

Constitutional Equality and Statutory Protection of Transgender Persons in Agra: A Critical Socio Legal Study of the Transgender Persons (Protection of Rights) Act, 2019

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Abstract: This research paper investigates the constitutional guarantees of equality for transgender individuals in India, specifically examining the legal framework established by the Transgender Persons (Protection of Rights) Act, 2019, and its implications in Agra, Uttar Pradesh. It critically assesses the interpretation of constitutional provisions, the lived experiences of transgender persons, and the effectiveness of the 2019 Act in combating discrimination and fostering substantive equality. The study highlights significant shortcomings in the Act, including the government's inadequate efforts to resolve key issues, such as the requirement for identity certificates, which raises questions about the dignity and identity of transgender individuals compared to cisgender persons. The paper also discusses the criticisms faced by the 2019 Act and the draft of the Transgender Persons (Protection of Rights) Rules, 2020, which attempted to simplify processes but remained largely ineffective. Ultimately, the paper provides recommendations for legal reforms and social policy interventions aimed at enhancing protections for transgender persons and realizing their constitutional equality, while addressing the profound trauma inflicted upon the community by existing societal and legal frameworks.

Keywords: Transgender, community, certification, identity and legal.

1. INTRODUCTION

The Indian Parliament passed the Transgender Persons (Protection of Rights) Act, 2019 to ensure the safety and well-being of transgender persons and address other pertinent issues. Following the expiration of the Transgender Persons (Protection of Rights) Bill, 2018 (Bill No. 210-C of 2016), the act was presented in the Lok Sabha, the lower house of the Indian Parliament, on 19 July 2019 by Thawar Chand Gehlot, the Minister of Social Justice and Empowerment. There was a 2016 version that came before both the 2019 statute and the bill that came before it in 2018. Some transgender individuals in India, including attorneys and activists, reacted negatively to them and staged demonstrations. In July 2017, the standing committee that was assigned the 2016 bill finally delivered its report. As a result, in December 2018, the Lok Sabha introduced and approved an updated version of the bill. A large number of the committee's suggestions, however, were left out. The 2019 legislation was approved by both the Lok Sabha (the lower house of parliament) on August 5, 2019, and the Rajya Sabha (the upper house) on November 26, 2019, despite opposition members' criticisms and activists' assurances that they would not support it. The legislation was published in the Gazette of India following the president's approval on 5 December 2019. It was announced in the Gazette on January 10, 2020, and it went into effect on the same day.

Some of the most heavily criticized parts of the 2018 bill, including the criminalization of begging and the creation of a district screening committee to handle applications for the issuance of transgender person certificates, were repealed in the 2019 act in response to queer community protests against those bills.

Nevertheless, it does not address additional principles that were established by the 2014 Supreme Court ruling in *National Legal Services Authority v. Union of India (NALSA v. UOI)*. These principles include transgender people's right to self-disclose their gender identity without undergoing sex reassignment surgery, as well as educational and employment accommodations. One of the main complaints levelled against the legislation is that it does not penalize transgender persons as severely as crimes committed against cisgender people. In a petition contesting the act's validity, the Supreme Court sent notice on the federal government on January 27, 2020.

After consulting with transgender individuals, the Ministry of Social Justice and Empowerment released an Expert Committee Report on transgender problems in January 2014, as the NALSA appeal awaited court judgment. In 2014, Dravida Munnetra Kazhagam party member Tiruchi Siva proposed a bill to the Rajya Sabha about the rights of transgender persons; the chamber eventually approved the bill in 2015. The 2016 bill was presented in the Lok Sabha, where it remained pending until the legislature was dissolved before the 2019 general elections. In their 2019 election platforms, parties like the Indian National Congress and the Communist Party of India (Marxist) pledged to repeal the 2018 bill and replace it with one that engaged the LGBTQ community in consultation, and to pass a bill based on the 2014 bill, respectively.

There is a long history of prejudice, exclusion, and societal stigmatization against transgender people in India. Transgender people were marginalized by laws and societal attitudes that originated during the British period, even though transgender people were acknowledged in pre-colonial Indian culture. Modern constitutional law has upheld the freedom of transgender people to self-identify as a gender, particularly after the Supreme Court's seminal decision in *NALSA v. Union of India* (2014). In non-metropolitan situations like Agra, gaps remain between constitutional protections and legislative execution, notwithstanding these advancements. In order to evaluate the effects on equality and real-life experiences, this study looks at the constitutional and legislative safeguards provided by the Transgender Persons (Protection of Rights) Act, 2019 (henceforth TPPRA).

2. LITERATURE REVIEW

Ghoshal, Neela et.al. (2016). Everyone knows the drill: the doctor, the parents, or the delivery attendant says "girl" or "boy" when the baby is delivered. Many parts of our life are dictated by that split-second task. Also, the majority of us never give it a second thought. While some don't. Their gender develops independently of their assigned gender at birth and may not conform to the conventional ideas of male or female. Fundamental rights, such as official recognition, access to healthcare, education, and work, should not be contingent on a person's gender development. However, this is not the case with transgender persons; in fact, it may be very harmful, violent, and even fatal. From 2007 to 2014, 1,731 transgender persons were murdered throughout the globe, according to the Trans Murder Monitoring Project. This project monitors and analyzes reports of transgender killings. A number of them were horrifyingly violent, including instances of torture and mutilation. The lives of transgender persons are threatened by more than just overt acts of violence. Due in part to the fact that stigma and prejudice make it harder for them to get health care, their risk of contracting HIV is up to 50 times higher than the general population. As a reaction to systemic marginalization and humiliation, transgender persons have a high prevalence of suicide attempts, according to studies in Europe, Canada, and the US. The sheer presence of transgender persons is criminalized in a number of nations, including Nigeria, Kuwait, and Malaysia, where it is illegal to "pose" as someone of the opposite sex. Prohibitions against same-sex behavior lead to the imprisonment of transgender persons in a large number of other nations. There are other forms of prejudice and brutality that transgender individuals encounter, and this data barely scratches the surface. Without proper legal recognition of their gender identity and the rights and protections that come with it, transgender people face constant danger and shame whenever they are asked for identification or have their looks examined. As a result, many transgender people avoid social situations where they may be attacked or

