



AILAJ

ALL INDIA LAWYERS' ASSOCIATION FOR JUSTICE

#18, Bharat Bhavan, No. 35, Infantry Road, Bengaluru- 560001

ailajhq@gmail.com | <https://ailaj.wordpress.com/>

AILAJ CONDEMNS THE INTRODUCTION OF THE TRANSGENDER PERSONS (PROTECTION OF RIGHTS) AMENDMENT BILL, 2026 AND DEMANDS AN IMMEDIATE ROLLBACK!

The All India Lawyers' Association For Justice (AILAJ), strongly condemns the attempt of the Union government to compromise both individual and community rights of the transgender persons in the country through the introduction of the **Transgender Persons (Protection of Rights) Amendment Bill, 2026**. This bill has been introduced by the Minister of Social Justice and Empowerment on Friday, 13th of March 2026 in the Lok Sabha, and represents an attempt to set back by several decades, the rights of transgender persons and completely, and dishonestly, disowns the legislative recognition of whatever rights were secured through years of struggle.

To begin with, the proposed amendments erode the right to self-determination of gender identity by replacing it with criteria based on medically assessed physiological markers and narrowly defined cultural identities. In doing so, they depart from the constitutional protections affirmed in **NALSA v. Union of India 2014 INSC 275**, which recognised the fundamental right of individuals to determine their own gender identity.



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Further, the legislature had enacted the **Transgender Persons (Protection of Rights) Act of 2019** which was a major breakthrough for the recognition of the transgender community and the recognition of their rights, which included the right to self-identification; the right to an affirming identity documentation; education, social security and health of transgender persons; protection against discrimination etc. While the provisions of this Act and the Rules framed thereunder were also criticised for an incomplete recognition of the right to self identification, the law was a starting point of recognition and rights-conferment on the transgender persons.

The Amendment Bill, in its **Statement of Objects and Reasons**, blatantly and outrightly denies the legislative history and legislative intent of the parent Act, therefore losing the good faith test before even coming to the provisions of the Bill. Paragraph 3 of the **Statement of Objects and Reasons** states:

“3. The intent, object and purpose of the Act is and was to protect a specified class of persons socially and culturally known as transgender people who face societal discrimination of an extreme and oppressive nature. The purpose was and is not to protect each and every class of persons with various gender identities, self-perceived sex/gender identities or gender fluidities.”



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Apart from being directly contradictory to the sections 2(k) and 4(2),¹ the Paragraph also lays bare the current mischief of the draft— departing from the rights-based framework of recognition of self-perceived gender identity, and moving towards a medically surveilled and culturally guarded model of selective recognition.

The pre-existing protections, to whatever limited extent were enacted, have been severely curtailed by design, wherein trans-men and trans-women cease to be recognised within the revised definition of “transgender person”, leaving only the socio-cultural pigeonholed categories, i.e. *kinner*, *hijra*, *aravani*, and *jogta*, as options for them to choose from. It is needless to say, that such socio-cultural categories come with their respective cultural heritage and baggage— a top-down enforced dilution whereof is unfair to both the individual compelled to choose the aforementioned identities, as well as the socio-cultural communities themselves. Further, the newly inserted *Provisio* to section 2(k),² effectively reverses and retrospectively nullifies the previously guaranteed right to self-identification, and amounts to invalidation of the legal recognition of a population which is estimated to be in millions.

¹ **2. Definitions.**— (k) “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*.

4. Recognition of identity of transgender person.— (2) A person recognised as transgender under sub-section (1) shall have a right to self-perceived gender identity.

² The provisio reads: “(...) Provided that it shall not include, nor shall ever have been so included, persons with different sexual orientations and self-perceived sexual identities.”



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It is also interesting to note that the new section 2(k) recognises transgender status for individuals who have been, by the use of “*force, allurement, inducement, deceit or undue influence, either with or without consent, compelled to assume, adopt, or outwardly present a transgender identity, by mutilation, emasculation, castration, amputation, or any surgical, chemical, or hormonal procedure or otherwise*” (emphasis supplied), but not the individuals who choose to identify as transgender.

Furthermore, the relatively straightforward process under the section 6 of the original Act [although the delegated legislation yet made the process more complicated], have been replaced by a gatekeeping procedure of reinstating the “authority”³ (medical board) which was principally done away with in **NALSA** (supra; para 66-69, 74-76) by recognising the Fundamental Right to self-identify.

Furthermore, in a time where attacks on citizenship through processes like Special Intesive Revision (SIR), National Register of Citizens (NRC), and related drives of disenfranchisement, non-recognition, and domicide are becoming state policy, this drive of retrospective derecognition of transgender persons would add to the vulnerability which has been amply recognised in judgments and academic literature and are difficult to dispute by anyone.

³ (aa) “authority” means a medical board, headed by a Chief Medical Officer or a Deputy Chief Medical Officer, as may be appointed by the Central Government, State Government or Union territory Administration;’;



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Besides, it must be noted at this crucial juncture where we are seeing a continuous attack on the religious minorities, that the hijra jamaats which are primarily Muslim, may face the burden of these new regulations more severely than others.

The amendment to Section 18 introduces new offences, which criminalise force/compulsion of persons to “to assume, adopt, or outwardly present a transgender identity”. This stigmatizes and pathologises transgender identity as a result of coercion, instead of a representation of personal autonomy. Further, it may render communities like hijra jamaats, kinnar akhadas etc., as well as community support groups as vulnerable to criminalisation, while act of community support and solidarity will be misconstrued as inducement. This erodes social support which has, historically been central to the survival and welfare of transgender people.

AILAJ strongly condemns the attempt of the government to attack the individuals belonging to the transgender community, as well as the community as a whole, by virtually erasing their existence out of the law. The reimposition of colonial ideals, and a reinstatement of the talking points of the western right-wing in the Indian socio-legal discourse must be identified and condemned in the strongest of terms. We call upon the entire legal community to protest the roll-back of basic human rights and Fundamental Rights for millions of people who stand to be impacted by this move.

