

VANCHIT BAHUJAN AAGHADI'S OBJECTIONS TO THE TRANSGENDER PERSONS  
(PROTECTION OF RIGHTS) AMENDMENT BILL, 2026

We, the members of the Vanchit Bahujan Aaghadi (VBA), express grave concerns and strong opposition to the proposed legislative amendments to the Transgender Persons (Protection of Rights), 2019 being sought through the Transgender Persons (Protection of Rights) Amendment Bill, 2026.

The members of the VBA call for the withdrawal of the Bill with immediate effect as it is draconian, repressive, unconstitutional, arbitrary, and, most importantly, inhumane. The proposed amendments, if enacted, will nullify the very limited progress made in transgender rights, welfare, and reverse decades of advocacy for recognition, dignity, self-respect, inclusion, justice and empowerment for the transgender persons.

Before we list our objections to the proposed amendments, it is important that we accentuate the cunningness and deception with which Shri Virendra Kumar, the Minister of Social Justice and Empowerment, introduced the Bill on March 13, 2026. The Bill was added to the day's agenda of the Lok Sabha at the very last minute, read at 2 PM by the Minister of Social Justice and Empowerment, and introduced speedily within a minute without the Speaker feeling the need to see any objections to the introduction. The Bill being added at the very last minute to the day's agenda gave very little time for the members to study it. The Minister of Social Justice and Empowerment not only introduced the Bill with cunningness but prepared it surreptitiously without informing or seeking the consultations of transgender persons. The National Council for Transgender Persons (NCTP), constituted under the Transgender Persons (Protection of Rights) Act, 2019, to advise the government on matters involving transgender persons was neither informed nor consulted about the amendments. The process adopted by the Ministry of Social Justice and Empowerment, from drafting to introducing the Bill, is, needless to say, politically deceptive and cunning.

The Bill erodes constitutionally enshrined and guaranteed fundamental rights -- right to equality, self-determination, life, liberty and dignity. Article 14 ensures equality before the law and protection of law, while Article 15 prohibits discrimination on grounds such as religion, race, caste, sex, or place of birth. In *National Legal Services Authority (NALSA) v. Union of India* (2014, 5 SCC 438), the Supreme Court clarified that the term "sex" under Article 15 encompasses gender and gender identity, thereby extending full constitutional protection to transgender persons in India. The Court also recognised the right to self-determination of gender identity as an aspect of Article 19, that trans persons have an

absolute right to self-identify their gender, and deemed any insistence on medical interventions for declaring one's gender "immoral and illegal", safeguarding the freedom to express one's chosen gender through speech, expression, mannerisms, and attire.

Further, Article 21 guarantees the right to life and personal liberty, which includes the right to live with autonomy, dignity, and self-respect. The ability to determine and express one's gender identity lies at the core of this right. Read together, Articles 14, 15, 19, and 21 affirm that transgender persons are entitled to equality, freedom, self-determination, and dignity under the Constitution of India. The Transgender Persons (Protection of Rights) Act, 2019 is a welfare-oriented, anti-discrimination statute enacted to uphold these principles.

However, the proposed Bill goes beyond mere amendment and instead restructures the existing law in a manner that weakens legal recognition, restricts access to identity by undermining self-determination, introduces a medicalised framework, infringes upon privacy, and incorporates provisions that further stigmatises and criminalises the transgender community by incorporating social notions and stereotypes. In light of these grave concerns, the Vanchit Bahujan Aaghadi firmly rejects the Bill as unconstitutional and calls for its immediate withdrawal.

We, the members of the VBA, hereby, submit our objections to the proposed Bill –

1. The proposed amendment in Section 2, Clause k, contains a revised, problematic and exclusionary definition of trans persons that excludes trans men, many trans women, people with intersex variation and genderqueer people, and conflates "transgender" with intersex individuals (based on biological variations) and victims of trafficking or coercion, erasing the principle of self-identification.