humiliated. Many nations experience a moral panic when their citizens seek legal acknowledgment of gender. However, the struggle must be waged. There must be a concerted effort by the human rights movement to do away with discriminatory and abusive practices that unjustly hinder the right to recognition if transgender communities are to flourish and all people's rights to privacy, free speech, and dignity are to be preserved.

Hunnur, Rashmi et.al. (2019). Being a transgender person growing up in India isn't easy. As far as the third gender, or transgender people, is concerned, we live in a century when human rights are guaranteed and protected for all humans. Even the most fundamental rights, such as the right to dignity, personal liberty, education, freedom of speech, etc., are denied to transgender people, notwithstanding all constitutional protections. This study paper explores the challenges that transgender people encounter in a developing nation such as India. What the law and order is doing to turn social exclusion into inclusion, and the challenges encountered along the way, are also discussed in the paper, as is the exclusion of transgender people from society.

Shahab, Azhar. (2020). It is essential to address the responsibilities of the state, communities, and individuals alongside discussions about transgender rights. One can wonder whether transgender persons should have to deal with stigma on a daily basis. Transgender persons should live their lives like anybody else, according to religious teachings. These teachings also make it plain that God is ultimately responsible for gender determination, which is a part of life on Earth. God alone may decide the gender. Life quality is on par with, if not more crucial than, that of average individuals. In this article, we will look at what it means to be transgender, the current situation of transgender individuals in India, the laws that protect them, the challenges they confront, and the laws that prohibit discrimination, harassment, and the violation of their religious rights. Some have suggested ways that transgender persons might live more respectably and economically independent lives.

Fazi, Muhammad et.al. (2020). Comparing the laws of Pakistan and India reveals that the former has significant problems when it comes to sexual orientation determination. Therefore, changes to the 2018 Act must be made so that transgender rights in Pakistan remain unaffected. Analytical and qualitative Without getting too far from the main topic of transgender rights in Pakistan, this article will propose where the laws of Pakistan need to be changed.

Aqeel, Khan et.al. (2020). Men who engage in intercourse with men (MSM) became a legally recognized group in India with the legalizing of homosexuality; yet, they continue to face significant social stigma. Their unique behavior need individualized healthcare. Since this group has been living in constant exclusion, it is imperative that their health care requirements be met if the goal of "universal health coverage" is to be realized. The MSM population in India's Agra area was the subject of this mixed-method research. Verbatim transcriptions of audio recordings of in-depth interviews were used for the qualitative analysis. Analysis included the extraction of potential themes based on respondents' experiences. After thirteen IDIs, the data was deemed saturated. The snowball sampling approach was used for quantitative evaluation. A nonprofit peer group was used to attract the first participants. After then, people in the study's peer groups recommended it to others. The most often mentioned health need was the need for affordable and easy access to testing for sexually transmitted diseases and human immunodeficiency virus (HIV) (32.69%). A quarter of those who took the survey had no idea what kind of medical attention they needed. One-fourth of those who took the survey said that more MSM-friendly STD clinics should be opened. Fifteen-and-a-half percent of people surveyed want doctors to learn not to prejudice against MSM, and 5.76 percent want MSM to have access to medical and mental health counseling. In a similar vein, the qualitative results proposed MSM-inclusive STD centers and mental counseling, as well as the need of judgment-and discrimination-free health facilities. Recognizing the reality of their varied health requirements and connecting them to proper health care was the primary consequence of this research.

3. SOCIO-LEGAL REALITIES OF TRANSGENDER PERSONS IN AGRA

3.1 Social Exclusion and Stigma

Transgender people still encounter the following in urban areas like Agra:

- Being shunned by society.
- Challenges in using government services.
- Being denied access to job and educational possibilities.

Research interviews and field data indicate a persistent culture of discrimination.

3.2 Educational and Employment Opportunities

Despite constitutional guarantees, transgender individuals in Agra generally have limited access to:

- A job at a company.
- Post-secondary education.
- Career education.

Begging, event dancing, and other forms of informal or insecure labor force many people into submission.

3.3 Healthcare and Identity Documentation

People still have a hard time getting medical treatment because:

- Insufficient number of qualified experts;
- Attitudes that stigmatize;
- Red tape that makes it hard to get the identification papers required by the law.

4. RESEARCH METHODOLOGY

4.1 Nature of the Study

The current study is a socio-legal and empirical study which critically focuses on the constitutional guarantee of equality of transgender persons and the statutory provisions of the statute on the protection of the rights of transgender persons available at the Transgender Persons (Protection of Rights) Act, 2019 with reference to Agra district of Uttar Pradesh. The research combines doctrinal legal analysis with empirical data in the field in order to measure the normative premise of law as well as its application in practice.

4.2 Research Design

The research design adopted by the study is a mixed-method method of research, which is a combination of doctrinal research and empirical research. The doctrinal element examines the provisions of the constitution, the pronouncements of the judiciary particularly the NALSA v. Union of India (2014) - and legal actors the TPPRA, 2019 and Transgender Persons (Protection of Rights) Rules, 2020. The empirical part is used to document the life-first hand experience of transgender people in Agra to assess the actual effectiveness of legal protections.

