

'Women's' Groups Seek Gender Justice For Trans and Gender Non-conforming Persons

To

Members of the Rajya Sabha

As 'women' and 'women's groups' with a long history of working on issues of gender justice and with survivors of sexual violence, we submit serious concerns on several aspects of the Transgender Persons (Protection of Rights) Bill 2019 (henceforth referred to as the Bill). As already asserted by many from the trans community, the Bill goes against the spirit of the landmark NALSA judgment that for the first time in India, recognised the right to self-identification of transgender persons and affirmed their citizenship, rights, protections and entitlements in various spheres of life. That the judgment set the framework for remedial and affirmative steps against the systemic gendered discrimination and social marginalisation of the community made this a significant victory, not just for the trans community, but for all of us.

Yet, **the Bill that has been passed by the Lok Sabha and is set to be tabled in the Rajya Sabha fails abysmally in its stated intent to secure the rights of transgender persons and people identifying with non-binary genders. Shockingly, it also features clauses that humiliate and further dispossess trans individuals and communities by not recognising the gendered and patriarchal nature of their oppression.** Hence, we convened a National Consultation between 'women's' groups, LBT and trans groups and individuals in Delhi on 28-29 September 2019, consequent to which we write to you with a sense of urgency.

1. ON GENDERED VIOLENCE AND DISCRIMINATION we, as 'women' and 'women's groups, state that sexual violence against trans persons can NOT be punished with lower sentences than equivalent sexual crimes against cisgender women.

For over forty years, we have fought to break the silence on and seek legal judicial recourse for 'women' against sexual and gendered violence and discrimination. From the Mathura case in 1979 to the Criminal Law Amendment Bill of 2013, our experiences against patriarchal forces that perpetuate such violence and bias investigative and judicial systems against 'women' have compelled us to seek special protections for 'women' in the law. Our work against such violence makes it apparent that the same patriarchal and heterosexist forces perpetuate gendered and sexual violence and discrimination against trans and gender non-conforming persons in ways that are distinct but must be considered at par with what 'women' suffer – be it sexual assault in custody, sexual violence in private and public spaces, public humiliation, sexual harassment at workplaces, and so on. Yet the Bill exposes its total lack of understanding of this reality when it states, anyone who *"harms or injures or endangers the life, safety, health or well-being whether mental or physical of a transgender person or tends to do acts including causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse, shall be punishable for imprisonment for a term which shall not be less than six months but which may extend to two years with a fine."*

IN RESPONSE, WE ASSERT THAT:

Treating sexual violence on trans and gender non-binary persons as different/lesser from the sexual violence faced by cis women is patently discriminatory, and arbitrary and NOT acceptable.

Trans and gender non-binary persons must be included as survivors of violence with a right to redressal under existing laws against sexual violence, like Sections 375, 354, as well as other laws on sexual harassment, stalking, etc;

The punishment for these crimes against trans and gender non-binary persons must also be at par with those laid out for crimes against 'women' in Section 376;

Procedural and evidentiary safeguards and protections available to cis women should also be made available to trans and gender non-binary persons taking into account their experiences and lived realities.

2. VIOLENCE IN THE NATAL HOME. The clause of the Bill that states, 'No child can be separated from parents or immediate family member on the ground of being transgender, except on an order of a competent court in the interest of such a child', denies the fact that FOR MAJORITY OF TRANSGENDER PEOPLE, DISCRIMINATION AND VIOLENCE STARTS IN NATAL FAMILY itself.

Thus, when trans and gender non-binary people move out of biological families and get connected to **Hijra communities or other queer-trans collectives, networks, it is to ensure their own survival and create their own support systems since traditional family systems fail to provide a secure environment** within which they can grow. To push them back and or make it difficult for the transgender person to leave a violent family environment is similar to the age old practice of pushing 'women' back into their natal or marital families however violent they may be!

As 'women's groups,' we have always identified the violence within hetero-patriarchal family structures, in the domesticities of marital and biological ties.

We reassert that the judicial system should acknowledge and protect alternative families beyond blood and marital ties – Hijra family/community systems, queer and trans families groups who have for years created emotional, social, physical support and care systems beyond the fold of the hetero-patriarchal family.

We demand that all the clauses in the Bill that hinder the growth, independence, mobility of the trans, non-binary, and queer person be withdrawn.

