

SYNOPSIS

The present Writ Petition under Article 226 of the Constitution of India raises questions of seminal constitutional importance concerning the limits of legislative power to dilute fundamental rights recognized and guaranteed by the Hon'ble Supreme Court.

The core issue that arises for consideration is whether the State can subject the recognition of gender identity being an intrinsic and deeply personal facet of dignity, autonomy and privacy, to medical certification, verification, or determination by State-appointed authorities. The Petition challenges the constitutional validity of the Transgender Persons (Protection of Rights) Amendment Act, 2026, insofar as it removes and dilutes the statutory recognition of self-perceived gender identity and introduces a regime of State-controlled verification, certification and screening of gender identity.

The Hon'ble Supreme Court, in *National Legal Services Authority Vs. Union of India*, unequivocally held that gender identity is an integral part of dignity, autonomy and personal liberty under Articles 14, 19(1)(a) and 21, and that every individual has the right to self-identified gender. The Court rejected biological determinism and affirmed that gender identity must be based on self-perception.

Pursuant thereto, Parliament enacted the Transgender Persons (Protection of Rights) Act, 2019, which statutorily recognized the right to self-perceived gender identity. However, the impugned

Amendment Act, 2026 fundamentally alters this framework by reintroducing State control over gender identity through mechanisms of verification and certification. The impugned provisions thus effect a legislative rollback of a fundamental right already recognized and declared by the Hon'ble Supreme Court, raising serious constitutional concerns regarding the permissibility of such legislative action.

The Amendment further violates the rights to dignity, privacy and decisional autonomy under Article 21 by subjecting a deeply personal aspect of identity to intrusive State scrutiny, and is manifestly arbitrary and disproportionate under Article 14. It also infringes Article 19(1)(a) by restricting the expression of gender identity.

International human rights standards, including the Yogyakarta Principles and obligations under the International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights, reinforce that gender identity is a matter of self-determination and cannot be subjected to medical or administrative certification.

The Amendment has serious practical consequences, as legal recognition of gender identity directly affects access to identity documents, welfare entitlements, and protection under criminal law, thereby creating a real and immediate risk of exclusion and denial of justice. The present Petition therefore seeks a declaration that the impugned provisions of the Transgender Persons (Protection of Rights) Amendment Act, 2026, to the extent they dilute or remove

recognition of self-perceived gender identity and introduce certification-based mechanisms, are unconstitutional and void.

The issues raised in the present Petition concern the preservation of constitutional guarantees of dignity, autonomy and equality, and require authoritative adjudication by the Hon'ble Supreme Court.

Chandresh Jain

LIST OF DATES AND EVENTS

S. NO.	DATE	PARTICULARS
1.	1860	The British Enacted the Indian Penal Code 1860
2.	1860	Section 377 IPC inserted in the IPC 1860
3.	1871	The British enacted the Criminal Tribes Act 1871
4.	1949	The criminal Tribes Act 1871 was repealed by the Parliament of India
5.	1950	The Constitution of India came into force thereby ensuring safety, security, justice, dignity, liberty and equality to all the citizens of this country
6.	2000	The Law Commission of India in its 172 nd report recommended deletion of section 377 IPC and also recommended to make the rape laws gender neutral
7.	2009	One NGO challenged the constitutional validity of the section 377 IPC before this Hon'ble Court on the ground that on account of it covering sexual act between consenting adults in private infringes the fundamental rights guaranteed under article 14, 15 and 19 of the Constitution of India
8.	2009	This Hon'ble Court in <i>Naz Foundation Vs. Govt. of</i>

		<i>NCT of Delhi</i> , declared that section 377 IPC in so far it criminalizes consensual sexual acts of adults in private, is violative of article 14, 15 and 21 of the Constitution of India
9.	2013	The Hon'ble Supreme Court on an appeal overturned the judgment passed by this Hon'ble Court in <i>Suresh Kumar Koushal Vs. Naz Foundation</i> case by saying that section 377 IPC is constitutionally valid
10.	15.04.2014	Recognition of transgender people as the 'third gender' by the Supreme Court of India in landmark judgment titled as <i>National Legal Services Authority Versus Union of India and others</i> , and specific directions were passed onto the state to ensure legal reforms to ensure safety and security to Transgenders. The Hon'ble Supreme Court recognized the constitutional rights of transgender persons and affirming the right to self-identified gender identity.
11.	2017	The Hon'ble Supreme Court in <i>Justice K.S. Puttaswamy Vs. Union of India</i> recognizes the right to privacy and autonomy as integral aspects of Article 21.
12.	06.09.2018	5 Judges bench of the Hon'ble Supreme Court

		overruled koushal (Supra) in <i>Navtej Singh Johar Vs. Union Of India</i> , AIR 2018 Supreme Court 4321 and decriminalized consensual same-sex relations and affirmed constitutional rights of LGBTQIA+ individuals. The Hon'ble Supreme Court affirmed constitutional protection of sexual minorities and emphasises dignity and autonomy.
13.	2020	The Protection of Transgender Act 2019 to protect the rights of transgender person was enacted (as an implementation statute following NALSA) and brought into force
14.	March 2026	The Transgender Persons (Protection of Rights) Amendment Bill, 2026 is introduced in Lok Sabha.
15.	24.03.2026	Lok Sabha passes the Transgender Persons (Protection of Rights) Amendment Act, 2026
16.	25.03.2026	Rajya Sabha passes the Transgender Persons (Protection of Rights) Amendment Act, 2026
17.	30.03.2026	The Transgender Persons (Protection of Rights) Amendment Act, 2026 was notified and brought into force.
18.	April 2026	The present Writ Petition is filed challenging the constitutional validity of the amendment.