4.3 Sources of Data

(a) Primary Sources

- Field survey and semi-structured interviews with transgender persons residing in Agra

- Interviews with activists, NGO workers, and legal professionals working on transgender rights
- Responses collected through questionnaires focusing on discrimination, identity certification, access to welfare schemes, and legal awareness

(b) Secondary Sources

- The Constitution of India
- Transgender Persons (Protection of Rights) Act, 2019 and Rules, 2020
- Supreme Court and High Court judgments
- Parliamentary debates, committee reports, and government notifications
- Books, journals, research articles, reports of human rights organizations, and newspapers

4.4 Area of the Study

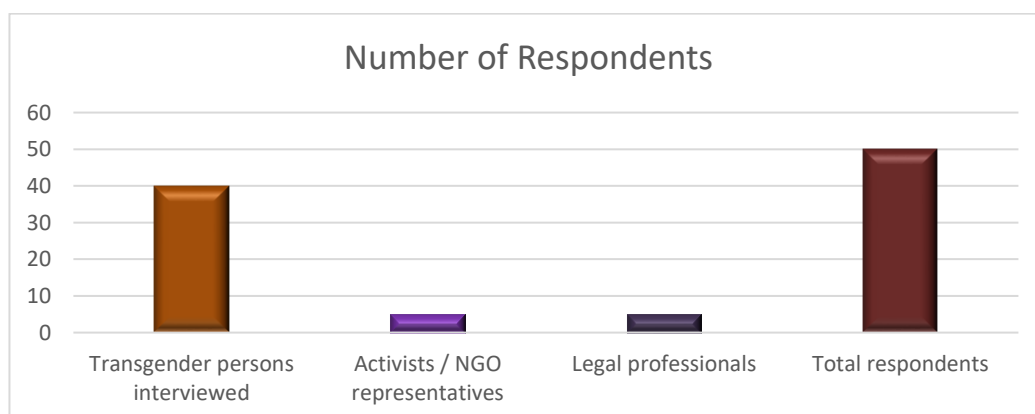
The geographical area of the research is the Agra district, Uttar Pradesh, a non-metropolitan urban area. This choice of Agra is important as it indicates the difficulties in introducing the legislation on transgender rights in the non-metropolitan areas when the awareness, institutional support, and social acceptance are still insufficient.

4.5 Sampling Method and Sample Size

The sampling of the study is purposive as the respondents are transgenders who agree to participate. Caution was observed to incorporate people of varied ages, educational levels and socio-economic status so that it would be representativeness.

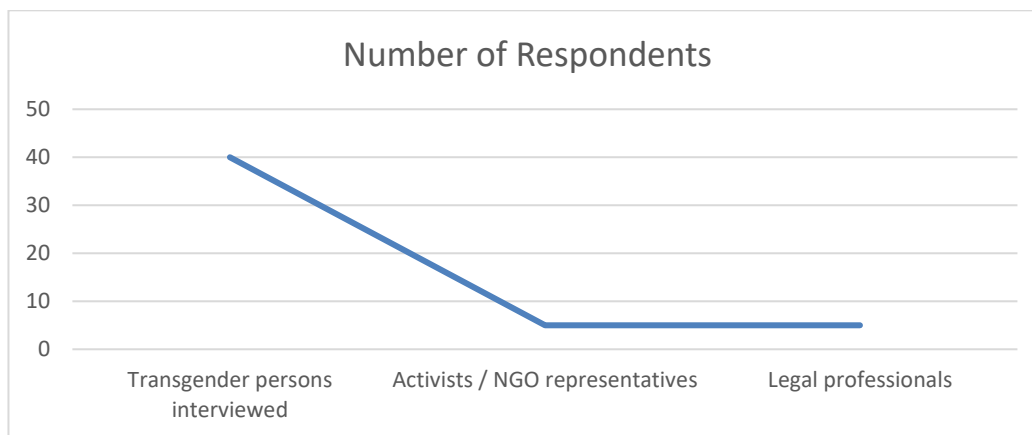
Table: Profile of Respondents

Category	Number of Respondents
Transgender persons interviewed	40
Activists / NGO representatives	5
Legal professionals	5
Total respondents	50



Graph 1: Distribution of Respondents by Category

The graph shows how the respondents who took part in the study were composed. Most of the respondents were trans people, which guaranteed diversity of lived experiences. A smaller yet important group was comprised of activists, NGO representatives and legal professionals, who gave expert views and provided socio-legal and empirical richness of the research findings.



Comparative Representation of Key Stakeholder Groups

This chart will contrast the quantitative value of transgender respondents with the other stakeholders who have supported them, including activists and lawyers. The preponderance of transgender participants demonstrates the community-based research methodology. The few professionals signify qualitative support positions, meaning that they focus more on encounters than institutional perspectives in the review of statutory application.

4.6 Tools of Data Collection

- **Questionnaire Method:** The quantitative data on the access to identity certificates, education, employment, healthcare and discrimination experiences were collected using structured questionnaires.
- **Interview Method:** Semi-structured interviews were used to obtain qualitative data on personal experience, trauma, social exclusion and the perceptions of the 2019 Act.
- **Observation Procedure:** Informal observations while on the field of interaction were used to help in contextualizing the responses and evaluating ground realities.

4.7 Method of Data Analysis

The data gathered using questionnaires was assessed using the descriptive statistical techniques, including the percentage and frequency evaluation. Thematic analysis was used to analyze qualitative data collected in the form of interviews to determine patterns in terms of dignity, identity, discrimination, and legal enforcement. Critical interpretation of legal materials was done using doctrine.

