

Issues for Consideration: The Transgender Persons (Protection of Rights) Amendment Bill, 2026

The World Health Organisation states that the term “transgender” is an umbrella term that includes persons whose sense of gender does not match with the gender assigned to them at birth.¹ According to the 2011 Census, the number of persons who identify as ‘other’ stands at 4,87,803 (0.04% of the total population).² This ‘other’ category applied to persons who did not identify as either male or female, and included transgender persons. In the upcoming Census 2027, data on sex of head of household will be collected under three categories: male, female, and transgender.³

In 2013, the government constituted an Expert Committee on transgender issues, which noted widespread stigma and discrimination affecting access to education, healthcare, employment and documentation.⁴ In 2014, the Supreme Court affirmed the right of transgender persons to self-identify their gender and directed governments to ensure legal recognition, welfare measures and protection from discrimination.⁵ A Private Member Bill, “The Rights of Transgender Persons Bill”, was introduced by Mr Tiruchi Siva in 2014 and passed in the Rajya Sabha in 2015, but remained pending in the Lok Sabha.⁶ The government subsequently introduced the Transgender Persons (Protection of Rights) Bill in 2016. This Bill was examined by a Standing Committee that made recommendations on definitions, certification, and safeguards against discrimination.^{7,8} Both Bills lapsed with the dissolution of the 16th Lok Sabha. A revised version was introduced by the government in 2019.

The Transgender Persons (Protection of Rights) Bill, 2019 was passed on November 26, 2019.⁹ The 2019 Act defines a transgender person as a person whose gender does not match with the gender assigned at birth, and includes: (i) a trans-man or trans-woman, (ii) a person with intersex variations, (iii) genderqueer, and (iv) persons having socio-cultural identities as kinner, hijra, jogta and aravani. The Act states that a transgender person will have a right to self-perceived gender identity. It outlines the process for issuing a certificate of identity for a transgender person. The Act prohibits discrimination against a transgender person, including denial of service or unfair treatment in education, employment, healthcare, right to movement, among other things. Offences against transgender persons include: (i) forced or bonded labour, (ii) denial of use of public places, (iii) removal from household and village, and (iv) physical, sexual, verbal, emotional or economic abuse. Penalties for these offences vary between six months and two years, and a fine.

The Transgender Persons (Protection of Rights) Amendment Bill, 2026 was introduced in Lok Sabha on March 13, 2026.¹⁰ The Bill seeks to amend the Transgender Persons (Protection of Rights) Act, 2019.

Key Features of the Bill

- **Change in the definition of a “transgender person”:** The Act defines a transgender person as a person whose gender does not match with the gender assigned at birth. The Bill removes this definition. It also adds that it will not include or will never have included persons with different sexual orientations and self-perceived sexual identities.

The definition under the Act also includes: (i) a person with sociocultural identities such as kinner, hijra, aravani, or jogta, and (ii) a person with intersex variations, which includes variations at birth in characteristics such as primary sexual characteristics, external genitalia, chromosomes, or hormones from the normative standard of male or female body. The Bill retains these categories. The Bill removes the following categories included in the Act: (i) a trans-man or trans-woman, irrespective of whether such a person has undergone sex reassignment surgery, hormone therapy, laser therapy, or such other therapy, and (ii) genderqueer. It adds the following categories: (i) eunuch, and (ii) a person who is forced to assume a transgender identity by mutilation, emasculation, castration, surgical, chemical, or hormonal procedures.

- **Recognition of transgender identity:** Under the Act, a transgender person may apply to the District Magistrate for issuing a certificate of identity as a transgender person. The Bill adds that the District Magistrate will issue the certificate after examining the recommendation of a designated medical board. The board will be headed by a Chief Medical Officer or a Deputy Chief Medical Officer. The District Magistrate may also take assistance of other medical experts.
- **Change in gender:** The Act provides that a revised certificate of identity may be obtained where a transgender person undergoes surgery to change gender. The Bill mandates obtaining a certificate, indicating change in gender. It adds that the concerned medical institution must furnish information regarding the gender change surgery to the District Magistrate. Such a person will no longer retain the rights and entitlements under the Act.

- **Offences and penalties:** The Bill adds certain offences to existing offences outlined in the Act. Kidnapping and causing grievous hurt or severe injury in order to force a person to assume a transgender identity will carry: (i) imprisonment between ten years and life and a minimum fine of two lakh rupees if the victim is an adult, and (ii) imprisonment for life and a fine of at least five lakh rupees if the victim is a child. Forcing a person to present as a transgender person and engage in begging, servitude or bonded labour will be punishable with: (i) imprisonment between five and 10 years and a fine of at least one lakh rupees, if the victim is an adult, and (ii) imprisonment between 10 and 14 years and a fine of at least three lakh rupees if the victim is a child.

