ To ensure a relatively hassle-free handling of bank accounts for those left behind, please keep a single folder of all the bank documents (of multiple accounts) in a specified place, the location of which can be mentioned again on the finance sheet, with a list of contents (so that anything that is missing can be tracked). This folder can have cheque books, passbooks, any cards that you don't use regularly, mortgage/loan sheets, and any other important documents/communication from the bank.

▶ In the finance sheet again, the most efficient way to prepare which may be by using a spreadsheet, one can add details of out-payments as well, like the amount deducted each month for any recurring deposits, or an SIP, or the loan payments.



02 **Life Insurance**

LGBTQIA+ persons often face significant hurdles in accessing financial services, particularly because the law does not recognise chosen families or queer partners in the same way as legal spouses or biological relatives. This lack of recognition can make it challenging to name a partner, friend, or non-biological child as a beneficiary in insurance policies.

For life insurance, a policyholder can nominate any person. The question that has often arisen is: does the nominee become the eventual owner/beneficiary of the money or do they just become the custodian till the proceeds are given to the legal heirs (just like with bank accounts). Before 2015, courts were consistently of the opinion that a nomination does not give the nominee absolute ownership of the proceeds, and they are merely safekeepers¹².

¹² Sarbati Devi v. Usha Devi, (1984) 1 SCC 424

The Insurance (Amendment) Act, 2015 introduced the concept of a beneficial nominee under section 39(7). It seemed to indicate that if the nominee is the insured person's parent, spouse, or child, they are considered the beneficial owner of the proceeds. However, this excludes non-heterosexual partners and any child jointly adopted with such a partner.

Different High Courts have taken two divergent views regarding the provision on beneficial nominees:

- ▶ One view is that a beneficial nominee is still only a trustee, like nominees in other cases¹³.
- ▶ A beneficial nominee becomes the actual owner of the proceeds¹⁴.

This has resulted in confusion regarding the position of certain categories of nominees vis-a-vis other legal heirs.

What You Can Do

It becomes important to ensure that life insurance proceeds go smoothly to the person you want them to go to, especially if that person is not a legally recognised heir under succession schemes. If you nominate someone in your insurance policy, also name them in your will as the beneficiary of that policy. This strengthens their legal claim and reduces the risk of disputes from legal heirs.



03 Digital Assets

Digital assets are those that a person owns and manages through electronic means. These can include a broad array of digital items, such as:

¹³ *Kusum v Anand Kumar*, 30 April, 2025.

¹⁴ *Shweta Singh Huria & Ors v Santosh Huria & Ors*. (2021) 5 TMI 1075.

- Documents, photos, and videos stored on cloud platforms (like Google Drive or Dropbox) or personal devices
- Online banking details
- Email accounts
- Social media profiles
- E-commerce accounts
- Digital currencies (such as Bitcoin or Ethereum)
- Intellectual property, including domain names, software licenses, trademarks, and copyrighted material (like e-books, digital libraries, music, artwork)
- Blogs or websites that generate income
- Patented digital creations (for instance, software applications)

For LGBTQIA+ persons, these can represent not only sentimental or financial value, but also critical parts of self-expression and community identity.

Unlike traditional assets, digital assets may become inaccessible after death unless you proactively plan. Lack of access means loss of invaluable memories, intellectual property, ongoing digital income, or vital communication channels.

Legal Position

Currently, India does not have specific legislation governing digital estate planning or the inheritance of digital assets (such as emails, social media, cloud storage, cryptocurrencies, blogs, or domain names). Succession laws, like the Indian Succession Act, 1925, cover physical, movable, and immovable property, but lack explicit provisions for digital assets. Digital assets are generally treated as movable property, but service providers' terms of service (TOS) often prevent automatic transfer to heirs, requiring court orders or explicit instructions from the owner.

Owners can include digital assets in wills, giving executors and beneficiaries management rights over these assets. However, actual access may depend on provider policies and proper documentation. Some platforms (Facebook, Google) allow users to appoint legacy contacts or set posthumous management preferences, but there is no uniform mandate. In the absence of clear law, service providers may lock accounts after death or restrict access unless prevented by a will or explicit digital succession plan.