3. THE DOMAIN OF RIGHTS IGNORED IN A BILL ABOUT RIGHTS.

THE TRANSGENDER BILL 2019 DOES NOT ENGAGE IN ANY DISCUSSION ON MARRIAGE AND PARTNERSHIP RIGHTS, PROPERTY AND INHERITANCE RIGHTS of trans and gender non-conforming people. It is called "Rights Protection Bill" but does not even grant the right to form a "family". **As 'women's' groups who have struggled to make laws equally accessible and accountable to 'women' in marriage, inheritance, custody rights and legal recognition of same-sex relationships, we believe that the Bill must recognize the civil and political rights of the trans community to marry or establish civil partnerships and in matters related to property, inheritance and adoption rights.**

THE BILL IS WEAK AND ALMOST SILENT ON THE EDUCATIONAL, LIVELIHOOD OPPORTUNITIES for transgender community. It fails to initiate any processes through which there can be affirmative actions to correct the historical discrimination and exclusion of the community from the mainstream. In fact, it potentially criminalises prevalent livelihoods like begging and sex work - the only existing livelihood opportunities available to the community.

From our experience in the 'women's' movement, the struggle for equal opportunities and rights has demonstrated that welfare measures do little to empower vulnerable communities or change institutionalised discriminatory practices. In our understanding the Bill fails to proscribe institutional discrimination. Nor does it ensure essential steps towards inclusive and holistic

education, sustained employment and livelihood opportunities as a matter of constitutional rights ensured through institutional reforms such as implementing reservation proposed by the NALSA judgment.

TRANS PERSONS HAVE VERY SPECIFIC MEDICAL NEEDS FOR WHICH THEY TURN TO THE HEALTH CARE SYSTEM. Thus far, the prevalent systems of medicine and the health care system have both denied the specific concerns of trans persons while accessing gender affirming interventions as well as their general health concerns. The discrimination, insensitivity and lack of care they confront on a daily basis need to be urgently addressed by the medical community. **Our work on 'women's' health, has shown us the masculinist character of these systems. To our long standing demand that 'women's' voices be heeded while dealing with their health issues, we today add that trans persons must be consulted, heard, and recognised as important contributors towards the knowledge creation of care systems that need to be put in place to address their needs, and re-orient the current practice of medicine.**

AN EMPOWERED STATUTORY, AUTONOMOUS, QUASI-JUDICIAL MECHANISM like a National Transgender Commission (akin to NCW) must be set up to address the issues the community faces, with a similar body at the level of each state, both with a majority representation of transgender members working at the grassroots level with the community, not limited to members of registered NGOs/CBOS.

4. STANDING UP FOR THE TRANS PERSONS' RIGHT TO SELF DETERMINATION.

As 'women's groups we stand with trans and queer communities against the requirement to "obtain certificates of gender change from District Magistrate, who based on medical documents will determine gender identity of a person." This not only violates the dignity of the person, it stands in absolute contravention of the right to self-determination laid out in NALSA 2014, where irrespective of surgical and hormonal interventions, person can identify as male, female, third gender, transgender.

Through years of struggle we recognise that autonomy and self determination are critical to a person's sense of self.

We demand that the fundamental right to self-determination of gender be protected and respected, where trans and non-binary gender persons can self-identify as male, female, transgender, or any of many other identities and can legally change their documents without undergoing physical inspections/checks or giving documentary proof of medical or surgical intervention to District Magistrates.

We make this submission to you with the expectation that our concerns and objections will be considered sincerely and the current Bill will not be given your valued vote.

As 'women' and 'women's groups', we stand with the trans community in demanding that **the BILL BE SENT TO A SELECT COMMITTEE OF THE PARLIAMENT for further consideration and consultations with the community as well as those experienced in working with issues related to gender.**

** The 'women' that the women's groups have engaged with so far are mostly cis women, a term for women who identify with the female gender they were assigned at birth. We recognise today that trans persons can also be women or men. But a lot of the learning that we refer to in this document is from the lives of cis women, and so in this document we write 'women' in quotes when we refer to our earlier understanding of 'women'.*