1. Union of India

Through its Secretary,

Ministry of Social Justice and Empowerment,

Shastri Bhawan, Dr. Rajendra Prasad Road,

New Delhi - 110001, India

2. Union of India

Through its Secretary

Ministry of Law & Justice,

Department of Legislative affairs,

Shastri Bhawan, New Delhi-110001

3. Union of India

Through its Chief Secretary

Ministry of Home Affairs,

North Block, New Delhi-110001

...RESPONDENTS

NEW DELHI

DATED: 06.04.2026

Chandresh Jain

PETITIONER

(DR CHANDRESH JAIN)

AGED ABOUT 42 YEARS

SON OF SH. RAMESH CHAND JAIN

OFFICE AT RZ-56B, VAISHALI COLONY,

OPP. MTNL EXCHANGE,

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IN THE HIGH COURT OF DELHI AT NEW DELHI

(CIVIL ORIGINAL JURISDICTION)

WRIT PETITION (CIVIL) NO. OF 2026

PUBLIC INTEREST LITIGATION

IN THE MATTER OF:

Dr. Chandresh Jain

...Petitioner

Versus

Union of India & Ors.

...Respondents

A WRIT PETITION IN THE NATURE OF PUBLIC INTEREST LITIGATION FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA FOR ENFORCEMENT OF THE FUNDAMENTAL RIGHTS OF THE CITIZENS BY WAY OF ISSUANCE OF AN APPROPRIATE WRIT, ORDER OR DIRECTION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA, INTER-ALIA DECLARING SECTIONS 2(AA), 2(K) (INCLUDING CLAUSES (I), (II) AND PROVISIO), SECTION 4(2) (AS OMITTED), SECTION 6, SECTION 7 AND SECTIONS 18(E) AND 18(F) OF THE TRANSGENDER PERSONS (PROTECTION OF RIGHTS) ACT, 2019, AS AMENDED BY THE TRANSGENDER PERSONS (PROTECTION OF RIGHTS) AMENDMENT ACT, 2026 (HEREINAFTER REFERRED TO AS THE "IMPUGNED AMENDMENT") AS BEING UNCONSTITUTIONAL,

**ARBITRARY, DISPROPORTIONATE, ULTRA VIRES PART - III
OF THE CONSTITUTION, AND PARTICULARLY VIOLATIVE OF
ARTICLES 14, 19 AND 21 AND BASIC STRUCTURE OF
CONSTITUTION**

To,

THE HON'BLE CHIEF JUSTICE AND
LORDSHIP'S COMPANION JUSTICES
OF THE HON'BLE HIGH COURT OF DELHI

HUMBLE PETITION OF THE
ABOVE-NAMED PETITIONER

MOST RESPECTFULLY SHOWETH AS UNDER:

1. That the present Writ Petition (civil) in the nature of Public Interest Litigation is being filed under Article 226 of the Constitution of India by the Petitioner praying for a Writ of Mandamus or any other appropriate Writs to declare that Sections 2(aa), 2(k) (including clauses (i), (ii) and proviso), Section 6, Section 7 and Sections 18(e) and 18(f) of the Transgender Persons (Protection of Rights) Act, 2019, as amended by the Transgender Persons (Protection of Rights) Amendment Act, 2026 (hereinafter referred to as the "Impugned

Amendment”) are prima facie arbitrary, disproportionate, unconstitutional and ultra vires Part-III of the Constitution, and particularly violative of articles 14, 19 and 21 and basic structure of constitution. The present petition is also being instituted challenging the constitutional validity of omission of Section 4(2), of the Transgender Persons (Protection of Rights) Act, 2019, by the Impugned Amendment, being prima facie arbitrary, unconstitutional and ultra vires Part-III of the Constitution, and particularly violative of articles 14, 19 and 21. The petitioner has no personal interest in the litigation and that the petition is not guided by self-gain or for gain of any other person / institution / body and that there is no motive other than of public interest in filing the writ petition.

2. That the source of knowledge of the facts alleged in the writ petition is from data freely available in public domain, existing statutes and the judgements and orders of the Hon’ble High Court of Delhi and Hon’ble Supreme Court of India. By this Writ Petition, the petitioner, a practicing advocate, is raising an issue of utmost importance in public and National interest which is crucial to the constitutional governance, rule of law, and democratic setup of India.
3. That the instant petition is invoked in furtherance of the Petitioner’s constitutional duty and consistent engagement with the protection of Human Rights in India. The present writ

petition similarly concerns the protection of fundamental human rights of the more than 76 lakhs Transgender persons of this country – in particular, the right to privacy, self-determination, decisional autonomy, and dignity. It is not possible / feasible for all the Transgenders of this country to approach this Hon'ble Court.

ARRAY OF PARTIES:

4. That the Respondent No.1 is the Union of India, represented by Secretary, Ministry of Ministry of Social Justice and Empowerment, New Delhi-110001. Respondent No. 2 is Ministry of Law & Justice at Shastri Bhawan, New Delhi-110001 represented by its Secretary, and Respondent No. 3 is Ministry of Home Affairs, North Block, New Delhi-110001, represented by its Chief Secretary. The said respondents have been impleaded as a party to the present Writ petition as the respondents are proper and necessary parties for complying the directions of this Hon'ble Court. It is further stated that no other persons/ bodies/ institutions are likely to be affected by the orders sought in the writ petition.
5. That the Petitioner is a qualified doctor, M.B.A. in Finance and Strategy, L.L.B., a National level sportsperson and a practicing Advocate enrolled with the Bar Council of Delhi. The Petitioner

is a Human rights activist and vigilante of his duties towards the nation and society. Petitioner is an active public spirited citizen of India, committed to advancing the rights and dignity of marginalized groups. The petitioner is duty bound to uphold the sanctity of the Constitution of India and the rights and interests of affected citizens. Petitioner's name is Dr. Chandresh Jain, office at RZ-56B, Vaishali Colony, opposite MTNL Exchange, Palam Dabri Road, New Delhi-110045, residence at WZ-596, V.P.O. Palam, New Delhi-110045, E-mail ID is dr.jainchandresh@gmail.com, PAN: AEUPJ0393K, annual income about 10 lacs per annum. The petitioner has means to pay the costs, if any, imposed by the Court and on an undertaking to the Court in that respect.