4.8 Limitations of the Study

- The research is also limited in geographic location of Agra and may not be a true reflection of what happens in other parts of India.
- Some respondents were also reluctant to provide all information because of social stigma and fear of being exposed.

- Lack of official disaggregated data on transgender people provided a challenge on comparative analysis..

4.9 Ethical Considerations

Ethical standards of research were meticulously followed in the study. All participants received informed consent, anonymity and confidentiality were guaranteed, and the respondents were free to withdraw at any point. The study was not conducted in any way that might have involved harm, coercion, and misrepresentation, considering that the transgender population is vulnerable and dignified.

5. TRANSGENDER PERSON'S (PROTECTION OF RIGHTS) ACT, 2019: AN ANALYSIS.

Society inflicts unfathomable anguish on Trans people. Furthermore, our government passes legislation that promotes transphobia and other forms of bigotry. There has been an urgent need for an act to safeguard community interests and rights since the days of colonization. In a historic decision, the Supreme Court of India acknowledged transgender persons as a "third gender" in *NALSA v. Union of India* (2014). Despite its flaws, the verdict upheld transgender and intersex people's constitutional rights in India and highlighted the importance of self-identification as a cornerstone of such rights.

After years of lobbying in parliament, the transgender community finally got their wish with the passage of the Transgender Person's (Protection of Rights) Act, 2019. The need for a gender identification certificate was made mandatory by the Act, which became effective in 2019. According to the Transgender Persons (Protection of Rights) Act, 2019, a certification from the District Magistrate is now required in order to establish one's transgender status. The certification process's associated medical procedures were criticized for being intrusive, violating transgender people's privacy and dignity, and for bringing important concerns to society's attention. When it comes to asserting one's gender, why is it that trans people are needed to carry a certificate whereas cis people are not? How does the state recognize a trans person's gender via medical procedures? What qualifications does a District Magistrate need to certify this? The *NALSA* Judgment has upheld the freedom of transgender people to self-identification since 2014. These laws were passed in 2019, five years after the *NALSA* ruling, and they cast doubt on the goal of establishing a thorough framework to protect trans rights in India.

The legislation was met with several complaints and extensive demonstrations throughout India, which led to the formulation of the draft Transgender Persons (Protection of Rights) Rules, 2020. It seems the government has made a feeble effort to sidestep some of the Act's problems by eliminating the need for a medical examination and simplifying the process of getting an identification certificate from the District Magistrate. Both of these pieces of legislation have an ethical dimension that must be thoroughly investigated. Firstly, the act's definition of a "transgender person" is vague and deceptive. A "person with intersex variations" is defined as someone whose gender is dictated by biological traits, in contrast to a "transgender person" who identifies with a different gender than their biological one. Despite the fact that the two definitions gently indicate the difference, the term "transgender persons" has been excessively expanded to include a "person with intersex variations." One may assume that this is a reflection of the naive minds that uphold the current patterns of prejudice rather than a simple technological defect.

Once again, the original question is being posed. When it comes to asserting one's gender, why is it that Trans people are needed to carry a certificate whereas cis people are not? The government has maintained on several occasions that transgender people need a state-sanctioned form of identification in order for them to be eligible for programs and policies aimed at their betterment. This goes against the long-established belief in our legal systems—that being cisgender is the rule and transgender is the exception—and might be considered morally unacceptable in a progressive society. This is the part that needs to be improved. To achieve transgender

justice, we must first treat transgender persons with the respect they deserve and support legislation and programs that recognize and honor their gender identity. It is more important to give weight to the sentiments and hopes of a long-forgotten people than to make laws unreasonably.

For transgender people, being born a different gender is never an option; it's just how they're made. People who identify as cisgender have been socially conditioned to believe in binary gender roles, and this belief has taken root in their brains to the point that they mistakenly believe that being transgender is something that can be chosen. For transgender people, the societal practice of "assigning" a gender at birth is rooted in the idea that people are born with a "natural" gender that does not "match" the gender that society has assigned them. Therefore, it is crucial to prioritize the development of legislation for disadvantaged communities that are ethically and morally sound. Reading the provisions of the act carefully would show that there is a lot of room for interpretation since different parts of the issue have not been thoroughly examined. To find out whether the act and its modifications meet the aforementioned aspects and criteria, researchers polled 20 transgender people for their opinions.

6. SAMPLE SURVEY

The gathered facts and observations suggest that the relevant law has not yet met the demands of the aforementioned community.

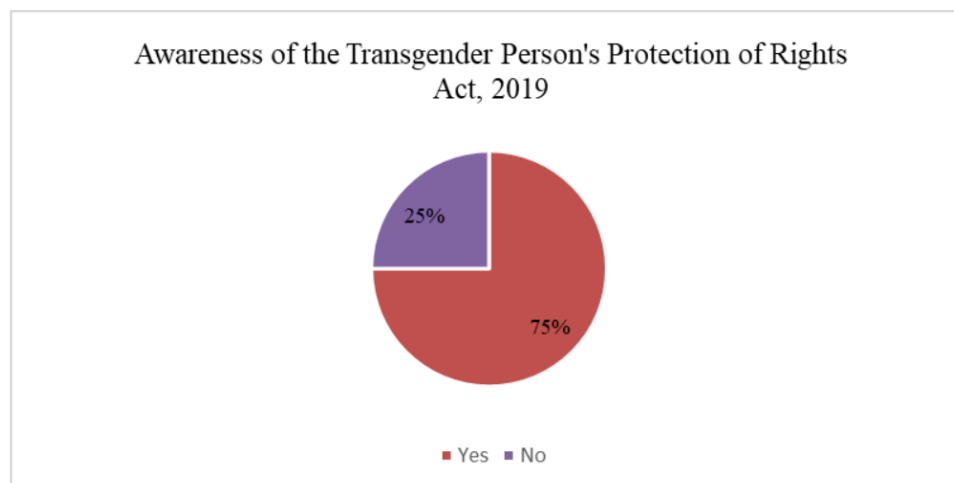


Figure: 1

Only 25% of the population was absolutely certain that such a law was in effect, whereas 75% knew it to be true. In 2019, a landmark piece of legislation was passed with the primary goal of safeguarding the rights of transgender individuals. Despite the passage of three years, the community remains unaware of the benefits and protections granted by the legislation.