The 2019 Act defines transgender people as those "whose gender does not match with the gender assigned to that person at birth." It explicitly includes trans men, trans women, people with intersex variations, and genderqueer people within its definitions. The 2019 Act recognised transgender persons based on the mismatch between assigned gender and self-identified gender. The 2026 amendment replaces this with biological criteria or affiliation with only specific communities or socio-cultural identities (*kinner*, *hijra*, *aravani* and *jogta*), excluding trans men, trans women, non-binary persons, and others who do not meet these narrow criteria. This arbitrary exclusion undermines legal recognition for the majority of transgender and gender-

diverse individuals and fails the test of non-arbitrariness under Article 14, lacking any rational basis for who is included or excluded.

Clause (ii) equates transgender identity with being compelled to assume it, effectively treating transgender persons as victims rather than autonomous individuals. This mischaracterises identity as a consequence of coercion or biological anomaly, rather than legitimate self-expression.

Applicants who have been successfully processed under the 2019 Act, guaranteeing legal recognition and protection to many transmen, transwomen and gender queer persons, are now at the risk of losing their legal recognition and the flowing rights and entitlements, given the proposed amendments.

2. The proposed omission in Section 2, Clause (i) of a distinct definition for persons with intersex variations indicates a concerning conflation of sex characteristics with gender identity and expression, effectively subsuming intersex identities within the broader category of "transgender". However, persons with intersex variations have specific and distinct needs, particularly in relation to bodily autonomy, including protection from non-consensual "corrective" surgeries performed on infants.

The 2019 Act included a separate definition for intersex persons despite grouping them under the broader umbrella of "transgender" in response to sustained advocacy from intersex communities. By removing this distinction in the proposed Bill, the law fails to adequately recognise the fundamental differences between sex characteristics and gender identity, as well as the unique lived experiences of intersex persons. This omission ultimately weakens the legal safeguards necessary to protect their rights.

3. The omission of Section 4, Sub-section (2) in the proposed Bill eliminates the statutory foundation for the right to gender self-determination. This signals a significant rollback of constitutional protections and undermines the legislative intent to recognise and uphold an individual's self-perceived gender identity.

The principle of self-determination lies at the heart of the right to legal recognition of gender identity, as affirmed in the *NALSA v. Union of India* judgment. The Supreme

Court recognised the right to determine one's gender as an essential aspect of the fundamental Right to Life (Article 21). By removing this statutory guarantee, the proposed Bill not only risks rendering the Act unconstitutional but also contradicts the *ratio decidendi* of the NALSA judgment. It exposes individuals' identities to arbitrary scrutiny, leaving recognition at the discretion of the State and Medical Boards rather than affirming autonomous self-identification.

4. Under the proposed Section 2(aa), the "Authority" is defined as a medical board, which becomes central to the process of certifying a transgender person. Section 6(1) further entrenches this by requiring that the District Magistrate (DM) issue a certificate only after examining the recommendation of this Authority and, if necessary, consulting other medical experts. By doing so, the Amendment effectively reintroduces a "Screening Committee" mechanism, creating additional layers of medical scrutiny.

The Supreme Court in NALSA emphasised that gender identity is a matter of self-determination and should not be contingent upon medical procedures or biological validation. By mandating medical certification, the Amendment undermines this principle, treating transgender persons' lived realities as subjects for medical evaluation rather than recognizing their right to declare their identity. It also expands discretionary power arbitrarily, as the DM may consult multiple medical experts at their discretion, making the process unpredictable and susceptible to bias, in violation of Article 14.

Section 7, in conjunction with the changes to Section 6(1), establishes a highly bureaucratic and intrusive process for legal recognition. The requirement of prior approval from a medical board places transgender individuals in a vulnerable position: navigating such a process may expose them to stigma, harassment, or even physical and sexual abuse. For a community already structurally excluded, this creates a chilling effect, making legal recognition difficult, unsafe, or practically inaccessible.