6. That no prior representations have been made to the authorities concerned for the remedial actions, in view of the facts mentioned in the present petition.
7. That the Petitioner has earlier approached the Hon'ble High Court of Delhi in a matter relating to the Criminal rights and dignity of transgender persons and other structurally disadvantaged groups. Details are:

S. No.	Number of Writ Petition	Status	Outcome
1.	W.P. Civil	Notice issued. Reply of	Pending

	3274/2025	Union of India awaited	
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2. W.P. (C) 2326/26 Chandresh Jain Vs. Union of India & Ors 15.04.2026

FACTS OF THE CASE

8. That the Transgender individuals, often known as the "third gender," have long experienced considerable societal exclusion, prejudice and infringement of their fundamental human rights in India. Although there have been some progressive legal and judicial measures, the transgender community still battles for acknowledgment, respect and equal treatment. The transgender population in India represents a marginalized group that has been historically excluded and stigmatized by society. Individuals identifying as transgender, including intersex persons and also several identities hijras, eunuchs, Kothis, Aravanis, Jogappas, Shiv-Shakthis and others with diverse gender identities, encounter numerous obstacles such as lack of legal recognition, restricted opportunities for education and jobs, societal prejudice, and violence.
9. That as far as trans-persons are concerned, their ordeals in the society start from the day their gender variant behaviour first surfaces in the family of their birth. The moment their parents, relatives and others in the society come to know that a child in their family is neither 'men' nor 'women', he is either thrown out of his home or given / sold to some transgender group, thereby depriving him the comfort or safety of his home. They are

rejected in school and educational institutions and disdained by their own family members. Those who resist such rejection are brutally assaulted and thrashed, thereby relegating them to 'non-existent human being'. They are treated worse than animals. Their very existence is questioned. Thus, in their childhood itself, they are deprived of their right to live in the house of his birth, of their right to share in the property, thereby throwing them to live on the streets. In order to meet their ends of meal, they often start begging in the streets and red lights, resorts to even committing crimes, such as snatching, pick pocketing, theft etc. Most of the rejected trans-people get trapped in prostitution rackets, where they live their lives worst than an animal. They are ridiculed, mocked, abused, disdained, humiliated, mentally and physically assaulted which includes sexual violence of gravest form. The transgender persons are the most marginalized community / section of our society having no human rights in true sense. They are mostly illiterate and extremely poor. They are discriminated in every aspect of their lives, at every places, home, workplace, educational institutions, hospitals and police stations, where they are treated like untouchables and treated inhumanly by one and all. Despite the formulations of law and nationwide recognition of the third gender, their ordeal remains the same. They are getting minimal/ no support from the government despite being one of the most marginalized communities in India.

10. That they have no actual rights to live in the family, form relationships, get married, make adoption of children; no right to inheritance of property in the family of his birth, which is violative of article 14, 15, 16, 19 and 21 of the Constitution of India. They are treated unequally in their work place due to lack of proper education, only a miniscule of the transgender people are employed. Even there, they are treated unequally and are prone to assault, both physically and sexually by co-workers / employers. Their plights are endless, despite the fact that they have been accorded with the status of "third gender" with fundamental and constitutional rights, as that of other two gender "men" and "women" in India. These offences include sex trafficking, rape, sodomy, hate crimes, stalking, voyeurism, sexual harassment at workplace and otherwise and so on.

11. That in every democracy, the welfare of its entire people, irrespective of their gender is of paramount importance. In India, as enjoyed by female gender, all transgender persons are entitled to fundamental rights enshrined under Article 14, Article 15, Article 16, Article 19(1)(a) of the Indian Constitution. Indian Constitution grants Transgender people, the right to live freely, safely, without discrimination and with dignity. This also includes the right to express their gender identity, access healthcare, seek protection under law, and be treated equally in status and employment. Article 14 of the Constitution of India

guarantees equality before law and equal proceeding of law of its every citizen, so is the Article 21 which guaranties right to life and personal liberty. While Article 15 guarantees Non Discrimination on basis of caste, creed, color or sex including gender identity etc., Article 16 provides for equal Opportunity in Public Employment and Article 19(1)(a) provides for Right to Free Speech. It is trite that the right to life includes in its purview right to live one's life in dignity. However, even after more than 77 years of our independence, the transgender people, who once drew utmost respect and admiration in the society in the ancient period and till the advent of British colonization in India, are now the most marginalized people with no dignity attached to them, thereby making them subject to extreme form of inhuman treatment. The community faces rampant abuse, including physical assault, sexual violence, and denial of justice as mentioned hereinabove, due to lack of legal safeguards.

12. That during ancient and medieval period, transgender people drew respect in the society in India, as people believed that they have / had the power to bless the people. Their presence at religious ceremonies, especially at birth ceremonies were considered to be pious and mandatory. However, at the invent of British colonization in India, the situation for then changed drastically as they were denied of their legitimate civil right and totally marginalized in the society. The British used to loath

them and soon the whole transgender people were considered as criminals and a threat to the society.

13. That the situation further got worst for them when the British enacted the Criminal Tribes Act, 1871. The British suspected every transgender people of kidnapping or castrating children or including in carnal inter-course against the order of the nature. The Act of 1871 was enacted to punish them for indulging in homo-sexual activities.

14. That the Criminal Tribes Act was established based on the belief that certain communities were inherently more likely to engage in criminal behavior (Narain 2009). In 1897, a specific provision was added to include 'eunuchs' within the scope of this law. In this legislation, "eunuchs" were described as:

"[A]ll persons of the male sex who admit themselves, or on medical inspection clearly appear, to be impotent"

and

"Local governments were required to keep a register of the names and residences of all eunuchs who were "reasonably suspected of kidnapping or castrating children, or of committing offences under Section 377 of the IPC, or of abetting crimes under these provisions."