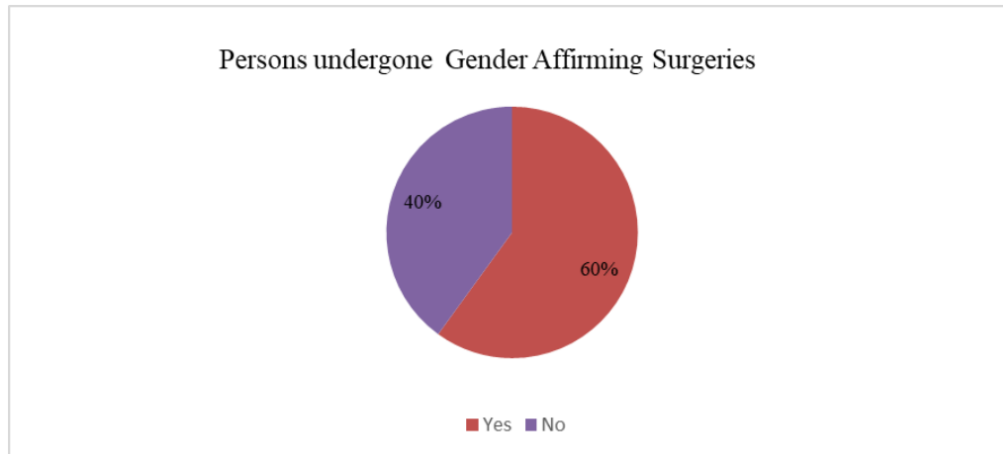


Figure: 2

Among the 20 people who filled out the survey, 60% said they have had gender affirming surgery, while 40% said they have not. Trans people have shown receptivity to medical operations that would allow them to fully accept who they are, according to this proportion.



Figure: 3

Everyone who identified as transgender and participated in the research had a valid gender identification certificate. Also, they were exempt from medical exams, which prove they followed the new regulations set forth by the Transgender Persons (Protection of Rights) Rules, 2020.

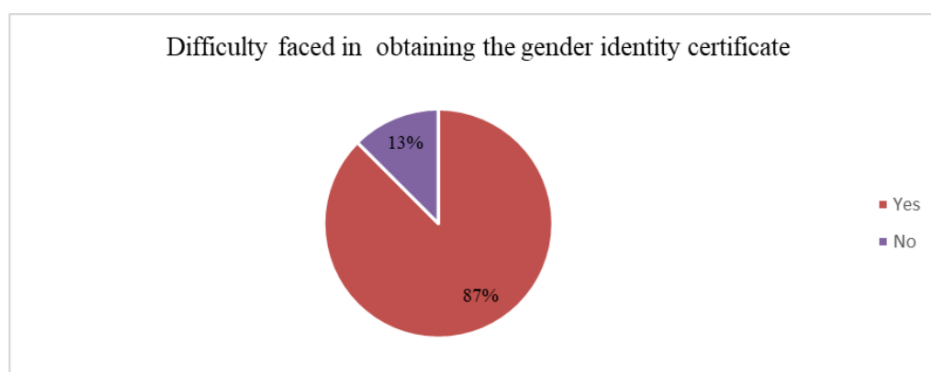


Figure: 4

According to 87% of the sample population, getting a gender identification certificate was a hassle, even though the centre believes the new guidelines made the process simpler and more understandable. The complexity of the regulations for the issuance of a gender identification certificate is strongly indicated by this percentage.

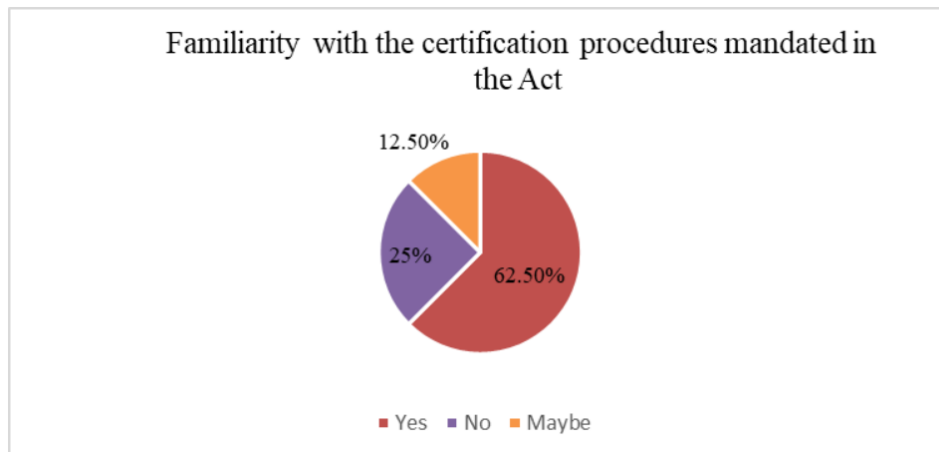


Figure: 5

The certification methods required by the Act were known by 62.5% of the population, 25% of whom were uncertain, and 12.5% of whom were completely ignorant of the subject. All of this points to the notion that the community still has knowledge gaps that must be remedied.