How You Can Plan For This

- ✓ Create a list of all your digital assets, including usernames and where possible, access instructions. This can include whom you want to give access to which digital assets, and in what manner.

- ✓ Access instructions are important, since many platforms have strict privacy policies and will not release control without explicit authorisation.

- ✓ You could specify a “legacy contact” to manage your account after your death for platforms like Facebook, that allow you to do so.

- ✓ It may be a good idea to include clear instructions on who should access, manage, memorialise, or delete accounts in your will. You could also specify content you want preserved or removed. Since Indian law doesn't specifically recognise digital asset bequests, clear written wishes could help guide executors and beneficiaries.

- ✓ It would be ideal to use a password manager or leave a sealed letter with your executor/trusted person for the purpose of specifying passwords and other details relating to your digital assets. Since a will may become a public document after probate, including passwords and other sensitive information in it may be risky.

- ✓ If privacy or anonymity is vital, you could leave instructions on accounts to be deleted or anonymised.

More information on how you can manage the joint ownership of digital assets is available in the next section.

Joint Ownership and Custody

The ownership of financial assets can also be between partners, some of which are allowed for queer couples and not others. To explain the implications and nature of objects that can be jointly held, here is a list of things that commonly become a part of this discourse:



Bank Accounts

Like any two or more individuals, in a heterosexual relationship or family, queer individuals can open joint bank accounts and also nominate the other(s). This was clarified officially in a statement by the Department of Financial Services¹⁵ last year, following the 2023 *Supriyo @ Supriya Chakraborty & Anr. v. Union of India* judgment by the Supreme Court. If we go by the face value of this clarification, it means that this may extend to non-monogamous queer partnerships, as well.



Land/Property

Since there is no recognition of queer marriages/partnerships, they unfortunately cannot own a house/land jointly as a couple. This has significant implications on housing finance (loan conditions and subsidies), and inheritance. Joint ownership of property by any two individuals as “co-owners” is legally valid, though. It will have to be secured for the partner(s) by a will; if it's intestate, then the ownership of the deceased partner will be transferred through the general principles of succession. If the land/property is owned by one of the partners, though, the will can ensure that the ownership is passed onto their significant other after their death. This may fall into the category of a gift, though, and shall levy an additional gift tax.

¹⁵ Government of India, Ministry of Finance, Department of Financial Services, ‘Advisory Regarding Joint Bank Accounts and Nomination Rights for Persons of the Queer Community following Supreme Court Judgment dated 17 October 2023’ (28 August 2024) <<https://transgender.dosje.gov.in/docs/AdvisorybyDepartmentofFinacialServices.pdf>> accessed 12 August 2025.



Adoption and guardianship

Adoption for queer couples is not legal in India yet. This is why the guardianship of an adopted child may automatically be passed on to the legal parent's surviving family, even if the couple was co-parenting. There is also a barrier for male-presenting individuals/men to adopt girl children, and the already complicated processes of Indian adoption commonly disfavours single parents, too.

Some steps you could take keeping this in mind:

Clearly specify your wishes regarding guardianship and care of the child. If one partner is the legal parent, name the other partner or trusted family or friends as guardians or caretakers in your will in case the legal parent passes away. This helps assert roles beyond strict legal defaults.

Establish a Testamentary Trust: Create a trust through your will to manage and protect the child's financial interests and inheritance. This trust can provide for the child's upbringing and education, and appoint trustees who understand the unique family structure and are committed to the child's welfare.

Use Powers of Attorney: Prepare legal instruments allowing each parent to make medical and financial decisions on behalf of the child and each other while alive, to ensure smooth management of affairs in emergencies.



Digital media accounts

Any digital media content or account previously managed by the couple/partnership, in which one of the partners dies, will automatically fall into the ownership of the other. Since there is no legal registration for social media accounts in India, this is not really an obstacle for queer rights. Having said that, since there is no legal accountability or recognition of the content, or accounts, the other partner(s) running the account without any disagreement from the deceased partner's family (or claim on their income) is also not protected in any way under the law. With the digital era still picking up pace in India, we are yet to see how the courts will deal with this specific issue as and when it comes up. It is advisable that if the account is being run by partners, and is monetised (generates income), a joint bank account be run for it, like any other business. As stated above, you can also include digital assets in wills to a limited extent.