Under the Criminal Tribes Act, 'eunuchs' were mandated to register with local authorities and were not allowed to serve as guardians for any minors, execute gifts or wills, or adopt a son. They faced the possibility of imprisonment for up to two years for breaching these rules. 'Eunuchs' who looked after boys younger than 16 years old could face imprisonment for a maximum of two years. 'Eunuchs' were not permitted to appear in public streets or places dressed or adorned as women. They were also prohibited from dancing, playing music, or engaging in any public performance.

15. That the colonial framework effectively institutionalised discrimination against transgender persons and reinforced social exclusion that continues to affect the community even in the post-constitutional era.

Following the adoption of the Constitution of India in 1950, transgender persons continued to face systemic discrimination in areas including education, employment, healthcare, housing, access to identity documents, and access to justice.

The absence of legal recognition of transgender identity resulted in profound hardships, including the inability to obtain identity documents consistent with gender identity and the denial of legal protections under various statutes.

16. That the constitutional framework of India guarantees equality, dignity and personal liberty to all individuals. Articles 14, 15, 16, 19 and 21 collectively form the cornerstone of the constitutional protection afforded to individuals against discrimination and arbitrary state action. The constitutional recognition of transgender rights was significantly advanced by the landmark judgment of the Hon'ble Supreme Court in *National Legal Services Authority Vs. Union of India*, (2014) 5 SCC 438.
17. That in case "*National Legal Services Authority Vs. Union Of India & Ors.*" also known as *NALSA* case, the Hon'ble Supreme Court was called upon to consider the constitutional rights of transgender persons and the legal recognition of their gender identity.

The Hon'ble Supreme Court recognized that transgender persons constitute a distinct class of individuals whose rights had historically been ignored or violated. The Hon'ble Court held that gender identity is an integral component of personal autonomy and dignity and therefore falls within the ambit of Article 21 of the Constitution. The Hon'ble Supreme Court observed that the recognition of gender identity is essential to the full enjoyment of fundamental rights. The Hon'ble Supreme Court further held that discrimination against transgender persons violates the guarantee of equality under Article 14. Importantly, the Hon'ble Supreme Court recognized the right of

individuals to determine their gender identity based on self-perception, and held that such identity must be legally recognized by the State. The Court specifically held that transgender persons have the right to identify as:

- a. male
- b. female
- c. third gender

The Hon'ble Supreme Court issued several directions to the Union and State Governments, including directions to:

- a. legally recognize transgender persons as a third gender;
- b. treat transgender persons as socially and educationally backward classes;
- c. extend reservation in educational institutions and public employment;
- d. ensure access to healthcare and social welfare schemes.

The judgment marked a significant step toward recognizing the constitutional rights of transgender persons and emphasised the principles of dignity, autonomy and equality.

18. That in NALSA case, the Hon'ble Supreme Court held that classification restricted to limited choices thereby excluding certain categories amounts to discrimination and also held that Binary notion of gender in IPC and other laws recognizing only male or female gender amounts to discrimination against

Transgenders. It was thus observed by the Hon'ble Supreme Court that:

“32. In Christine Goodwin v. United Kingdom (Application No.28957/95 - Judgment dated 11th July, 2002), the European Court of Human Rights examined an application alleging violation of Articles 8, 12, 13 and 14 of the Convention for Protection of Human Rights and Fundamental Freedoms, 1997 in respect of the legal status of transsexuals in UK and particularly their treatment in the sphere of employment, social security, pensions and marriage. Applicant in that case had a tendency to dress as a woman from early childhood and underwent aversion therapy in 1963-64. In the mid- 1960s she was diagnosed as a transsexual. Though she married a woman and they had four children, her inclination was that her “brain sex” did not fit her body. From that time until 1984 she dressed as a man for work but as a woman in her free time. In January, 1985, the applicant began treatment at the Gender Identity Clinic. In October, 1986, she underwent surgery to shorten her vocal chords. In August, 1987, she was accepted on the waiting list for gender re-assignment surgery and later underwent that surgery at a National Health Service hospital. The applicant later divorced her former wife. She claimed between 1990 and 1992 she was sexually harassed by colleagues at work, followed by other human rights violations. The Court after referring to various provisions and Conventions held as follows:-

“Nonetheless, the very essence of the Convention is respect for human dignity and human freedom. Under Article 8 of the Convention in particular, where the notion of personal autonomy is an important principle underlying the interpretation of its guarantees, protection is given to the personal sphere of each individuals, including the right to establish details of their identity as individual human beings (see, inter alia, Pretty v. the United Kingdom no.2346/02, judgment of 29 April 2002, 62, and Mikulic v. Croatia, no.53176/99, judgment of 7 February 2002, 53, both to be published in ECHR 2002...). In the twenty first century the right of transsexuals to personal development and to physical and moral security in the full sense enjoyed by others in society cannot be regarded as a matter of controversy requiring the lapse of time to cast clearer light on the issues involved. In short, the unsatisfactory situation in which post- operative transsexuals live in an intermediate zone as not quite one gender or the other is no longer sustainable.”

And the Hon’ble Supreme Court also held that;

“75. Articles 14, 15, 16, 19 and 21, above discussion, would indicate, do not exclude Hijras/Transgenders from its ambit, but Indian law on the whole recognize the paradigm of binary genders of male and female, based on one’s biological sex. As already indicated, we cannot accept the Corbett principle of “Biological Test”, rather we prefer to follow the psyche of the person in determining sex and gender and prefer the “Psychological Test” instead of “Biological Test”. Binary notion of gender reflects in the Indian Penal Code, for example, Section

8, 10, etc. and also in the laws related to marriage, adoption, divorce, inheritance, succession and other welfare legislations like NAREGA, 2005, etc. Non-recognition of the identity of Hijras/Transgenders in the various legislations denies them equal protection of law and they face wide-spread discrimination.”