Requiring medical recommendations inherently implies examinations, physical, psychological, or both, to "prove" transgender identity. This intrudes upon the

most intimate aspects of personal autonomy, violating the right to privacy and bodily integrity under Article 21, as affirmed in *Puttaswamy v. Union of India*. It also perpetuates the misconception that being transgender is a medical condition or mental disorder, contrary to contemporary understanding of gender as a social and personal identity, not a pathology.

The Bill's Statement of Objects and Reasons, which bars identification based on any "acquirable characteristics," implicitly frames transgender identity as abnormal or unnatural. Coupled with the medicalised recognition process, this signals societal disapproval and may reinforce discriminatory attitudes, further marginalising transgender persons, especially belonging to the already marginalised and discriminated castes.

Forcing transgender and gender-diverse individuals to undergo physical examinations to 'prove' their gender identity will not only subject the already marginalised persons to invasive, traumatic, and dehumanising procedures, but also will deny them the right to self-identify, which will intensify their psychological stress and deepen the mental health burdens already faced by the community.

5. The proposed expansion of Section 18, particularly the insertion of clauses (e) through (h), is deeply concerning, counterproductive, and revive pernicious myths that cast trans people as evil coercers. Section 18(g), which criminalises "alluring or forcing someone to present as transgender," effectively criminalises transgender identity itself by treating it as something one is "lured" into, rather than an inherent. This turns an anti-discrimination and welfare legislation into a tool of criminalisation. By embedding punitive measures into protections, the Bill exposes transgender persons, their families, and community support structures to harassment and legal jeopardy. The language is sweeping, vague, and highly susceptible to misuse, making it both contradictory and harmful to the original intent of safeguarding rights.

This provision reflects a troubling colonial legacy of controlling and pathologising gender-diverse communities. It evokes the logic of the Criminal Tribes Act

(Amended) 1897, as well as other historical statutes like the Telangana Eunuchs Act (1919) and the Habitual Offenders Act (1952), which treated entire communities as inherently criminal. The Bill reintroduces similar provisions in the present context. Many reported cases of alleged kidnapping by transgender individuals actually involve children or adults who, having escaped abuse from their natal families or been expelled from their homes, sought refuge in hijra households, community-based programs, or non-governmental organisations.

The practical consequences are equally alarming. Traditional kinship and community support systems such as the *guru-chela networks*, *deras*, and *gharanas* that provide shelter, mentorship, and livelihood could now be construed as “compelling” individuals into a transgender identity. Parents affirming their child’s gender identity, social workers providing counselling, non-governmental organisations offering housing and livelihood support, and medical professionals delivering gender-affirming care all face potential criminal liability. Genderqueer, non-binary, and binary transgender persons outside socio-cultural categories (*hijra*, *kinner*, *aravani*, *jogta*) may be excluded from protection or targeted under these provisions, further entrenching structural vulnerability. Those at greatest risk will be individuals from Dalit, Adivasi, and Muslim communities, who already face systemic marginalisation and are particularly susceptible to criminalisation and abuse.

The proposed amendments resurrect a historic pattern of surveillance, control, and marginalisation of gender-diverse persons.

This Bill advances systematic exclusion, trauma and violence, both physical and symbolic, of the transgender persons. It disproportionately harms transgender individuals from marginalised caste backgrounds. Dalit trans persons, who face deep economic precarity and social exclusion, already struggle with systemic barriers to resources, safety, livelihood and dignity, and are now at heightened risk of losing even the limited legal protections and social supports they had.

Any legislative or policy changes affecting transgender, intersex, and gender-diverse persons must be shaped through genuine, inclusive consultation with the communities

they impact, as well as with civil society organisations working on health, human rights, social justice, and lived experience advocacy rather than being drafted cunningly in secret without notice or input from those whose rights, dignity and self-respect are at stake.

On behalf of all the members of Vanchit Bahujan Aaghadi –

A handwritten signature in blue ink, appearing to read 'Prakash Ambedkar', written in a cursive style.

Prakash Ambedkar,  
National President, Vanchit Bahujan Aaghadi