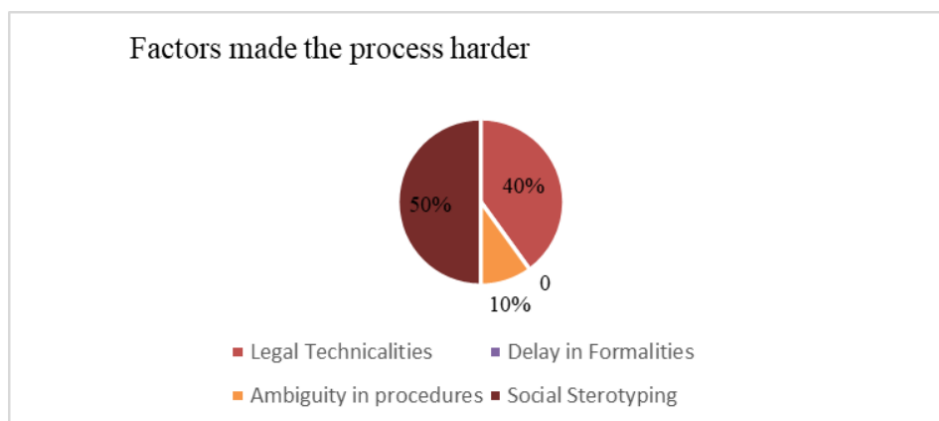


Figure: 6

When asked why, half said it was because of legal complexities surrounding the certificate's issuance, 40% said it was because of societal stereotyping, and 10% said it was because of procedural uncertainty.



Figure: 7

In spite of the fact that 57% of people in the sample felt that transgender people absolutely needed gender identification certificates, a sizeable 29% were unsure. A gender identification certificate wasn't necessary for fourteen percent of the people surveyed. A gender identification certificate was considered necessary by the majority of respondents.

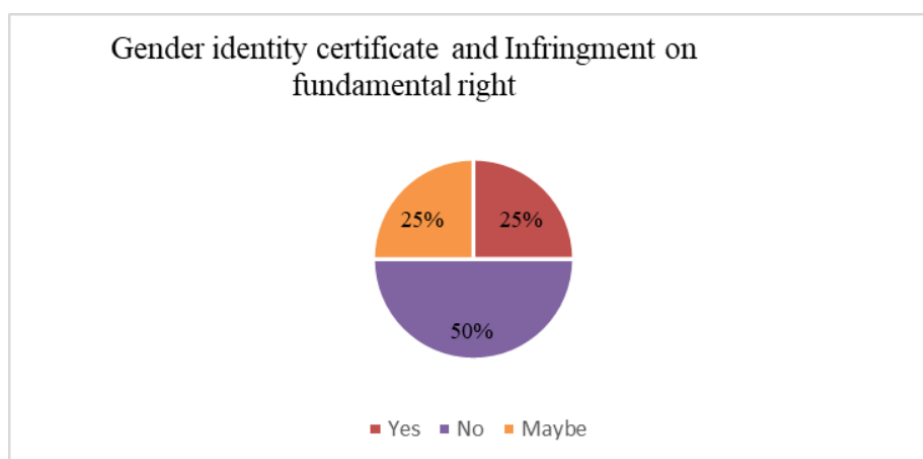


Figure: 8

The vast majority of Indians surveyed felt that obtaining a gender identification certificate did not infringe upon their right to personal liberty and life as outlined in Article 21 of the country's constitution. However, a quarter of people think it's an affront to their humanity and right to life. A quarter of the people polled seemed unsure as well. Additionally, 75% of people said the gender identity certificate helped them in many ways. According to section 6 of the Act, a District Magistrate may be appointed to carry out the certification procedure and issue the gender identity certificate. The researcher gained some valuable knowledge from their talk with the District Magistrate of Kottayam, which was able to enhance the paper.

When asked about the advantages of obtaining a gender identification certificate, the DM said that it was necessary to avoid the abuse of government assistance programs, policies, and financial schemes. She went on to say, "That it was essential to group them accordingly to ensure that the schemes and policies are reaching the community properly," in reference to the fact that the community had endured decades of overt prejudice. In response to a question on the Act's faults, she emphasized that it is still evolving and may be adjusted as needed. "Since the Act and the Rules are inconsistent with each other, it was important to draw out a comprehensive framework of both the legislations," she said. According to the District Magistrate, transgender

people may be more easily identified and given the rights they are due with the use of a gender identity certificate. She went on to say that this will lead to the community's improvement over time.

When asked if the need for a gender identity certificate is deeply problematic and limits Trans people's basic rights, the District Magistrate said that she personally thought the Act's provisions had helped the community achieve their rights more effectively. While acknowledging the advantages of obtaining a state-attested gender identity certificate, she also noted that there is a delicate balance between the ethical dilemmas presented by the mandate and those benefits. "The little ethical problem that arises during certification is often overshadowed by the larger benefit of providing the community with an identification certificate. "The main goal of the act is to protect the rights and interests of the transgender community," she said. When queried about the ambiguity and vagueness of the Act's terms, she gave an affirmative response. The very wording of the Act grants the "Appropriate Government" the power to investigate the situation and provide solutions to fix the problems.