19. That in NALSA (Supra), the Hon’ble Supreme Court further held that human rights are rights that “belong” to every person and the same are not dependent on the specifics of the individual. They are moral, pre-legal rights and cannot be granted by people or taken away by them. It was held that Human Rights have been recognized by Universal Declaration of Human Rights and adopted as fundamental rights in the Constitution of India, and further that the Transgenders being humans have every right to enjoy their human rights. It was thus observed that:

“87. There is thus a universal recognition that human rights are rights that “belong” to every person, and do not depend on the specifics of the individual or the relationship between the right-holder and the right- grantor. Moreover, human rights exist irrespective of the question whether they are granted or recognized by the legal and social system within which we live. They are devices to evaluate these existing arrangements: ideally, these arrangements should not violate human rights. In other words, human rights are moral, pre-legal rights. They are not granted by people nor can they be taken away by them.

88. *In international human rights law, equality is found upon two complementary principles:*

non-discrimination and reasonable differentiation. The principle of non-discrimination seeks to ensure that all persons can equally enjoy and exercise all their rights and freedoms. Discrimination occurs due to arbitrary denial of opportunities for equal participation. For example, when public facilities and services are set on standards out of the reach of the TGs, it leads to exclusion and denial of rights. Equality not only implies preventing discrimination (example, the protection of individuals against unfavourable treatment by introducing anti-discrimination laws), but goes beyond in remedying discrimination against groups suffering systematic discrimination in society. In concrete terms, it means embracing the notion of positive rights, affirmative action and reasonable accommodation.

89. *Nevertheless, the Universal Declaration of Human Rights recognizes that all human beings are born free and equal in dignity and rights and, since the Covenant's provisions apply fully to all members of society, persons with disabilities are clearly entitled to the full range of rights recognized in the Covenant. Moreover, the requirement contained in Article 2 of the Covenant that the rights enunciated will be exercised without discrimination of any kind based on certain specified grounds or other status clearly applies to cover persons with disabilities.*

90. India attained independence within two years of adoption of the aforesaid U.N.Charter and it was but natural that such a Bill of Rights would assume prime importance insofar as thinking of the members of the Constituent Assembly goes. It in fact did and we found chapter on fundamental rights in Part-III of the Constitution. It is not necessary for me, keeping in view the topic of today's discussion, to embark on detailed discussion on Chapter-III. Some of the provisions relevant for our purposes would be Article 14, 15,16 and 21 of the Constitution which have already been adverted to in detail in the accompanying judgment. At this juncture it also needs to be emphasized simultaneously is that in addition to the fundamental rights, Constitution makers also deemed it proper to impose certain obligations on the State in the form of "Directive Principles of State Policy" (Part-IV) as a mark of good governance. It is this part which provides an ideal and purpose to our Constitution and delineates certain principles which are fundamental in the governance of the country. Dr. Ambedkar had explained the purpose of these Directive Principles in the following manner (See Constituent Assembly debates):

"The Directive Principles are like the Instruments of Instructions which were issued to the Governor-General and the Governors of Colonies, and to those of India by the British Government under the 1935 Government of India Act. What is called "Directive Principles" is merely another name for the Instrument of Instructions. The only difference is that they are instructions to the legislature and

the executive. Whoever capture power will not be free to do what he likes with it. In the exercise of it he will have to respect these instruments of instructions which are called Directive Principles”.

“123. As we have pointed out above, our Constitution inheres liberal and substantive democracy with rule of law as an important and fundamental pillar. It has its own internal morality based on dignity and equality of all human beings. Rule of law demands protection of individual human rights. Such rights are to be guaranteed to each and every human being. These TGs, even though insignificant in numbers, are still human beings and therefore they have every right to enjoy their human rights.”

While the Supreme Court in *NALSA Vs. Union of India* (2014) recognized transgender persons as a "third gender" entitled to fundamental rights under Articles 14, 15, 19, and 21, still there are no specific criminal provisions protecting transgender persons from hate crimes, discrimination, sexual assault, or harassment.

20. That no UN resolution supports medical determination of gender and on the contrary, International standards increasingly prohibit such requirements. Across UN Human rights mechanisms Gender identity is treated as part of Right to dignity, privacy and autonomy. The focus has always been on self-identification, legal recognition without intrusive conditions

and protection from medical abuse. The cumulative effect of the Yogyakarta principles establishes a clear and consistent international normative position that gender identity is a matter of self-determination and cannot be made contingent upon medical scrutiny, certification, or approval by any authority. The impugned provisions, by reintroducing medical gatekeeping in the garb of administrative procedure, are manifestly arbitrary, disproportionate, and contrary to India's obligations under international human rights law, and therefore liable to be struck down.

21. That in NALSA (Supra), the Hon'ble Supreme Court on plight of the transgender people and common problems faced by them observed in para no. 112 as under:

"112. Some of the common and reported problem that transgender most commonly suffer are: harassment by the police in public places, harassment at home, police entrapment, rape, discriminations, abuse in public places et.al. The other major problems that the transgender people face in their daily life are discrimination, lack of educational facilities, lack of medical facilities, homelessness, unemployment, depression, hormone pill abuse, tobacco and alcohol abuse, and problems related to marriage and adoption. In spite of the adoption of Universal Declaration of Human Rights (UDHR) in the year 1948, the inherent dignity, equality, respect and rights of all human beings throughout the world, the transgender are denied basic

human rights. This denial is premised on a prevalent juridical assumption that the law should target discrimination based on sex (i.e., whether a person is anatomically male or female), rather than gender (i.e., whether a person has qualities that society consider masculine or feminine (Katherine M.Franke, The Central Mistake of Sex Discrimination Law: the Disaggregation of Sex from Gender, 144 U.Pa.Rev.1,3 (1995) (arguing that by defining sex in biological terms, the law has failed to distinguish sex from gender, and sexual differentiation from sex discrimination). Transgender people are generally excluded from the society and people think transgenderism as a medical disease. Much like the disability, which in earlier times was considered as an illness but later on looked upon as a right based approach. The question whether transgenderism is a disease is hotly debated in both the transgender and medical-psychiatric communities. But a prevalent view regarding this is that transgenderism is not a disease at all, but a benign normal variant of the human experience akin to left-handedness.”

