
Appeal for not granting Presidential assent to Bill No 79 seeking amendments to the Transgender Persons (Protection of Rights) Act of 2019 and returning it back to the Parliament for reconsideration

ATHI <write2athi@gmail.com>
To: <presidentofindia@rb.nic.in>

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Hon'ble President, Smt. Droupadi Murmu

I am writing to you on behalf of the Association for Transgender Health in India (ATHI), a not-for-profit organisation incorporated in 2018, which has been working with NACO and the All India Institute of Medical Sciences, New Delhi in sync with the policies laid down by both the Ministry of Health and Family Welfare as well as the Ministry of Social Justice & Empowerment. ATHI is a proponent of a human-centric approach for the delivery of affordable, accessible, evidence-based, standardised, holistic healthcare to transgender and gender-diverse persons through the public health system. The Indian Professional Association for Transgender Health (IPATH) is ATHI's professional arm, which provides a platform for medical professionals to engage in clinical and academic research and develop evidence-based protocols in Transgender Healthcare. Its members include psychiatrists, endocrinologists, surgeons, plastic surgeons, public health practitioners and other healthcare professionals and researchers. ATHI continues to work closely with the Centre of Excellence for Transgender Healthcare at AIIMS, New Delhi and other community-based organisations. ATHI, through its association with the World Professional Association for Transgender Health (WPATH) and contributions to the Guideline Development Group of the World Health Organization (WHO) has upheld the image of India as a nation, that through its progressive policies and legislations, not only respects and accepts the diversity of the human form and perception but has ensured that its citizens irrespective of their gender identity or sexual orientation live with dignity enjoying equal opportunities and privileges as enshrined in our Constitution. It is based on this first-hand experience gained from interactions with the Transgender and Gender-diverse community members availing care from public health facilities under the provisions of the Transgender Persons (Protection of Rights) Act 2019 and Rules 2020, that I humbly appeal to your high office to deny Presidential assent to Bill No 79 that seeks amendments to the Transgender Persons (Protection of Rights) Act of 2019 by returning it to the Parliament for reconsideration on the following grounds: -

1. The proposed Bill shall undo the tremendous progress that India has made towards transgender welfare since the landmark 2014 Supreme Court NALSA verdict, the 2019 Transgender Persons (Protection of Rights) Act and the 2020 Rules. Internationally, India is seen to be a leader in acceptance of diversity by the fact that it was one of the first nations to not only grant the right of self-determination of gender to its citizens as granted by the Constitution of India, but also put in place infrastructure for the delivery of affordable, accessible and standardized care through the Public Health system in accordance with the international human rights laws and the Yogyakarta principles. This regressive move would unsettle our position in the global arena and tarnish the image of India internationally by placing our country in the same category as nations denying life-saving care, human rights and dignity to its citizens.
2. The Bill proposes a new restrictive definition of the term "Transgender" that is in direct contravention of the universally accepted modern scientific understanding of gender incongruence. Such a flawed and unscientific definition will not only perpetuate irreparable harm by encouraging opinion-based, unethical practices, but shall also derail the gains made by internationally accepted healthcare practices and delivery mechanisms put in place through collaborative governmental and non-governmental efforts since 2019, leading to irrecoverable wastage of resources and financial losses incurred by the exchequer as well as the care seekers.
3. Further, the Bill contradicts the principles of care laid down by the United Nations and propagated by the World Health Organisation, in addition to the globally accepted, evidence-based Standards of Care (SoC Ver 8) published by the World Professional Association for Transgender Health (WPATH), that form the bedrock for delivery of ethical healthcare through both the public health system as well as the private healthcare sector.
4. A change in the definition as proposed in the Bill will not only necessitate changes in the existing transgender health management protocols, but will also affect the training programmes for capacity building and skill development of the care providers, ancillary staff and administrators, thereby imposing extra costs of operation

for the institutions and healthcare facilities providing care. In fact, the mere announcement of the Bill having been passed by both houses of the parliament has perpetuated an atmosphere of fear of prosecution and penalisation by the authorities among the care providers, leading to the demolition of the support structures and halting of the delivery of Healthcare to this vulnerable group thus creating a life threatening Public Health Emergency situation affecting the mental and physical health of the transgender and gender-diverse communities, their natal and adopted families and care providers, which comprises more than 2 crores of our citizens.