"The appropriate Government shall take steps to secure full and effective participation of transgender persons and their inclusion in society and the appropriate Government shall take such welfare measures as may be prescribed to protect the rights and interests of transgender persons, and facilitate their access to welfare schemes framed by that Government," section 8 of the Act states, as she cited it. The present law has several problems, but the right government might fix them. She went on to say that a transgender policy was passed by the Kerala government and the Social Justice Department in 2015 to protect transgender people's fundamental rights. This marginalized group of people is the target of official efforts to aid them. Despite the fact that the development is hardly noticeable, there's no need to be disheartened. Something was said by the DM. After speaking with the relevant authorities, it became clear that the law has been doing its best to provide the community the rights to safety, security, and other benefits that are rightfully theirs. The real issue is whether this will be sufficient to shake up the long-established belief in absolute values held by the judicial and legislative branches, which dates back a century.

7. DATA ANALYSIS

Despite the small sample size, the results show that India is a country that has a long way to go before it fully embraces transgender justice. It is clear that the community is dealing with a number of issues, some of which have their roots in the vagueness of the regulations. The changes made to the revised rules are the primary source of this misunderstanding. A medical examination was formerly necessary to provide a gender identification certificate under the statute. The idea that self-identification should not be "subject to State certification" was a point of contention among the campaigners who ultimately challenged the law. In support of this claim, the Supreme Court issued two seminal decisions: *NALSA v. Union of India* and *Puttaswamy (I) v. Union of India*. Articles 19 and 21 of the Constitution provide the freedom to gender identification, according to the Supreme Court's ruling in *NALSA*. Petitioners claimed that the certification procedure outlined in the Act was in violation of both the right to privacy and Puttaswamy's argument that the right to privacy protected the ability to make personal choices on one's identity and autonomy with little governmental interference. The need of a medical examination, however, has been eliminated by the newly established regulations. It seems that the measure mandates a two-stage process for the legal recognition of gender. In order to legally transition, a transgender person must apply for a "transgender certificate." This may happen if people are honest about who they are. An individual may then ask for a "change in gender certificate," which tells the authorities to alter their legal gender to male or female. Surgical intervention and subsequent official approval from a medical professional seem to constitute the second stage. A person's right to life, privacy, and sovereignty over their own body are all threatened by this.

Unfortunately, the transgender community is still in the dark about the gender identity certificate application process since Parliament has not yet established a suitable framework that includes the final standards and

regulations. The Magistrate lacks substantial discretion in this case, according to NALSA and Puttaswamy. The modified guidelines specify that the only paperwork that may be sought, at most, is a self-attested affidavit. Only with respect to the process to be followed for the change of gender, as specified in section 6 of the Rules, is a thorough explanation offered. The right to self-determination, which stipulates that a transgender person may only change their gender with a certificate from the Chief Medical Officer of the institution where the applicant underwent surgery, may also be violated by the aforementioned section. The District Magistrate must be re-appreciated in order to provide a "revised" certificate. This is a serious breach of ethics since it mandates certification for gender-affirming procedures.

According to the rules, if the medical superintendent or chief medical officer does not confirm the certificate's correctness or recommends issuing a revised identity card, the applicant will be notified by the district magistrate that their application for an identity certificate has been rejected because the medical superintendent or chief medical officer did not confirm the certificate's correctness or make a recommendation. It should be observed that the word "correctness" as indicated in the act is not clearly defined in the aforementioned paragraph either. This part goes outside the purview of the act and does not offer a full explanation of what factors are used to evaluate the validity of the certificate.

So, it's reasonable to assume that the regulations make determining one's gender a painstaking ordeal. Research conducted by the National Human Rights Commission indicated that almost all transgender individuals had encountered societal rejection at some point. It is critical to establish clear and concise regulations in light of the community's history of rejection and social isolation. Nevertheless, the criteria in this particular situation lack specificity and make it hard to tell how accuracy will be assessed. In addition, administrators do not need specialized training for this. In addition to violating the right to "self-declaration" acknowledged by the NALSA judgment, including psychologists, medical evidence, and district officials makes humiliation and intrusive policing even worse.

The government has made tweaks and revisions, but the data reveals that they aren't enough to make significant changes in a community that has long embraced binary norms. Nevertheless, it also highlights the fact that the revised regulations align with the purpose of the law and effectively met the community's demands. However, it cannot be denied that these laws' processes inhibit people's ability to express them freely and may discourage others from pursuing gender equality and self-affirmation. This becomes an issue when transgender people choose to not undergo certification at all because they are ashamed of the stigma it entails.

8. RESULT

The study findings indicate that there is a substantial inconsistency between the law (Transgender Persons (Protection of Rights) Act, 2019) and its implementation among the transgender in Agra. Though most of the respondents had some knowledge on the existence of the Act, they still lacked in-depth knowledge on the rights, procedures and benefits of the Act. This ignorance is an indication of poor outreach and sensitization through the enforcement of authorities.

According to the findings, the amount of the surveyed respondents who were the bearers of the gender identity certificate was 100 percent, but a significant percentage asserted that the process of obtaining the certification was complicated, time-consuming, and psychologically taxing. Even with the elimination of compulsory medical tests that was introduced by the 2020 Rules, bureaucratic barriers and administrative ambiguity still perpetuated the concept of self-identification. As most respondents admitted that the certificate was useful in their access to welfare schemes, a significant proportion of them found it to be an intrusion that was not in line with the constitutional guarantees provided in Articles 19 and 21.

This paper also indicates that social stigma, legal ambiguity and procedural opaqueness are still the main obstacles to efficient access to rights. There was ambivalence in the need to have certification as the

respondents showed a conflict between legal and personal dignity. The findings in general illustrate that in spite of the fact that the Act is a progressive piece of legislation, its execution does not meet the criteria of substantive equality. The continuity of legal ambiguity, the relative lack of awareness, and institutional restraint of gender identity keep on restricting the lived experiences of transgender individuals, thus eroding the concept of transformative potential of constitutional equality.