22. That in NALSA (Supra), the Hon’ble Supreme Court held that Transgenders are entitled to legal protection of laws in all spheres of state activity. It was thus observed that:

“54. Article 14 of the Constitution of India states that the State shall not deny to “any person” equality before the law or the equal protection of the laws within the territory of India. Equality includes the full and equal enjoyment of all rights and freedom. Right to equality

has been declared as the basic feature of the Constitution and treatment of equals as unequals or unequals as equals will be violative of the basic structure of the Constitution. Article 14 of the Constitution also ensures equal protection and hence a positive obligation on the State to ensure equal protection of laws by bringing in necessary social and economic changes, so that everyone including TGs may enjoy equal protection of laws and nobody is denied such protection. Article 14 does not restrict the word 'person' and its application only to male or female. Hijras/ transgender persons who are neither male/female fall within the expression 'person' and, hence, entitled to legal protection of laws in all spheres of State activity, including employment, healthcare, education as well as equal civil and citizenship rights, as enjoyed by any other citizen of this country."

And also held that;

"76. Article 14 has used the expression "person" and the Article 15 has used the expression "citizen" and "sex" so also Article 16. Article 19 has also used the expression "citizen". Article 21 has used the expression "person". All these expressions, which are "gender neutral" evidently refer to human-beings. Hence, they take within their sweep Hijras/Transgenders and are not as such limited to male or female gender. Gender identity as already indicated forms the core of one's personal self, based on self-identification, not on surgical or medical procedure. Gender identity, in our view, is an integral part of

sex and no citizen can be discriminated on the ground of gender identity, including those who identify as third gender."

23. That the Hon'ble Supreme Court in the NALSA judgment authored by HMJ K.S. Radhakrishnan observed that Transgenders are entitled to legal protection of laws and their fundamental rights under article 15 and 16 cannot be denied. It was thus observed that:

"56. Articles 15 and 16 prohibit discrimination against any citizen on certain enumerated grounds, including the ground of 'sex'. In fact, both the Articles prohibit all forms of gender bias and gender based discrimination.

57. Article 15 states that the State shall not discriminate against any citizen, inter alia, on the ground of sex, with regard to

(a) access to shops, public restaurants, hotels and places of public entertainment; or

(b) use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.

The requirement of taking affirmative action for the advancement of any socially and educationally backward classes of citizens is also provided in this Article.

58. Article 16 states that there shall be equality of opportunities for all the citizens in matters relating to employment or appointment to any office under the State. Article 16 (2) of the Constitution of India reads as follows:

“16(2). No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect or, any employment or office under the State.” Article 16 not only prohibits discrimination on the ground of sex in public employment, but also imposes a duty on the State to ensure that all citizens are treated equally in matters relating to employment and appointment by the State.

59. Articles 15 and 16 sought to prohibit discrimination on the basis of sex, recognizing that sex discrimination is a historical fact and needs to be addressed. Constitution makers, it can be gathered, gave emphasis to the fundamental right against sex discrimination so as to prevent the direct or indirect attitude to treat people differently, for the reason of not being in conformity with stereotypical generalizations of binary genders. Both gender and biological attributes constitute distinct components of sex. Biological characteristics, of course, include genitals, chromosomes and secondary sexual features, but gender attributes include one's self image, the deep psychological or emotional sense of sexual identity and character. The discrimination on the ground of 'sex' under Articles 15 and 16, therefore, includes discrimination on the ground of gender identity. The expression 'sex' used in Articles 15 and 16 is not just limited to biological sex of male or

female, but intended to include people who consider themselves to be neither male or female.

60. TGs have been systematically denied the rights under Article 15(2) that is not to be subjected to any disability, liability, restriction or condition in regard to access to public places. TGs have also not been afforded special provisions envisaged under Article 15(4) for the advancement of the socially and educationally backward classes (SEBC) of citizens, which they are, and hence legally entitled and eligible to get the benefits of SEBC. State is bound to take some affirmative action for their advancement so that the injustice done to them for centuries could be remedied. TGs are also entitled to enjoy economic, social, cultural and political rights without discrimination, because forms of discrimination on the ground of gender are violative of fundamental freedoms and human rights. TGs have also been denied rights under Article 16(2) and discriminated against in respect of employment or office under the State on the ground of sex. TGs are also entitled to reservation in the matter of appointment, as envisaged under Article 16(4) of the Constitution. State is bound to take affirmative action to give them due representation in public services.

61. Articles 15(2) to (4) and Article 16(4) read with the Directive Principles of State Policy and various international instruments to which Indian is a party, call for social equality, which the TGs could realize, only if facilities and opportunities are extended to them so that they can also live with dignity and equal status with other genders."

24. That with the NALSA judgment, the Hon'ble Supreme Court recognized the transgender communities as 'third gender' and held that they are equally protected under Article 21 of the constitution as 'men' and 'women'. The Hon'ble Supreme Court further held that Article 14 is not restricted to only male and female, but those who are neither male nor female also fall within the ambit of "person". Even Article 15 which prohibits discrimination on the grounds of 'sex' does not restrict its ambit to 'men' and women only and includes all the citizens of this country including Transgenders.

25. The Hon'ble Supreme Court in this Judgment thus specifically recognized the harassments and gross sexual offences including heinous crime of 'Rape' being committed on Transgender persons, however till date no specific provision(s) for each such gross atrocities and criminal offences having been committed upon the transgender community has been enacted while the status of 'third gender' has been duly recognized. It is in gross violation of the fundamental rights of the Transgenders. Despite the above, rampant sexual violence against transgender communities is not being taken seriously in India. Though gender neutrality is assigned to the perpetrator, the same has not assigned to the victims who are not women.