Signed by:
Women's groups

Name	City
Aalochana Centre for Documentation & Research on Women	Pune
Aawaaz-e-niswaan	MUMBAI
AIDWA	India
All India Network of Sex Workers	India
Anveshi Resrarch Centre for Womens Studies	Hyderabad
Association for Advocacy and Legal Initiatives (AALI)	Lucknow
Bebaak Collective	Mumbai
Bhumika Womens Collective	Hyderabad
CREA	New Delhi
Forum Against Oppression of Women	Mumbai
Gamana Mahila Samuha	BANGALORE
Humsafar	Lucknow
Jagori	New Delhi
Kavya	Delhi
Mahila munnade	Karnataka
NFIW	India
National Network of Sex Workers	India
Nazariya	Sangli
Nirantar trust	Delhi
Orikalankini	Bangalore/ Delhi
Partners for Law in Development	New Delhi
Pinjra Tod	New Delhi
Point of View	Mumbai
Saheli Women's Resource Centre	110024
Sahiyar(Stree Sangathan)	Vadodara
Swayam	Kolkata
Tamilaga Penngal Oringinaippu (Tamil Nadu Women's Coordination Network)	Trichy
TARSHI	New Delhi
The Feminist Collective	Sonipat
Veshya Anyay Mukti Parishad	Sangli
Vikalp Women's Group	Vadodara
Virdohi Mahila Manch	Sangli

Individuals

Name	Profession / Organization	City
Aarthi Pai	Lawyer	Bangalore
Aarushi Mahajan	Lawyer	Delhi
Abhiti		Delhi
Abir Neogy		Kolkata
Aditi	Researcher	Mumbai
Aditi Hegde	Public Health Resource Network	Delhi
Adsa Fatima		Delhi
Aiman Khan	Researcher and Activist	Bengaluru
Ajitha	WSS	Delhi
Akhileshwari	Journalist and Academic	Hyderabad
Ambika	Social activist	Hyderabad
Amita Pitre	Gender Theme Lead, Oxfam India	New Delhi
Ammu Abraham	Activist on women's rights and Civil liberties	Mumbai
Amrita Johri		New Delhi
Amrita Shodhan	Researcher/ lecturer	London
Amritananda Chakravorty	Advocate	New Delhi
Anisha Ahuja	Entrepreneur	Mumbai
Anjali Bhardwaj		New Delhi
Anjali Monteiro	Academic and Filmmaker	Mumbai
Anju khemani	Disability activist	Hyderabad
Anomita Sen		Delhi
Anurita		Guwahati
Anuvinda Varkey	Lawyer	New Delhi
Archana Kaul	Social worker	Delhi
Arshie Qureshi		New Delhi
Arundhati Dhuru		Lucknow
Ashalatha	Concultant	Hyderabad
Ashima Roy Chowdhury	Feminist Activist	New Delhi
Asma Rasheed	EFL University	Hyderabad
Ayeesha	Sex worker	Delhi
Bhamati	Filmmaker	New Delhi
Bharti Sharma	Social Work	Gurgaon
Bhawna	Student	Delhi
Birajanandan	Student	Chennai
Brinelle Dsouza		Mumbai
Chandrika b. Umaretiya	personl buisness	surat
Chayanika Shah	Queer feminist researcher, teacher, activist	Mumbai
Debarati Das	Research, Editorial and Social Media Assistant, Point of View (Mumbai	Pune

Debika Chakravarty	Community Worker	Guwahati
Deepika	Researcher	Chhattisgarh
devaki jain	economist	delhi
Dhiviya		New delhi
Dimple Oberoi vahali		Shimla
Disha Das		Ahmedabad
Divya Vaishnava		Gurgaon
Elizabeth Abraham	Mahatma Gandhi University	Kottayam, Kerala
Fareeda	Filmmaker	Bangalore
G.jhansi	Women rights activist. (POW)	Hyderabad
Gabriele Dietrich	Pofessor Rtd)	Madurai
Gargi Harithakam	Writer, political activist	Kozhikode, kerala
Gayatri Dewan		new delhi
Girija.B	Development professional	Hyderabad
Gogu Shyamala	Researcher	Hyderabad
Gopika		Bangalore
Hasina khan	Service	Mumbai
Honey Oberoi Vahali	Psychotherapist	NORTH WEST DELHI
Isha	Content Manager	Ahmedabad
Jahnvi Visvanathan	Lawyer	Delhi
K. Lalita	Researcher, Activist	Hyderabad
K.Anuradha	Social activist	Hyderabad
kabi		bombay
Kahirunnisha	Social activist	Ahmedabad
Kalpna Kannabiran	Professor, Council for Social Development	Hyderabad
KALYANI MENON SEN	Independent researcher	GURGAON
Kamini Tankha		New Delhi
Kaneez fathima	civil rights activist	Hyderabad
Kaneez fathima	civil rights activist	Hyderabad
Karuna DW	Academic	Chennai
Khalida parveen	Amoomat society	Hyderabad
Koel Chatterji	Entrepreneur & Concerned Citizen	Kolkata
Komal saigal		New Delhi
Koyel Ghosh	Teacher	kolkata
Lara Jesani	Advocate	Mumbai
Lata Singh	Associate professor, JNU	Delhi
Laxmi Murthy	Journalist	Bangalore
Madhu Bhushan	Women's rights activist	BANGALORE
Madhurima	Entrepreneur	KOLKATA