Applicable Taxes

Inheritance Tax

Inheritance tax (also called estate duty) was abolished in India in 1986. This means beneficiaries do not pay tax on assets—movable or immovable—inherited from a deceased individual.

Capital Gains Tax

When assets are transferred through inheritance (whether through wills or otherwise), they are generally exempt from capital gains tax (CGT) at the time of transfer. However, the tax implications arise when the inherited asset is eventually sold by the heir. At that point, CGT is levied based on whether the asset qualifies as a short-term or long-term capital asset, which in turn depends on the nature of the asset and the holding period.

Crucially, for inherited assets, the period of holding includes the duration for which the asset was held by the previous owner, which often qualifies it as a long-term capital asset. This can make a significant difference in the tax rate applicable, as long-term gains are typically taxed at a lower rate compared to short-term gains and may also benefit from indexation benefits.

Wealth Tax

The Wealth Tax Act, 1957, previously imposed an annual tax on an individual's net wealth, including assets such as real estate, jewellery, and certain financial holdings. However, this tax was abolished in 2015 to simplify compliance and promote a more investment-friendly environment. Individuals can now hold and pass on high-value estates without the burden of an annual wealth tax liability, allowing for greater flexibility in the accumulation and distribution of assets.

Gift Tax

As explained above, currently, gifts up to INR 50,000 in each financial year are exempted from income tax. However, gifts between relatives and/or those received at the event of marriage are not liable to taxes.

Estate Planning Implications

Understanding how different taxes work can make a big difference in how you plan your estate. Whether you are leaving assets to a partner, your family or anybody else, tax planning helps make sure your wealth is protected and passed on smoothly.

Proper estate planning can help you look at ways to:

- Optimising the amount of capital gains tax your heirs may have to pay when they sell something they've inherited.
- Make smart use of trusts and of gift tax exemptions, especially when giving to people outside your legally recognised family. For instance, keep in mind that gifts above INR 50,000 in each financial year, received from non-family members, are taxable as income.
- Plan ahead for other taxes that might apply, depending on how assets are transferred.

It is also important to think about local taxes like stamp duty and property tax, which can affect the cost of transferring residential or commercial property to your loved ones. Property tax is a recurring local tax that is collected by municipalities regularly. Stamp duty, charged during property transfers (sale, gift, or inheritance), varies by state and can affect how much heirs receive or owe.

Some things to keep in mind

- The payout from a life insurance policy (called a death benefit) is usually tax-free under section 10(10D) of the Income Tax Act, 1961 (if certain basic conditions are met)¹⁶. Premiums you pay for the policy may also be eligible for deductions under Section 80C. This makes life insurance both a protective tool and a tax-efficient one.

¹⁶ Section 10, The Income Tax Act, 1961 (Act No. 43 of 1961)
<https://incometaxindia.gov.in/_layouts/15/dit/pages/viewer.aspx?grp=act&cname=cmsid&cval=102120000000037018&searchfilter=&k=&isdlg=1> accessed 12 August 2025.

- Retirement plans like the Public Provident Fund (PPF), National Pension System (NPS), and other pension schemes play an important dual role in estate planning. First, they help build a stable source of income for your retirement years, giving you greater financial independence in the long term. Second, they offer significant tax advantages. Contributions to many of these plans are eligible for deductions under Section 80C¹⁷ of the Income Tax Act, which can lower your taxable income, while the funds themselves typically grow tax-free until withdrawal.
- From an estate planning perspective, these retirement savings can also be passed on to a nominated beneficiary, such as a partner, friend, or chosen family member. This is especially useful for queer individuals whose relationships may not be recognised under traditional inheritance laws. In many cases, these funds can be transferred more smoothly and with fewer legal or tax complications than other types of assets.

¹⁷ Section 80C, The Income Tax Act, 1961 (Act No. 43 of 1961)
<https://incometaxindia.gov.in/_layouts/15/dit/pages/viewer.aspx?grp=act&cname=cmsid&cval=102120000000037018&searchfilter=&k=&isdlg=1> accessed 12 August 2025.

