
EVOLUTION OF RIGHTS OF TRANSGENDERS WITH REFERENCE TO THE TRANSGENDER PERSONS (PROTECTION OF RIGHTS) ACT, 2019

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ABSTRACT

Transgender persons have played a significant role since the ancient period. However, with British rule in India, their situation started changing. They were treated as marginalized groups, as is evident today. The community has now emerged as the most significant force fighting for their rights. This paper looks into the evolution of transgender legislation in India after the verdict of the Supreme Court in 2014. It then argues how the Act of 2019, being the first legislation for the protection of rights of the community, is not beneficial to the community and lastly provides suggestions that are crucial for the community.

The expression "transgender" is an umbrella term for persons whose gender identity, presentation, and orientation are incompatible with their biological sex. In simple words, any individual whose appearance, behavioural pattern and personal characteristics do not conform to the popular stereotypical notion of how men and women are supposed to be in a society. They have existed for time immemorial in many parts of the world and have been part of an Indian Culture. The Vedas and Epics mention the third sex and the foundational work of Hindu Law; *Manu Smriti* (200) describes the biological ancestries of the three sexes. It elucidates, "A male child is produced by a greater quantity of male seed, a female child by the prevalence of the female; if both are equal, a third-sex child or boy and girl twins are produced; if either are weak or deficient in quantity, a failure of conception results."

HISTORY: ANCIENT PERIOD

According to Hindu mythology, Iravan (Aravan) was destined to marry Mohini before his death. He had to sacrifice himself to Goddess Kali to ensure Pandava's victory in the Kurukshetra war. To fulfil, Krishna transformed into Mohini, married Iravan, and spent the night with him because no other woman dared to become a widow overnight. After the sacrifice, Mohini mourned Iravan's death by Hindu tradition. She then transformed to her original form, Krishna.

This transformation is widely celebrated by the transgender community¹ every year at Koovagam, a small shrine dedicated to Iravan. The transgender persons gather here and consider themselves as self-proclaimed brides of Iravan. They claim to be reincarnations of Krishna, who, like the transgender people, was locked within a woman's body when he charmed Iravan.

Arjuna also took on a transgender form.² Legend has it that he met Urvashi, a lovely fairy eager to marry him while he was in exile. But, he refused, and the annoying fairy cursed him to become a transgender person. When Arjuna was surprised about the looming curse, Lord Vishnu appeared and persuaded him that a transgender makeover would provide a better disguise for his exile away from his kingdom. Arjuna then complied, changing his name to Brihannala, spending a year in a distant domain, and eventually regained manhood.

¹ Hildebeitel, A, Dying before the Mahabharata war: Martial and transsexual bodybuilding for Aravan, Vol.54 No.2, JAS, 447, (1995)

² Dutt, R. C., The Ramayana and Mahabharata, Santa Cruz: Evinity Publishing Inc. (2009)

Similarly, one of Lord Shiva's manifestations was Ardhanari, who was half man and half woman split down the middle and represents Shiva's masculinity combined with Parvati's femineity. Statues of this manifestation can be seen in many Hindu temples even today.

Another popular deity worshipped in south India, Lord Ayyappa, is the result of a homosexual union between two gods, Shiva and Vishnu.

MEDIEVAL PERIOD

Furthermore, during the Mughal era, transgender people served as royal guards in the courtyard. They are said to have been in close association with the emperors. Transgender persons were regarded as honest, clever, loyal, and treated with the general population.

MODERN PERIOD

PRE-INDEPENDENCE

The situation of transgender persons started changing with the advent of British rule in India. In the latter half of the 19th C, the British government enacted laws to eradicate and criminalise hijra communities. Thus, the community was seen in a disgraceful position in this period.

The British government enacted Indian Penal Code, 1860, under which Sec. 377³ criminalized all penile-non-vaginal sexual acts between persons, including anal sex and oral sex. In other words, it criminalised homosexual acts between two consenting adults. At the time of enactment of this particular Act, the transgender community was involved in such activities. Thus, homosexuality was made a crime, and transgender persons were included in the list of criminals. The provision of Sec 377 was vague, but with the judicial pronouncements, different categories of persons were included under the list of criminals. This became a model law, and its influence extended beyond the walls of Asia. However, it was repealed on September 6 2018⁴, by the Supreme Court as it was in dire violation of Articles 14,19 and 21 of the Constitution of India.