Madhurima Majumder	Researcher	Delhi
Malobika	Queer Feminist Activist	Kolkata
Manisha Gupte	Rural Development	Pune
Margaret Gonsalves	Social Worker	Vasai
Mary E. John		Delhi
Masooma ranalvi		Delhi
Maya Gurav	Veshya Anyay Mukti Parishad	Sangli
Maya sharma		Vadodara
Meena Gopal	Researcher and activist	Mumbai
Meena Seshu	Social Science	Sangli
Minaxi Rohit		Vadodara
Mridu Kamal	Women's rights activist	New Delhi
Mrinalini	Student	GHAZIABAD
Mrinalini	Student, TISS	Kolkata
Nandini Das	Activist	NEW DELHI
Nandini Dhar	Professor	Sonipat
Nandini Rao	Activist	New Delhi
NANDITA AMBIKE		PUNE
Naseema Nazrin	Artist	Kochi
Neelima		Delhi
Neetu	Information Professional	Delhi
Neharika	Student	New Delhi
Nevish Z	Counselor	Delhi
Nighat		allahabad
Niharika Banerjea	Faculty, Ambedkar University	Delhi
Nikhath fatima	Civil rights activist	Hyderabad
Nilanju Dutta	Social Activist	Guwahati
Nisha Biswas		Kolkata
Nishi khandelwal		Delhi
Nitasha Biswas	Motivational Speaker	New Delhi /Mumbai
Padma Deosthali	Social scientist	Mumbai
Padmavathi		Secundarabad
Pamela Philipose	media	New Delhi
Paroma ray	Research scholar/ DU	Delhi
Ponni Arasu		Chennai
POUSHALI BASAK	Forum against Oppression of Women and Sappho for Equality	Bombay
Prabha		New Delhi
Pragnya Joshi	Research consultant on Gender and Development	Udaipur
Purnima G		New Delhi
Pushpa ACHANTA	Writer, Trainer	BANGALORE

Pyoli Swatija	Lawyer	Delhi
R.indira	Social worker & activists	Hyderabad-80
Radhika Desai	Gendee, Livelihoods and Early Childhood Development Researcher and Consultant	Hyderabad
Radhika Menon		Delhi
Radhika Radhakrishnan		New Delhi
Rajashri Dasgupta		Kolkata
Rakhi Sehgal		New Delhi
Ramya Jawahar	Researcher	New York
Ranjita Biswas	Researcher Activist	Kolkata
Rashmi rekha borah	Women's rights activist	Guwahati
Reena Nath	Psychotherapist	New Delhi
Reva Yunus	Sociologist	Bangalore
Richa Minocha		Delhi
Ritambhara	Nazariya – A Queer Feminist Resource Group	Delhi
Ritu Dewan		Mumbai
Rituparna	Nazariya – A Queer Feminist Resource Group	Delhi
Rohini		New Delhi
Roop Rekha Verma	social activism	Lucknow
roopashri sinha	freelance researcher and knowledge management consultant	mumbai
Roshmi Goswami		
Rukmini	Journalist	Mumbai
Runu Chakraborty	Independent consultant	Gaziabad
Rutvi Zamre	Student	Delhi
Saba Dewan	Film maker and writer	Gurgaon
Sadhna Arya	Teacher, DU	Delhi
Sahaya K	Independant Journalist	Hyderabad
sakina	FAOW	Mumbai
Sandhya	Frelance Consultant	New Delhi
Sanjana Gaind	Human Rights Activist	Calcutta
Sanjukta Bhuyan	Social Worker	Guwahati
Sanjukta Chakraborty	Manager	Jalgaon
Sarojini N		New Delhi
Saswati Ghosh	City College, Kolkata (Teaching and research)	Kolkata
Satnam Kaur		New Delhi
Satyavati	Social Activist	Hyderabad
Saumya	Student	Delhi
Saumya Srivastava		Lucknow
Sehba	Activist	Delhi
Shabnam Hashmi	Social activist	New Delhi
Shahira Nsim	Journalist	Lucknow