Glossary

Biological Sex	Categorisation of persons based on their genitalia (or genetic composition). Currently, India recognizes “male”, “female”, and “third gender”.
Executor	In the context of a Will, the individual nominated by the testator in the Will to administer the terms of the Will and apply for probate, where required.
Gender identity	This term can be understood as the complex, an individual identifies most closely with, of biological sex, the socio-cultural relevance of it, and (most importantly) their own perception of themselves within the existing structure.
Intestate	An adjective used to indicate the absence of a will.
Nominee	Commonly used in insurance and bank accounts, this individual is named/authorized by the deceased person to collect the assets/money from the relevant institution upon death of the holder. Nominees are used for a whole host of assets. Demat accounts, MFs, EPF/PPF, flats in housing societies.
Non-binary	This is an adjective used to indicate that an individual doesn't wish to be associated with either male or female categories of gender identity.
Probate	The court process for validating the will.
Pronouns	They are typically used to signify the “preferred” forms of gender identity. They are mapped not to the standard distinction of “male” and “female”, but rather to the “masculine”, “feminine” or “non-binary” expressions.

Queer	The umbrella term more recently being used to represent (membership to) the entire LGBTQIA+ community, but had a primary association with non-binary (or gender non-conforming) individuals alone.
Sexual orientation	A category that signifies individual choices for physical, emotional, and romantic attraction
Testator	In the context of a will, the individual who writes the will.
Transgender	This is an umbrella term used to cover the spectrum of all individuals whose sex identity is different from both strict male and female categorisations (often sub-grouped as “intersex”), or anyone else who does not identify with the sex and gender identity assigned to them at birth. By virtue of that, this will include all the individuals who have “transitioned” (through surgical procedures, non-surgical ones, or just social displays), and also those who haven’t (individuals figuring out their selfhoods and outward expression). This group has commonly had to deal with the struggles of body dysmorphia and gender dysphoria.

Additional Resources

First sight of a rainbow?

If this is the first time you are stumbling upon the idea of queerness and the LGBTQIA+ community, and you wish to start learning the basics (including the correct usage of terms), here's an interactive website by Disney:

Words of Pride (Disney Star, 2023)

<www.wordsofpride.disneystar.com/en>

Looking for a man in finance?

Here is a general guide on estate planning in India, which may not have blue eyes, but does the job:

A Comprehensive Guide To Estate Planning (GetYellow, 22 January 2025)

<www.getyellow.in/resources/a-comprehensive-guide-to-estate-planning>

Our own hurt us the most?

Sometimes, the hardest battles aren't outside but within our own families. This report looks at how queer and trans persons in India often face violence at home, especially in the context of marriage equality: People's Union for Civil Liberties and National Network of LBI Women and Trans Persons, Apnon ka Bahut Lagta Hai (Our Own Hurt Us the Most):

Centering Familial Violence in the Lives of Queer and Trans Persons in the Marriage Equality Debates (April 2023) <pucl.org/wp-content/uploads/2023/05/Combined_all_2_compressed.pdf>

Thinking about who gets what?

This webinar on succession planning in India walks you through wills, trusts, family settlements, and more—with real case studies to make sense of it all:

Taxmann, Succession Planning in India (YouTube, 15 July 2023)

<https://www.youtube.com/watch?v=6rh905Gaa1w>>

Got questions about capital gains?

Dive into these handy FAQs by the Income Tax Department of India for quick, jargon-free answers on capital gains:

FAQs on Capital Gains (Income Tax Department)

<https://incometaxindia.gov.in/Pages/faqs.aspx?k=FAQs+on+Capital+Gains>>.

Lost in deductions?

Check out the Income Tax Department's Tax Tools, a set of easy calculators and tools that help you figure out everything from old vs new tax regime comparisons to exemptions available under the Income Tax Act:

Tax Tools (Income Tax Department)

<https://incometaxindia.gov.in/pages/tps/tax-tools.aspx>>.



www.vidhilegalpolicy.in
Vidhi Centre for Legal Policy
A-232, Defence Colony
New Delhi – 110024
011-43102767/43831699