Further, the British enacted another discriminative Criminal Tribes Act in India in 1871. This law regarded the transgender community as innately criminal following their forefather's

³ Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with 1 [imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

⁴ Navtej Singh Johar v. Union of India, AIR 2018 SC 4321

footsteps and treated them as a different caste or tribe. However, it was repealed in August 1949.

However, even after the repeal of this Act, the community continued to face stigmatisation and harassment. The legacy of the Criminal Tribes Act continued, and many post-independence laws reflected biases against certain tribes, including Hijras. The Habitual Offenders Act made no mention of "eunuchs." Nevertheless, since the law mentioned "habitual offenders" with prior criminal records, it applied to "eunuchs." By the speed with which the Criminal Tribes Act was repealed and replaced by the Habitual Offenders Act, 1952, it was presumed that the same class of "hardened criminals" who had previously been criminalised under the 1871 Act were also the target group of the 1952 Act.

In 1956, India passed the Immoral Traffic (Prevention) Act, which was subsequently used to harass people of different genders, including Hijras. The Act's banning of sex work-related activities, even though sex work itself was not unlawful, criminalised a significant source of income for the community. Begging, another source of money for such people was outlawed in numerous states in 1959, starting with the Bombay Prevention of Begging Act in 1959. Begging was defined as 'soliciting or receiving alms in a public place, whether or not under the pretence of singing, dancing, fortune-telling, performing, or presenting any object for sale' under the Act⁵. The penalty varied from three to ten years in prison. Until recently, several such laws were in force.

Further, Karnataka revised its Police Act in 2011 to "control undesirable activities of eunuchs," a provision identical to that found in the Criminal Tribes Act.⁶

MODERN PERIOD

However, today the transgender community is widely recognised as the third gender. They have emerged as the most potent community fighting for their fundamental rights. Further, it also cannot be denied that the Govt. has come up with various schemes for transgender persons. They include censuses, documentation, citizenship I.D. cards, passports, social-economic development, and constitutional safeguards for transgender people. During the 11th Five Year Plan, MGNREGA was a great initiative taken by the government as it provided transgender people with job opportunities. The Twelfth Five Year Plan (2012-2017) proposed empowering

⁵ Bombay Prevention of Begging Act, 1959, Sec.2 (1) (a), No.10, Acts of Bombay State Legislature, 1960

⁶ Karnataka Police Act, 1963, Sec.36A., No.4, Acts of Karnataka State Legislature, 1964

the Third Gender through education, housing, access to healthcare, employment, skill development, and financial aid.

Until 2011, the Indian national census had not recognised the transgender population, but in 2011 they were recognised as the 'third gender' and information on their literacy, employment and caste were collected. As per the 2011 census, the total population of transgender persons was 4.88 lakh, with Uttar Pradesh having the highest number. In India, there are numerous transgender communities. The most notable of these communities are known as Kothi (Represent themselves as male), Hijras (Biological men but reject masculine identity), Aravanis (Woman wrapped in a male body), Jogappa (Serve as a servant of Goddess Renuka Devi), and Shiv-Shaktis (Represent themselves as male) (Males but have feminine gender expressions)⁷

If we trace the journey of transgender law in India, we find its origin in the judgement of the National Legal Services Authority v. Union of India. While acknowledging transgender people's right to self-perceived gender identity, the Supreme Court held that the right to self-identification is an integral part of the right to live with dignity under Article 21 of the Indian Constitution and a fundamental right to self-expression under Article 19(1)(a). Hence, the Court directed union and state governments to provide legal recognition to the same and proactively respond to the issues of discrimination faced by this community. The decision also called for affirmative action in education and primary health care and the identification of community members as beneficiaries of social welfare programmes. In pursuance of the same, the Transgender Person's Act (Protection of Rights), 2019, was enacted.