26. That according to 2011 census, there were 4.88 lakh Transgender persons in the country which is highly underestimated and the

actual number of Transgenders, while taking into account the international average and Indian statistics, must not be less than atleast 76.85 Lakhs as on date, since as per the report titled as “The Many Rapes Of India's Transgender Citizens”, transgenders form about 0.53 % of total population in India.

27. That following the judgment in NALSA, the Hon'ble Supreme Court delivered several landmark decisions expanding the constitutional protection afforded to sexual and gender minorities.

In *Justice K.S. Puttaswamy Vs. Union of India*, (2017) 10 SCC 1, a nine-judge Constitution Bench recognized the right to privacy as a fundamental right under Article 21. The Court emphasised that privacy includes the right to make personal decisions concerning identity, bodily integrity and autonomy.

The Court also recognized that sexual orientation and gender identity form an intrinsic part of the right to privacy. In *Navtej Singh Johar Vs. Union of India*, (2018) 10 SCC 1, the Hon'ble Supreme Court decriminalised consensual same-sex relations and reaffirmed that the Constitution protects the dignity and autonomy of sexual minorities. The Court emphasised that the Constitution is a transformative document that seeks to dismantle social hierarchies and ensure equal citizenship for all individuals.

28. That in response to the directions issued by the Hon'ble Supreme Court in NALSA, Parliament enacted the Transgender Persons (Protection of Rights) Act, 2019. The Act was intended to provide statutory protection to transgender persons and prohibit discrimination against them in areas such as education, employment, healthcare, housing and public services.

The Act defined a "transgender person" to include individuals whose gender identity does not align with the gender assigned at birth. Importantly, Section 4 of the Act recognized the right of a transgender person to self-perceived gender identity, thereby reflecting the constitutional principle articulated in NALSA. The Act also provided mechanisms for obtaining identity certificates and required governments to take steps to ensure welfare measures for transgender persons. The Rules under the Act were notified in 2020 to operationalize the statutory framework.

29. That the Transgender Persons (Protection of Rights) Act, 2019 was structured around the following key components:

- a. definition of transgender persons
- b. recognition of gender identity
- c. prohibition of discrimination
- d. welfare measures
- e. offences and penalties.

Among these provisions, Section 4 of the Act constituted the core statutory recognition of gender identity. Section 4 provided that every transgender person has the right to self-perceived gender identity. This provision directly reflected the constitutional principles articulated by the Hon'ble Supreme Court in NALSA.

30. That the TPPR Act 2019 however failed to provide for any provision as to civil rights like marriage, adoption, social security benefits etc. It also fails to provide any reservation to Transgender person in educational institutions and jobs, despite the Transgender people has now been recognized as a separate gender i.e. third gender and are socially and educationally backward within the meaning of Article 15 and 16 of the Constitution of India. No provisions for separate Public toilets have been made for transgender people in India till date. Further even no provisions exists under the BNS or BNSS for protection of the Transgenders from any sexual offence.

31. That in March 2026, the Union Government introduced the Transgender Persons (Protection of Rights) Amendment Bill, 2026 in the Lok Sabha. The principal changes include:

- a. modification of the definition of transgender persons
- b. alteration of the framework governing gender identity recognition

c. introduction of verification mechanisms for gender recognition.

As evident, the Bill proposed several amendments to the 2019 Act, including modifications to provisions relating to the recognition of transgender identity. Notably, the amendment sought to remove or substantially dilute the statutory recognition of self-perceived gender identity that currently forms the foundation of the legal framework. The amendment also introduced mechanisms that subject recognition of gender identity to forms of verification or certification by authorities. These changes collectively shift the statutory framework from self-determination to state determination of gender identity and fundamentally alter the statutory framework that had been enacted to implement the constitutional principles articulated in NALSA.

32. Deletion or Dilution of Self-Perceived Gender Identity: One of the most significant changes introduced by the Impugned Amendment is the removal or dilution of the statutory recognition of self-perceived gender identity. Under the 2019 Act, Section 4 recognized that:

“A transgender person shall have the right to self-perceived gender identity.”

This provision was a direct statutory embodiment of the principles laid down in NALSA. The Impugned Amendment

removes or substantially modifies this recognition and introduces mechanisms that require gender identity to be verified or certified by authorities. Such a change fundamentally alters the nature of the right recognized by the statute. Instead of recognizing gender identity as an inherent attribute of personal autonomy, the amendment effectively subjects such identity to state approval.

33. Introduction of Verification Mechanisms: The Impugned Amendment introduces procedural requirements that require transgender persons to obtain recognition through administrative verification. Such mechanisms may include:

- a. scrutiny by authorities
- b. certification procedures
- c. administrative evaluation of gender identity

These procedures represent a departure from the principle of self-identification recognized in NALSA. The introduction of such verification mechanisms raises serious concerns regarding privacy, bodily autonomy and dignity. Gender identity, by its very nature, is a deeply personal aspect of an individual's identity. Subjecting such identity to state scrutiny violates the constitutional principles of dignity and autonomy recognized by the Hon'ble Supreme Court.

34. Narrowing of the Definition of Transgender Persons: The Impugned Amendment also modifies the statutory definition of transgender persons. The amendment seeks to introduce a narrower framework that emphasises biological or medical characteristics. Such an approach conflicts with the reasoning adopted by the Hon'ble Supreme Court in *NALSA*, where the Court explicitly rejected the view that gender identity must be determined solely by biological characteristics. The Court recognized that gender identity is a psychological and personal phenomenon, not merely a biological attribute. By narrowing the definition of transgender persons, the amendment risks excluding individuals whose gender identity is based on personal self-identification.