5. The Bill proposes the introduction of unethical gatekeeping practices by denying care to the large majority of the self-affirmed vulnerable transgender and gender-diverse persons, requiring breach of care provider-seeker confidentiality by enforcing mandatory reporting of medical interventions to District Magistrates, and violations of body autonomy and pathologisation of gender incongruence by demanding scrutiny by government-appointed Medical Boards

6. Lack of protection for the persons whose identities have been erased and excluded by the Bill will drive a large majority of these vulnerable persons out of the public healthcare system into the arms and under the scalpels of untrained and unscrupulous private providers operating under the radar of the Government, with no recourse for redressal of grievances.

7. The language of the Bill and the amendments sought by it induce fear of prosecution and persecution of the healthcare providers, which in itself would become a barrier to providing gender-affirming care by the care providers and encourage them to seek unnecessary affidavits and waivers from the care seeker, thus increasing the clients' gender dysphoria as well as the cost of care.

8. The proposed changes will further make it impossible to carry out meaningful research in the field of Transgender Health that is comparable with findings from other countries, thus preventing professional growth and creating barriers for the development of safer interventions and management protocols.

It is in light of the above that the Association of Transgender Health in India (ATHI) reiterates its request for the withdrawal of the current Bill in its entirety and takes this opportunity to submit the following recommendations to bridge current gaps in the holistic delivery of healthcare to these most marginalised and often ostracised citizens of our motherland.

1. Healthcare delivery for transgender and gender-diverse persons (removed from 'disorder' category and classed as Gender Incongruent by WHO in ICD-11) must be provided in accordance with the globally accepted, peer-reviewed, evidence-based current Standards of Care (SoC Ver 8) published by the World Professional Association for Transgender Health (WPATH) and human-centric principles of care endorsed by the United Nations and propagated through guidelines issued by the World Health Organisation till such time that the Ministry of Health & Family Welfare does not develop Indian Standards of Care based on medical evidence and research done in India through institutions delivering standardized and uniform healthcare.

2. The paucity of trained and skilled human resources for the delivery of holistic healthcare should be overcome by conducting standardised training of care providers by a certified faculty of internationally renowned and experienced Trainers and Professionals in Transgender Health, aligning with the philosophy of "Teach in India" and "Train in India", thereby cutting the costs of training and multiplying the impact.

3. Provide government-approved certification to healthcare professionals providing transgender healthcare to ensure streamlined and uniform standards in healthcare delivery to transgender persons.

4. Bring out an India-centric Health Manual, as mandated by the Transgender Protection of Rights Act 2019, drawing on the latest WPATH Standards of Care- SOC Ver 8 and the WHO Guidelines for Gender Affirming Care, essential for the provision of holistic healthcare to transgender and gender-diverse persons.

5. Encourage participative care by including people with lived experience of gender incongruence at each stratum of healthcare delivery and create a Community Cadre of providers, thereby rebuilding trust in care providers and optimising utilisation of resources and infrastructure created by the Government.

6. Strengthen the existing infrastructure created by the Ministry of Health and Family Welfare and the Ministry of Social Justice and Empowerment through the autonomous network of All India Institute of Medical Sciences, New Delhi, Regional AIIMS and other Medical Institutes of National Eminence to provide a template for transgender healthcare delivery for others to emulate.

7. Implement a government-driven "National Programme for Transgender Healthcare" for uniform implementation across all States and Union territories of India through the autonomous institutes of national eminence in both medical and social sciences.

Acknowledging the fact that Transgender Healthcare is an evolving multi-speciality, multi-disciplinary care that not only requires medical and social interventions, but would not be possible without governmental support, strong political will, societal acceptance, and compassion, we remain ever grateful and pray for your continued support for human-centric care. I, on behalf of the professionals working in the field of Transgender Healthcare delivery and the people with gender incongruence whom they seek to serve, humbly request you to deny assent to this Bill and return it to the Parliament for reconsideration with directions to seek inputs from the Ministry of Health & Family Welfare, professional organisations of care providers, persons with the lived experience of gender incongruence and also Non-governmental and Community based organizations who have the first hand experience and are aware of the ground realities

Your sincerely

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