The first attempt to frame legislation for the rights of Transgender was made in December 2014 by a Dravida Munnetra Kazhagam (DMK) Rajya Sabha MP, Tiruchi Siva. The Rights of Transgender Persons Bill, 2014, was introduced in the Rajya Sabha as a Private Member's Bill. The Upper House unanimously approved it. But unfortunately, it was never debated in the Lok Sabha. The 2014 Bill had many progressive clauses, including establishing institutions like the National and State commissions for transgender people and courts for transgender rights. The Bill addressed several issues such as transgender social inclusion, rights and entitlements, financial and legal aid, education and skill development, and avoiding abuse, violence, and exploitation of transgender people. It also proposed a scheme of horizontal reservation for

⁷ Dr Khushboo R. Hotchandani, PROBLEMS OF TRANSGENDER IN INDIA: A STUDY FROM SOCIAL EXCLUSION TO SOCIAL INCLUSION, Vol.4, IRHRSS, 73, 75-76, 2017

transgender and intersex persons – which meant that they would get benefits as a separate class within already existing reservation slabs, similar to how reservation exists for women or people with disabilities. However, these progressive provisions were made away when the government drafted The Rights of Transgender Persons Bill, 2015. After consultation with legal experts and transgender activists, the 2015 draft Bill was sent to the Law Ministry. It was introduced in the Lok Sabha in August 2016 after extensive revision.

The Transgender Persons (Protection of Rights) Bill, 2016, was reintroduced in Parliament in late 2017. Some transgender activists heavily criticised the Bill for not addressing the issues such as transgender marriage, adoption, and divorce. The Bill had incorporated none of the feedback from the country-wide transgender community-led consultations when a draft version of the Bill was circulated at the beginning of 2016 for community feedback (Government of India 2015).⁸ Transgenderism was defined in the Bill as "based on the underlying assumption of biological determinism," which was criticised by Akkai Padmashali, a transgender activist. On December 17, 2018, Lok Sabha passed the Bill with 27 amendments, including a controversial provision prohibiting transgender people from begging. The Bill defined transgender person⁹ as:

“Transgender person” means a person whose gender does not match with the gender assigned to that person at birth and includes trans-man or trans-woman (whether or not such person has undergone Sex Reassignment Surgery or hormone therapy or laser therapy or such other therapy), person with intersex variations, genderqueer and person having such socio-cultural identities as Kinner, hijra, aravani and jogta.

Although the present version of the Bill improves the concept of "transgender," it does not consider community opinion on gender recognition techniques. It makes no mention of gender self-affirmation, which contradicts the Supreme Court of India's 2014 ruling, which maintained the right of all citizens to self-determination of gender. The Bill was referred to a parliamentary committee, but the 16th Lok Sabha was dissolved before it could be considered.

The Transgender Persons (Protection of Rights) Bill, 2019, was reintroduced to Parliament after the general election of 2019. It was a government bill. The Cabinet approved the Bill of India on July 10. The Lok Sabha passed it on August 5 2019 and Rajya Sabha on November

⁸ Sayan Bhattacharya, The Transgender Nation and its Margins: The Many Lives of the Law, Open Edition, Journal, (2019, 10:30 p.m.) <https://doi.org/10.4000/samaj.4930>

⁹ THE TRANSGENDER PERSONS (PROTECTION OF RIGHTS) BILL, 2018 sec 2 (k)

25 2019. The Bill was assented by President Ram Nath Kovind on December 5, after which it became the Transgender Persons (Protection of Rights) Act, 2019. Thus, until December 5, 2019, India did not have any legislation that protected the community's rights and addressed the problems faced by the transgender community.

Transgender Persons (Protection of Rights) Act, 2019

A Brief Overview

The Act's object is to provide for the protection of rights of transgender persons and their welfare and matters connected in addition to that and incidental to it. This Act under section 4 allows the transgender person to be recognised as such and allows a self-perceived gender identity. Under section 5, it also looks into issuing a certificate of identity and issue a certificate stating the gender change. A transgender person may apply to the District Magistrate under section 6 for a certificate of identity, indicating the gender as 'transgender'. A revised certificate may be obtained under Sec.7 but only if the individual undergoes surgery to change their gender, either male or a female. Some rights have also been inferred to the TGC, such as the prohibition against discrimination¹⁰, right of residence¹¹, education¹², health care¹³ and employment¹⁴. In addition, the Act also allows for the constitution of a National Council for Transgender Persons under section 16. Under section 18, the Act recognizes the following offences against transgender persons: (i) forced or bonded labour, (ii) denial of use of public places, (iii) removal from the household and village, (iv) physical, sexual, verbal, emotional or economic abuse. Penalties for these offences vary between six months and two years, and a fine.

As previously stated, the Act does guarantee some rights for transgender people, but it is plagued with loopholes.