Issues to Consider

Definition of a “transgender person”

Removing the right to self-perceived identity

Bill:
Clause
2(iv)
Act:
Section
2(k)

The Act defines a transgender person as one whose gender does not match with the gender assigned at birth. It also includes trans-man or trans-woman, person with intersex variations, genderqueer and person having such socio-cultural identities as kinner, hijra, aravani and jogta. The Act states that a transgender person has a right to self-perceived gender identity. It provides for transgender persons to obtain a certificate of identity from the District Magistrate. It also provides certain rights and entitlements to transgender persons. A key question here was that given that there is a provision of an identity certificate, it is unclear what the term ‘self-perceived’ gender identity entails and how it will be enforced. A related question is whether self-perception of gender identity was a sufficient condition to obtain the welfare benefits for transgender persons.

The Bill removes the provision which gives transgender persons the right to self-perceived identity. It also adds that it will not include or will never have included persons with different sexual orientations and self-perceived sexual identities. The Statement of Objects and Reasons (SOR) of the Bill states that the existing definition of transgender person is vague, making it difficult to identify the intended beneficiaries. It also makes the operation and enforcement of several provisions under the penal, civil, and personal laws unworkable. While the Bill seeks to be precise about identifying beneficiaries, in doing so, it may be denying persons the right to their self-perceived gender identities.

The Supreme Court has noted that self-determination of gender is an integral part of personal autonomy and self-expression and falls within the realm of personal liberty guaranteed under Article 21.⁵ The Standing Committee that examined the Bill had also noted that transgender persons should have the option to choose their gender (‘man’, ‘woman’, or ‘transgender’) independent of surgery/hormones.⁸ The SOR of the 2019 Bill (that later became the 2019 Act) stated that the law seeks to confer rights upon transgender persons to be recognised as such, and a right to self-perceived gender identity, and prohibit discrimination against them.¹¹

Changes to the definition

The SOR of the Bill states that the intention of the law was to protect a class of persons socially and culturally known as transgender people, who face social discrimination. It also states that it is necessary to give a precise definition for proper identification of transgender persons who can avail benefits under the Act. The District Magistrate will issue the transgender certificate after examining the recommendations of a medical board (and if necessary, other medical experts).

The definition of transgender person proposed under the Bill has two broad categories: (i) medical/physical, which includes variations at birth in characteristics such as primary sexual characteristics, external genitalia, chromosomes or hormones from the normative standard of male or female body, or a person who is forced to assume a transgender identity by mutilation, emasculation, castration, surgical, chemical or hormonal procedures, and (ii) socio-cultural identities (kinner, hijra, aravani, jogta, eunuch). The Bill requires the recommendation of a medical board for the certificate to be issued by the District Magistrate. While the first category can be identified on medical grounds, the second one is socio-cultural. The question is whether the medical board can identify persons belonging to these socio-cultural identities unambiguously and help in attaining the precise definition the Bill intends to achieve.

Lack of appeal process

The Act does not provide for any kind of redressal mechanism for those transgender persons who are denied a certificate of identity. The Bill also does not address this. According to the National Portal for Transgender Persons, currently there are 34,000 applications to obtain a Transgender Certificate and Identity Card. So far, 32,427 certificates and 32,498 identity cards have been issued, and 4,000 applications are pending.¹² As of March 11, 2026, the number of applications rejected stand at 5,566.¹³

Offences and penalties

Bill: Clause 7 (e-h) The Bill adds new offences and penalties to the Act. These additional offences entail kidnapping and causing grievous hurt or severe injury in order to force a person to assume a transgender identity.

Act: Clause 18 (a-d) The Bill does not make any change to the severity or durations of the offences already part of the Act. These cover various offences against transgender people such as: (i) compelling or enticing a transgender person to indulge in bonded labour, (ii) denying a transgender person the right to access and use a public space, (iii) forcing or causing a transgender person to leave their place of residence, and (iv) harming or injuring the life, safety, health or well-being, whether mental or physical of a transgender person. These offences retain the same punishment of imprisonment of six months to two years, and a fine.

We compare some of these offences and penalties with the provisions in the existing framework under the Bharatiya Nyaya Sanhita (BNS), 2023.¹⁴