Shivangi	Student	New Delhi
Shivangi Agrawal		New Delhi
Shraddha		Hyderabad
Simrita Gopal Singh	Researcher & Social Activist	Pune
Smita	activist	new delhi
Smita V		Bombay
Sowmya Gupta	Social worker & Transgender rights activist	Delhi
Subhadra Kamath		New Delhi
Subhasmita Dandasena		Jeypore
Sucharita	Teacher	New Delhi
Sudha Patil	Muskaan	Sangli
Sujatha Surepally	Teaching	Karimnagar
Sulabha Howale		Tasgaon, Sangli.
Sumita Beethi		Kolkata
Sumitra	Curator	Bangalore
Sumitra		hyderabad
Suneeta Dhar	Development professional	New Delhi
Suneetha	Senior Fellow, Anveshi RCWS	Hyderabad
Supriya	Grassroot Activists	Mumbai
supriya madangarli	writer	kochi
sushma luthra		Haryana
Sushma Varma		BENGALURU
Susie Tharu	University faculty	Hyderabad
Svati Shah	Professor	New York
Tara R		Mumbai
Thulasi		Hyderabad
TOLIYA REKHA NARANBHAI	Job	Rajkot
Uma Bhrugubanda		Hyderabad
Uma Chakravarti	Feminist historian, Film-maker, Activist	New Delhi
Uma V Chandru		Bangalore
Umme Maria	Assistant Professor	Pune
urvashi		new delhi
Vahida Nainar		Mumbai
Vani Subramanian	Film maker	New Delhi
Vanita Nayak Mukherjee		New Delhi
Vasudha Nagaraj	Advocate	Hyderabad
Veena Shatrugna		Hyderabad
Vijaya bhandaru	Writer, activist	Hyderabad
Vineeta Bal	Scientist	Pune
Virginia Saldanha	Activist	Mumbai
yasmeen	Activist	MUMBAI

Zahra Gabuji		Mumbai
ADARSH JHA	Student	Gwalior
Adithyan		New Delhi
Amrita Sarkar		South Delhi
Arjun solanki	Job	Ahemdabad
arunesh		Bangalore
Bhagu solanki	AUTO DRIVER	AHEMDABAD
Bimal Kumar Biswas	Retired	Kolkata
Debayan Gupta		New Delhi
Gabbarsingh	Job	Ahemdabad
Grace Banu	Technlogist	Chennai
Jose	Illustrator	Mumbai
Kai	Student	New Delhi
Kanav	Student	Bangalore
Kartik Gupta	DevOps Engineer	Gurugram
Kaushik Rohit		Vadodara
Ketki Ranade	Faculty, Tata Institute of Social Sciences	MUMBAI
Krishna Pachani	Job	Vadodara
kunal puri	Developer	Gurgaon
Lovelesh Kumar Nigam		Asarwa
Navadeep (Tashi)	Human Rights Activism, Buddhist Monastic	Bodhgaya
Navdeep Mathur	Academic	Ahmedabad
Neel	Service	Kolkata
Nishchay		Mumbai
Pallu	Job	Vadodara
Parth Pawar	Illustrator	delhi
Pawan Dhall	Varta Trust	Kolkata
Prof Dr Miss A Mani	Researcher, Teacher	KOLKATA
Rajneesh Meena		Delhi
rambabumudraboyina	Transgender activist	Hyderabad
Shadab Ahmad		Okhla
Shadab Jahaan	Social work	Roorkee
Shrest Gupta		Kolkata
Shruti	business	kalyan
Soham Basu	Student and Gender Rights Activist	Kolkata
Suraj		AHMEDABAD
Suraj Sanap	Lawyer	New Delhi
Vansh	Profession	Jamnagar
Vyjayanti Vasanta Mogli	L&D consultant	Hyderabad