To begin with, the definition clause, Sec.2 (i) defines "person with intersex variations": *means a person who at birth shows variation in his or her primary sexual characteristics, external genitalia, chromosomes or hormones from the normative standard of the male or female body.*

¹⁰ Sec.3, The Transgender Persons (Protection of Rights) Act, 2019, No. 40, Acts of Parliament, (2019)

¹¹ Sec.12, The Transgender Persons (Protection of Rights) Act, 2019, No. 40, Acts of Parliament, (2019)

¹² Sec.13 The Transgender Persons (Protection of Rights) Act, 2019, No. 40, Acts of Parliament, (2019)

¹³ Sec.15 The Transgender Persons (Protection of Rights) Act, 2019, No. 40, Acts of Parliament, (2019)

¹⁴ Sec.9 The Transgender Persons (Protection of Rights) Act, 2019, No. 40, Acts of Parliament, (2019)

Sec. 2(k) defines "transgender person": *means a person whose gender does not match with the gender assigned to that person at birth and includes trans-man or trans-woman (whether or not such person has undergone Sex Reassignment Surgery or hormone therapy, or laser therapy or such other therapy), person with intersex variations, genderqueer and person having such socio-cultural identities as Kinner, hijra, aravani and jogta.*

The Act defines "persons with intersex variations" separately under Sec. 2(i), but includes them within the definition of "transgender persons" in clause 2(k). Thus, it makes the definition of transgender persons an ambiguous and misleading one. A transgender person has a gender identity that differs from the one they were born with, whereas a "person with intersex variants" is someone whose gender is defined by biological characteristics. The difference between these two categories is narrow, but the concept of "transgender persons" has been broadened to include "persons with intersex variants."

Sec(s) 3- 17 are operating provisions of the Act.

Section 3 prohibits discrimination against a transgender person in nine instances. The Act forbids discrimination against transgender people, including unfair treatment or denial of service in the following areas: (a) education; (b) employment; and... (g) the right to dwell, purchase, rent, or otherwise occupy any property. However, the Act is ambiguous on whether the defining clause impacts other legislation. For example, the treatment of transmen and women under laws that solely apply to men and women. It also lacks anti-discrimination measures for other property rights components, including inheritance. The Rules¹⁵ Are equally deafeningly silent on these issues and merely recommend assistance programs for affordable housing. Moreover, it sets out a statutory right but without any remedy. This makes the request impossible to exercise. A duty has been cast upon individuals not to discriminate against transgender persons based on their gender expression or identity. However, no enforcement mechanism or punishment has been prescribed for a breach or violation of rights.

Sections 4, 5 and 6 of the Act provide that the individual has the right to self - perceived gender identity, as was held by the Supreme Court in *NALSA v. Union of India*¹⁶, and reiterated in

¹⁵ As per the rules, the government must formulate welfare schemes that are Transgender sensitive, non-stigmatising, and non-discriminatory to transgender persons. See Annexure-II, paragraph 3, Transgender Persons (Protection of Rights) Rules 2020.

¹⁶ *National Legal Services Authority of India v. Union of India*, Writ Petition (civil) No. 604 of 2013, (India)

Justice KS Puttaswamy v. Union of India¹⁷ and Navtej Singh Johar v. Union of India¹⁸. Section 4 is a progressive provision because it recognises all transgender people's right to self-perceived identity. However, the rights conferred by this section are weakened by subsequent sections. Sections 5 and 6 provide recognition as "transgender" without any medical procedure. However, one has to get a certificate of identity for which they must make an application to the District Magistrate to avail the protection under the Act. This certificate is proof of their identity as transgender people.

Similarly, if they desire to change their gender to male or female in the case of those assigned the opposite gender at birth and undergo a surgery to that effect, Section 7 (1) and (2) mandate that they must make an application to the District Magistrate that includes a certificate of medical proof from the Chief Medical Officer or Medical Superintendent of the place of surgery. The fact that they have to undergo a hearing with the District Magistrate to declare themselves Transgender weakens the strength and progressive spirit of the NALSA judgement.

In addition to the above provision, it becomes necessary to mention Form 3¹⁹. It is the form of certificate of identity which the District Magistrate will issue under rule 5 read with section 6 of the Act. This certificate uses titles like Shri (Mr.), Smt. (Mrs.), Ms. while certifying an individual as a transgender person. This, yet again, evinces society's narrow attitude toward gender-binary hegemony.

