



## AMAN ~ GLOBAL VOICES FOR PEACE IN THE HOME

We, members of Aman Network strongly condemn and oppose the **Transgender Persons (Protection of Rights) Amendment Bill, 2026**. The bill undermines the dignity, autonomy, and constitutional protections guaranteed to transgender persons.

On the evening of **13 March 2026**, the Honourable Union Minister for Social Justice and Empowerment, **Dr. Virendra Kumar**, introduced the amendment bill in the Lok Sabha. With this move, the government effectively attempted to strip people across India of a fundamental right recognised by the Supreme Court — the **right to determine one’s own gender identity**, affirmed in the landmark judgement of *NALSA v. Union of India (2014)*.

This amendment represents a major step backwards.

For over a decade, India has been recognised for adopting an inclusive understanding of the term “transgender.” The term refers broadly to people whose gender identity does not align with the sex assigned to them at birth. It is an umbrella term, not limited to specific socio-cultural communities such as *Hijra, Kinnar, Aravani, Jogta*, or people with intersex variations.

Under the current framework, the recognition of transgender identity is built on five key principles:

1. Self-identification
2. A simple administrative process
3. No compulsory medical procedures
4. Recognition of non-binary identities
5. Access to gender-affirming care

The **Transgender Persons (Protection of Rights) Act, 2019**, recognised these principles and provided limited protections to one of the largest transgender populations in the world.

The **2026 Amendment Bill** dismantles this model.

## **The law creates a legal lacuna**

The statement of objects and reasons says, “It is the legislative policy to recognise a specific class of transgender persons, who face social issues, and to create a regime for their protection. The legislative policy was and is intended to protect only those who face severe social exclusion due to biological reasons for no fault of their own and no choice of their own.”

But it is incorrect to say that the NALSA judgement, as well as the 2019 law, were formed solely for the “protection of a specific class of transgender persons.” The 2019 Act, followed NALSA, to first and foremost:

1. define who a transgender person is,
2. Create administrative and other regulations for all transgender persons to access their rights as citizens of this country.
3. protect them all from discrimination

The proposed bill changes the intent of the earlier law. By eliminating 1 and 2 from the objectives of the law, it is discriminating against trans men, trans women, genderqueer people, and gender non-binary persons, because this is the only law that recognizes the category ‘transgender person’.

And by doing so, the proposed bill is creating a deep lacuna in the law itself.

This bill rejects “self-perceived gender,” but at the same time ignores the fact that you become a part of the communities mentioned (“hijras, kinnars, aravanis, and jogtas”) based on self-perceived gender. In so doing, they deny the rights of trans men, trans women, genderqueer people, gender diverse people, and gender non-binary persons.

The amendment proposes to create a restricted category of transgender persons eligible for legal protection, while excluding many others. Yet the Ministry of Social Justice & Empowerment (MOSJE) has not released any criteria explaining how these classifications were developed.

Instead, the bill relies on vague terms such as “genuine oppressed persons” and “those in actual need of protection.”

## **A Decade of Legal and Community Work Ignored**

The government claims the amendment is necessary because the definition of “transgender” in Section 2(k) of the 2019 Act is vague.

The current definition, which allows self-identification as a legal right, emerged through:

1. The Expert Committee on Transgender Issues (2013)
2. the Supreme Court’s NALSA judgment (2014)
3. years of community mobilisation across India during debates over the 2016 draft bill

The government’s claim ignores the history of how this definition came into being.

By changing the very definition of “transgender persons,” this Bill is in violation of the Supreme Court Judgement, ignores International legal standards, and goes against the demands of the transgender movements in this country.

## **Key Concerns With the Amendment Bill**

The Amendment Bill introduces **8 modifications, 4 additions, and 3 omissions** to the 2019 Act. Several key provisions raise serious constitutional and human rights concerns. Some of the most crucial ones are:

### **1) Removal of the Right to Self-Identification**

The bill shifts the power to recognise gender identity from individuals to a government-appointed medical board, thereby limiting the definition of transgender persons to a strictly biological understanding.

Mandatory medical certification and disclosure impinge on the right to dignity and bodily autonomy of a person because it forces individuals into physical examinations, often performed in horrifying conditions. The declaration of the medical report to obtain certification further infringes on the right to privacy granted by the Puttuswamy judgment.

### **2) A Narrow and Arbitrary Definition of “Transgender.”**

The amendment drastically restricts the definition of transgender persons to a few socio-cultural identities, people with intersex variations, thereby excluding trans men and trans-masculine people, trans women and trans-feminine people who are not part of socio-cultural communities, non-binary individuals, genderqueer people, and gender-diverse communities across India. In doing so, it reduces complex lived realities of gender marginalisation to narrow biological criteria.

By including persons with intersex variations as completely under the definition of transgender persons and actually defining transgender persons as those with intersex variations, this Bill is violative of persons with intersex variations and transgender persons.

By grouping intersex people within a transgender framework, the law conflates sex characteristics with gender identity, which are separate issues. This approach prevents the recognition of intersex-specific human rights concerns, such as non-consensual “normalising” surgeries on intersex infants, medical secrecy, lack of informed consent, and the right to bodily autonomy

It further complicates the understanding by referring to incomprehensible clauses like “*any person or child who has been, by 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.*”

### **3) Risk of Criminalisation**

The bill introduces a new criminal provision in Section 18, allowing imprisonment of up to five years for “alluring” or “forcing” someone to become transgender, despite no credible evidence that such conduct exists as a social pattern in India.

The provision could easily be misused to harass, target, and incarcerate individuals, communities, networks, and organisations, parents, and other supportive adults and service providers. The ‘socio-cultural communities’ who have been historically known to protect and nurture transgender individuals could be particularly at risk under this clause.

This harks back to colonial-era laws that treated gender-diverse communities as suspicious or criminal. Laws such as the Criminal Tribes Act, 1871, the Telangana Eunuchs Act 1919, the Habitual Offenders Act 1952 (and its amended versions at the state level), the Bombay Prevention of Begging Act 1959, and the Immoral Traffic (Prevention) Act 1956 historically targeted and harassed people who the bill refers to as ‘socio-cultural’ communities.

This directly contradicts the Government of India’s stated commitment to decolonising Indian law, and undermines the very purpose of the Transgender Persons (Protection of Rights) Act, 2019.

### **Our Recommendation**

The Transgender Persons (Protection of Rights) Amendment Bill, 2026 threatens to undo a decade of legal progress and community struggle. In the name of protection it in fact deprives

many persons of their identities and rights. If at all it is meant to be a protective legislation, it needs to focus on the many substantiated recommendations around employment, education, and alleviation from violence made by the transgender movements and those given by the MoSJE.

We call on lawmakers to withdraw this amendment and uphold the constitutional rights, dignity, and autonomy of transgender persons in India.

In any amendment, we urge the government to **retain the definition of “transgender person” used in the Transgender Persons (Protection of Rights) Act, 2019**, which reflects both constitutional principles and international human rights standards.

SIGNATURE

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