Table 1: Offences and Penalties under the Bill vs under Bharatiya Nyaya Sanhita

Offence	Penalty under Bill	Penalty under BNS
Compelling or enticing to indulge in bonded labour	<ul style="list-style-type: none"> ▪ Section 18 (a) (<i>under existing Act</i>): Compelling a transgender person to indulge in the act of forced or bonded labour ▪ Penalty: Imprisonment of six months to two years, and fine 	<ul style="list-style-type: none"> ▪ Section 143(2): Trafficking for exploitation (includes begging, servitude, forced labour as "exploitation") ▪ Penalty: Rigorous imprisonment of seven to 10 years and fine
Adult victim: Kidnapping or abduction, causing grievous hurt or permanent or severe injury with coercion	<ul style="list-style-type: none"> ▪ Section 18 (e): Kidnapping or abduction of an adult and causing injury with the intent of compelling the person to present as transgender ▪ Penalty: Rigorous imprisonment of 10 years to life, and fine (minimum two lakh rupees) 	<ul style="list-style-type: none"> ▪ Section 140(4): Kidnapping or abducting a person and subjecting them to grievous hurt ▪ Penalty: Imprisonment of up to 10 years, and fine
Child victim: Kidnapping or abduction, causing grievous hurt or permanent or severe injury with coercion	<ul style="list-style-type: none"> ▪ Section 18 (f): Kidnapping or abduction of a child and causing injury with the intent of compelling the person to present as transgender ▪ Penalty: Imprisonment for life (mandatory), and fine (minimum five lakh rupees) 	<ul style="list-style-type: none"> ▪ Section 139(2): Kidnapping and maiming a child and employing them for begging ▪ Penalty: Imprisonment of 20 years to life, and fine
Adult victim: Coercion for exploitation through begging, servitude or forced labour	<ul style="list-style-type: none"> ▪ Section 18 (g): Coercing a person to present as transgender and employing them as bonded labour ▪ Penalty: Rigorous imprisonment of five to 10 years, and fine (minimum one lakh rupees) 	<ul style="list-style-type: none"> ▪ Section 143(2): Trafficking for exploitation (includes begging, servitude, forced labour as "exploitation") ▪ Penalty: Rigorous imprisonment of seven to 10 years and fine
Child victim: Coercion for exploitation through begging, servitude or forced labour	<ul style="list-style-type: none"> ▪ Section 18 (h): Coercing a child to present as transgender and employing them as bonded labour ▪ Penalty: Rigorous imprisonment of 10 to 14 years, and fine (minimum three lakh rupees) 	<ul style="list-style-type: none"> ▪ Section 143(4): Trafficking for exploitation ▪ Penalty: Rigorous imprisonment of 10 years to life, and fine

Sources: The Transgender Persons (Protection of Rights) Act, 2019; The Transgender Persons (Protection of Rights) Amendment Bill, 2026; relevant sections of Bharatiya Nyaya Sanhita, 2023; PRS.

¹ "Transgender persons," World Health Organisation, <http://www.who.int/hiv/topics/transgender/en/>

² State/UT wise Population of Others (TG) as per Census 2011, Department of Social Justice and Empowerment, Ministry of Social Justice and Empowerment, Accessed March 18, 2025, <https://socialjustice.gov.in/common/77891>.

³ "Census 2027", Ministry of Home Affairs, Press Information Bureau, March 11, 2026, <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2238272®=3&lang=2>.

⁴ Report of the Expert Committee on the Issues relating to Transgender Persons, Ministry of Social Justice and Empowerment, January 27, 2014, <http://socialjustice.nic.in/writereaddata/UploadFile/Binder2.pdf>.

⁵ National Legal Services Authority vs. Union of India [(2014) 5 SCC 438], <https://api.sci.gov.in/jonew/judis/41411.pdf>.

⁶ The Rights of Transgender Persons Bill, 2014, Private Member Bill, August 24, 2015, <https://cms.rajyasabha.nic.in/UploadedFiles/Debates/OfficialDebatesDatewise/Floor/235/F24.04.2015.pdf>.

⁷ The Transgender Persons (Protection of Rights) Bill, 2016, https://prsindia.org/files/bills_acts/bills_parliament/2016/Transgender_Persons_Bill_2016_1.pdf.

⁸ "Report No. 43: The Transgender Persons (Protection of Rights) Bill, 2016", Standing Committee on Social Justice and Empowerment, July 21, 2017, https://www.prsindia.org/sites/default/files/bill_files/SCR-%20Transgender%20Bill.pdf.

⁹ The Transgender Persons (Protection of Rights) Act, 2019, [https://prsindia.org/files/bills_acts/bills_parliament/2019/The%20Transgender%20Persons%20\(Protection%20of%20Rights\)%20Bill%202019%20Bill%20Text.pdf](https://prsindia.org/files/bills_acts/bills_parliament/2019/The%20Transgender%20Persons%20(Protection%20of%20Rights)%20Bill%202019%20Bill%20Text.pdf).

¹⁰ The Transgender Persons (Protection of Rights) Amendment Bill, 2026, https://prsindia.org/files/bills_acts/bills_parliament/2026/Transgender_Bill_2026_Text.pdf.

¹¹ The Transgender Persons (Protection of Rights) Bill, 2019, [https://prsindia.org/files/bills_acts/bills_parliament/2019/The%20Transgender%20Persons%20\(Protection%20of%20Rights\)%20Bill,%202019%20Bill%20Text.pdf](https://prsindia.org/files/bills_acts/bills_parliament/2019/The%20Transgender%20Persons%20(Protection%20of%20Rights)%20Bill,%202019%20Bill%20Text.pdf).

¹² National portal for Transgender Persons, Ministry of Social Justice and Empowerment, Accessed on March 20, 2026, <https://transgender.dosje.gov.in/>.

¹³ Unstarred Question No 621, Rajya Sabha, Ministry of Social Justice and Empowerment, March 11, 2026, https://sansad.in/getFile/annex/270/AU621_nMOXHs.pdf?source=pqars.

¹⁴ The Bharatiya Nyaya Sanhita, 2023, https://www.mha.gov.in/sites/default/files/250883_english_01042024.pdf.

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