Section 11 deals with the appointment of a complaint officer in every establishment. However, no eligibility or qualification for such a position has been mentioned. Moreover, no duty of the complaint officer has been specified. Along with responsibility, the legislation needed to state the remedy in case the person appointed as complaint officer does not comply with the provisions of the Act.

Section 12 of the Act provides for the right to the residence. Under Section 12(1), a transgender child can be separated from the parents or the immediate family only after an order of a competent Court. The Act fails to recognise how transgender persons have traditionally lived with their community as their own family. It is generally known that biologically related families are frequently violent and abusive against children and adults who do not fit gender expectations. The Act commits transgender youngsters to harmful circumstances by restricting

¹⁷ Justice KS Puttaswamy v. Union of India (2017) 10 SCC 1, (India)

¹⁸ Navtej Singh Johar v. Union of India, AIR 2018 SC 4321, (India)

¹⁹ The Transgender Persons (Protection of Rights) Rules, 2020

them to leave their birth family without court involvement. For transgender children and adults being abused at home, the only option is to seek institutionalised rehabilitation through a court order. Thus, by requiring transgender people to reside at home or in a state-run rehabilitation centre, Section 12 of the Act appears to restrict them the ability to select the community in which they choose to live.

Although Section 13 of Chapter VI of the Act requires academic institutions to have inclusive education and anti-discrimination policies, the provision has been rendered useless because there is no consequence for bullying or discrimination against transgender individuals in the academic institutions. The Act should include explicit punishments for bullying and discrimination against transgender students. Educational institutions must organise an anti-discrimination committee, similar to the Expert Committee mentioned in the Standing Committee report, to monitor any kind of discrimination against the transgender population. In addition to that, there must also be a requirement for transgender/gender-neutral restrooms in all public venues.²⁰ The Act also provides for non-discrimination in any matter relating to employment under Sec. 9 of the Act

These safeguards, however, are pointless if transgender people are unable to enter such organisations at all. In NALSA, the Supreme Court urged the Centre and State Governments to recognise transgender people as socially and educationally backward classes of citizens and extend all forms of reservation in admission to educational institutions and for public employment). Such acknowledgement or reservation is not provided for under the Act. However, the Rules of 2020 does mention the vertical reservation for the general category transgender so they can avail the benefit as transgender people under other categories.²¹

Currently, Karnataka is the only state that offers a 1% horizontal reservation to transgender people. A 1% reservation is offered in each of the following categories: general, SC, ST, and OBC. Rule 9 of the Karnataka Civil Services (General Recruitment) Rules, 1977 has been changed to provide transgender reservations.

²⁰ Nina C. George, Toilets: He, She, and Them?, DECCAN HERALD (November 26, 2019), <https://www.deccanherald.com/metrolife/ metro life-your-bond-with-bengaluru/toilets-he-she-and-them-780085.html>.

²¹ Rule 7, The Transgender Persons (Protection of Rights) Rules, 2020

Section 15 lists the healthcare facilities provided to transgender persons by the appropriate government. This section is expansive as it covers a broad spectrum of health care issues.²² However, clause (a) provides separate centres for the transgender community. This only further isolates transgender persons from the community. Also, the Act does not address the mental health issues in the trans community other than the involvement of mental health professionals in verifying gender dysphoria. Studies have shown that this population is at higher risk for mental health issues due to continued discrimination and stigmatisation and hence, needs continued support and help.²³

Section 16 and Section 17 under Chapter VII of the Act establish a National Council for Transgender Persons. The Council is a statutory body that will assess the impact of various policies and decide on the modalities. However, the National Council is just a symbolic setup with no real power or capabilities. It has only five representatives from the transgender community, which is a severe threat to the legitimacy of this body due to inadequate representation. Therefore, a body with adequate representation from this particular community and preferably a chairperson would be wise.

It is unclear what remedies are available to transgender persons who suffer discrimination. Whether should contact the complaint officer of an establishment under Sec.11, approach the National Council for redress under Sec.17, file a suit following Code of Civil Procedure, 1908, or file writ petitions for violation of rights guaranteed by the Constitution under Part III of the Constitution.