9. SUGGESTIONS

1. Legal Recognition through Self-Identification.

The procedure of identity certification provided under the Transgender Persons (Protection of Rights) Act, 2019 needs to be corrected to the fullest extent of recognizing the self-identification without the medical or administrative examination in strict adherence to constitutional dignity and the provisions declared in the case of NALSA v. Union of India.

2. Enhancing of Penal Provisions.

The Act needs to include more severe and gender-neutral punitive measures against offences against transgender persons and ensure equal punishment of the offender to that of the crimes against cisgender people, which strengthens the substantive equality and discourages discriminatory and violent actions.

3. Successful Implementation on the District Level.

The district level needs to have dedicated transgender welfare cells with trained officials so that the access to identity certificates, healthcare, education and employment schemes can be done in a transparent, time bound and community inclusive manner.

4. Awareness and Sensitization Programs.

Stigmatization against transgender persons should be fought with institutionalized comprehensive sensitization programs to the police, judiciary, healthcare service providers, and learning institutions to enhance service delivery and foster an inclusive culture that respects the rights and dignity of transgender persons.

5. Policy Reform and Community Participation.

The involvement of transgender persons and community-based organizations in the law-making processes, rule-writing, and policy review should be active since the legal reforms are to be based on the lived realities and should serve as effective means of overcoming systemic exclusion.

7. CONCLUSION

It is imperative that the government create and enforce legislation regarding transgender individuals and those who have sex reassignment surgery. Transgender and sex reassignment surgery (GRS) should be fully funded by the Indian government and made extremely apparent to all public hospitals in the country. Thorough training is necessary for medical professionals, especially those who perform sex reassignment surgery, to be competent and empathetic while caring for patients who identify as transgender or Hijra. A number of measures might be taken by the government and other authorities to eradicate prejudice and stigma, including media campaigns to educate the public, train law enforcement, and sensitize healthcare personnel. The key is public perception. The Transgender Persons (Protection of Rights) Act, 2019 does not go far enough in protecting transgender people from the abuse and discrimination that the Indian Constitution guarantees. Regulatory hurdles, social stigma, and ineffective execution have created a wide chasm between regulatory safeguards and actual lived reality in Agra. Researchers came to the conclusion that if we want real equality, we need new laws, strict enforcement, and societal changes. Transgender people will not be able to achieve

their substantive rights unless there are constitutional protections, positive public policy, and community involvement.

The research finds that the Transgender Persons (Protection of Rights) Act, 2019 does little to operationalize self-identification, as is required by the constitution, which reinforces administrative control and social stigma and does not result in substantive equality and lived dignity among the transgender persons in Agra.

REFERENCES

- [1] Ghoshal, Neela & Knight, Kyle. (2016). Rights in Transition: Making Legal Recognition for Transgender People a Global Priority. 10.46692/9781447325512.003.
- [2] Hunnur, Rashmi & A, Anusha. (2019). A Review on Status of Transgenders from Social Exclusion to Social Inclusion in India". 10.9790/487X-2102022934.
- [3] Shahab, Azhar. (2020). PROTECTING HUMAN RIGHTS OF TRANSGENDER PERSONS IN INDIA: AN OVERVIEW AND CRITICAL APPRAISAL. 7. 75 onwards.
- [4] Fazi, Muhammad & Bibi, Maryam. (2020). Discrepancies in transgender persons (protection of rights) act, 2018: a comparative study of transgender's rights in Pakistan and India. International Journal of Law and Management. ahead-of-print. 10.1108/IJLMA-10-2020-0262.
- [5] Aqeel, Khan & Chaudhary, Shailendra & Misra, S. & Royal, Abhishek. (2020). Understanding health needs of men who have sex with men in Agra district of India: a community based mixed method study. International Journal Of Community Medicine And Public Health. 7. 3877. 10.18203/2394-6040.ijcmph20204001.
- [6] Padhi, M., & Mohanty, P. A. (2019). Securing transgender rights through capability development. Economic and Political Weekly, the 54.
- [7] Panda, A. (2018). Panel to Formulate Transgender Policy. Tribune
- [8] Bahuguna, R., & Vijayan, A. (2018). The Dichotomy of Free Consent and Sexual Orientation in India: A Critical Appraisal. International Journal of Research and Analytical Reviews , 5 (3), 653-658.
- [9] Hinchy, J. (2019). Governing gender and sexuality in colonial India: the hijra, c. 1850–1900. Cambridge University Press.
- [10] Dutta, A. (2014). Contradictory tendencies: the Supreme Court's NALSA judgment on transgender recognition and rights. J. Indian L. & Soc'y, 5, 225.
- [11] Islam, S. (2020). The transgender community and the right to equality in Pakistan: Review of the Transgender Persons Act 2018. LUMS LJ, 7, 208.
- [12] Baars, G. (2017). The Politics of Recognition and the Limits of Emancipation through Law. Verfassungsblog: On Matters Constitutional.
- [13] Michelraj, M. (2015). Historical evolution of transgender community in India. Asian Review of Social Sciences, 4(1), 17-19.
- [14] Bal, A. (2020). The Transgender Persons (Protection of Rights) Act, 2019: A Critical Analysis. Issue 6 Int'l JL Mgmt. & Human., 3, 1069.
- [15] Shahab, A., & Husain, A. (2020). PROTECTING HUMAN RIGHTS OF TRANSGENDER PERSONS IN INDIA: AN OVERVIEW AND CRITICAL APPRAISAL. Shodh Sarita.