Sec.18 of the Act deals with offences and penalties. As stated in the case of *State of Punjab v. Gurmit Singh*²⁴, 'physical abuse harms the body of the victim, but sexual abuse tears the very

²² Section 15 of the Transgender Persons (Protection of Rights) Bill, 2019, provides:

"The appropriate Government shall take the following measures about transgender persons, namely:

- (a) to set up separate human immunodeficiency virus Sero-surveillance Centres to conduct sero-surveillance for such persons in accordance with the guidelines issued by the National AIDS Control Organisation in this behalf;
- (b) to provide for medical care facility including sex reassignment surgery and hormonal therapy;
- (c) before and after sex reassignment surgery and hormonal therapy counselling;
- (d) bring out a Health Manual related to sex reassignment surgery in accordance with the World Profession Association for Transgender Health guidelines;
- (e) review of medical curriculum and research for doctors to address their specific health issues;
- (f) to facilitate access to transgender persons in hospitals and other healthcare institutions and centres;
- (g) provision for coverage of medical expenses by a comprehensive insurance scheme for Sex Reassignment Surgery, hormonal therapy, laser therapy or any other health issues of transgender persons.'

²³ SanchitToor, "Sexuality, Stigma and the Plight of Mental Health in the LGBTQ+ Community", *Maya Magazine*, at <http://mayamagazine.co.in/sexuality-stigma-and-the-plight-of-mental-health-in-the-lgbtq-community/> (Last visited March 02, 2022)

²⁴ 1996 AIR 1393

soul of a person. Transgender persons are excessively vulnerable to sexual abuse and violence. But, the maximum penalty for all offences under this Bill is two years imprisonment. This is in stark contrast to the maximum punishment for similar crimes under the Indian Penal Code, 1860, which ranges from 3 years to life imprisonment when cisgender women and children are sexually abused. This violates the right to equal protection of laws under Article 14 of the Constitution, observed by the Apex Court in NALSA.

CONCLUSION

Despite all the lacunas, this legislation is the first of its kind to ensure rights to transgender persons. This is appreciated. However, it would be pertinent to bring about certain amendments in line with the NALSA judgement. Further, besides the provisions laid down in the Act, there is a need to confer on the transgender persons certain other civil rights like the right to marriage, adoption and succession. According to Aristotle, *"Man is a social animal; a man who is unsocial naturally and not accidentally is either beneath our notice or more than human. Society is something that precedes the individual."* By men, Aristotle meant human beings, and hence, it is no doubt that transgender persons are human beings who need friends, society, family, etc., to live.

The NALSA decision expressly noted the extensive prejudice experienced by transgender people due to the binary idea of gender in laws governing marriage, divorce, adoption, inheritance, succession, and so on. But, in Arun Kumar v. Inspector General of Registration, the Madra High Court held that the term 'bride', as mentioned in Section 5 of the Hindu Marriage Act, includes transgender persons. The judgement cited Article 16 of the Universal Declaration of Human Rights, which upholds marriage as a human right and the Hadiya case - Shafin Jahan v. Ashokan K.M. & Ors. The right to marry a person of one's choice was considered a crucial part of personal liberty under Article 21. Further, India is also a signatory to the Yogyakarta Principles, principle 24(E), encouraging states to recognise same-sex marriage and accord it equal status to different-sex marriage. Though the principle is non-enforceable, it may be a progressive path for the country to follow.²⁵

²⁵ Yogyakarta Principles, Principle 24 provides for: '(E) Take all necessary legislative, administrative and other measures to ensure that in States that recognise same-sex marriages or registered partnerships, any entitlement, privilege, obligation or benefit available to different-sex married or registered partners are equally available to same-sex married or registered partners.'

Thus, the Transgender Persons (Protection of Rights) Act of 2019 disregards the transgender community's fundamental rights, bodily autonomy, and dignity and is against the NALSA ruling. It invalidates the right to self-determination of gender and subjects them to psychological, medical, and public authority scrutiny. The Act must provide equal social, economic, and civil rights and protection from abuse and discrimination to protect the community's interests. Also, it is necessary to consult the transgender community before coming up with any rules and laws. After enacting this Act, cases were filed challenging the constitutionality of the Act, such as *Swati Bidhan Baruah v. Union of India* and *Grace Banu Ganeshan & other v. UOI & Anr.* The Petitioners have sought the Court to strike down Sections 4, 5, 6, 7, 12(3), 18(a) and 18(d) of the Act as unconstitutional. Thus, without further delay, it is necessary to relook and re-examine the provisions of the Act and make the required amendments so that transgender persons are benefitted from the Act and do not have to live as a marginalised community.