35. That the cumulative effect of the above amendments is to replace the principle of self-determined gender identity with a framework of state-determined recognition. This transformation undermines the fundamental rights recognized by the Hon'ble Supreme Court. In practical terms, the amendment creates barriers for transgender persons seeking recognition of their gender identity. Such barriers may affect access to various rights and protections, including:

- a. access to identity documents
- b. access to welfare schemes
- c. protection against discrimination

More importantly, legal recognition of gender identity often determines the ability of transgender persons to seek protection under criminal laws relating to sexual violence and harassment. The amendment therefore has far-reaching consequences for the ability of transgender persons to access justice.

36. That the Impugned Amendment raises several constitutional concerns.

First, the amendment appears to contradict the principles articulated by the Hon'ble Supreme Court in NALSA. By removing the recognition of self-perceived gender identity, the amendment effectively reintroduces state control over gender identity, which had been rejected by the Hon'ble Supreme Court in NALSA. Such legislative reversal raises questions concerning the constitutional limits of parliamentary power when fundamental rights have already been recognized and articulated by the Hon'ble Supreme Court.

Second, the amendment also undermines the dignity, privacy and autonomy of transgender persons protected under Article 21, by subjecting their identity to intrusive verification mechanisms. The issues raised in the present petition therefore concern not merely the interpretation of a statute but the preservation of constitutional principles that protect the rights of vulnerable communities.

Third, the amendment may result in unequal treatment of transgender persons, thereby violating Article 14. Fourth, by restricting the ability of individuals to express their gender identity, the amendment may infringe Article 19(1)(a). These constitutional concerns are addressed in detail in the subsequent sections of the present petition.

37. That no UN resolution supports medical determination of gender and on the contrary, International standards increasingly prohibit such requirements. Across UN Human rights mechanisms, Gender identity is treated as part of Right to dignity, privacy and autonomy. The focus has always been on self-identification, legal recognition without intrusive conditions and protection from medical abuse. The cumulative effect of the Yogyakarta principles establishes a clear and consistent international normative position that gender identity is a matter of self-determination and cannot be made contingent upon medical scrutiny, certification, or approval by any authority. The impugned provisions, by reintroducing medical gatekeeping in the garb of administrative procedure, are manifestly arbitrary, disproportionate, and contrary to India's obligations under international human rights law, and therefore liable to be struck down.

38. That there have been massive debates, discussions and opposition of the Transgender Amendment Act 2026 at all levels

across the country. Some of the video links pertaining to the discussions and debates are being provided below:

LINKS:

a. <https://www.youtube.com/watch?v=pP50QTSTpWE>

TITLE: Trans Amendment Bill के खिलाफ प्रदर्शन के बीच एक ट्रांस ने बताया अपनी आपबीती

ENGLISH TRANSLATION:

b. <https://www.youtube.com/watch?v=PxD7E-HYEM>

TITLE: Transgender Amendment Bill 2026 Explained: Why It's Triggering National Debate

c. <https://www.youtube.com/watch?v=UMn1bbOPnxo>

TITLE: Transgender Persons (Protection of Rights) में संशोधन के खिलाफ विरोध क्यों? (BBC Hindi)

ENGLISH TRANSLATION:

d. https://www.youtube.com/watch?v=cIwEbj5_0l8

TITLE: Gender is Not Between the Legs, It's in the Heart and Mind

e. <https://www.youtube.com/watch?v=ZV45lsm1BpA>

TITLE: Supriya Sule Slams Govt Over Transgender Amendment Bill | Raises Big Objections

f. <https://www.youtube.com/watch?v=XKulttG4VMI>

TITLE: Renuka Chowdhury's Sharp Take on the Trans Bill

g. <https://www.youtube.com/watch?v=5TMxqBwWAnk>

TITLE: RS | Priyanka Chaturvedi's Remarks | The Transgender Persons (Protection of Rights) Amend Bill, 2026

h. <https://www.youtube.com/watch?v=Y0sOnfLwvqw>

TITLE: Transgender Persons Amendment Bill 2026: 'The Transgender Bill Is Against Every Indian Citizen'

i. https://www.youtube.com/watch?v=_HmIXh0uleI

TITLE: "This Trans Bill Could Erase Identities": Dr Aqsa Shaikh Explains | Faye D'Souza

j. <https://www.youtube.com/watch?v=TJLKKaWCL70>

TITLE: In Focus podcast | Why was the National Transgender Council kept in dark on the 2026 Amendment Bill?

k. <https://www.thehindu.com/videos/all-about-the-transgender-person-protection-of-rights-amendment-bill-2026/article70811984.ece>

TITLE: All about The Transgender Persons (Protection of Rights) Amendment Bill 2026

1. <https://www.youtube.com/watch?v=Srfy0YUnokw>

TITLE: Day 11 | Rajya Sabha Budget session Phase 2

39. That the copy of Transgender Persons (Protection of Rights) Amendment Act, 2026 is annexed herewith as **Annexure P - 1**. Copy of Transgender Persons (Protection of Rights) Act, 2019 is annexed herewith as **Annexure P - 2**. Copy of Judgment National Legal Services Authority Vs. Union of India, (2014) 5 SCC 438 is annexed herewith as **Annexure P - 3**. Copy of article titled as "Gender Dysphoria- Symptoms and causes - Mayo Clinic" is annexed herewith as **Annexure P - 4**. Copy of article titled as "Gender Dysphoria- Diagnosis and Treatment - Mayo Clinic" is annexed herewith as **Annexure P - 5**.

Copy of news article titled as "Gender Dysphoria" is annexed herewith as **Annexure P - 6**. Copy of frequently asked questions titled as "Gender incongruence and transgender health in the ICD" is annexed herewith as **Annexure P - 7**. Copy of article titled as "Development of Gender Identity - Differences in sex development (DSD)" is annexed herewith as **Annexure P - 8**. Copy of article titled as "Sex, gender and gender identity: a re-evaluation of the evidence" is annexed herewith as **Annexure P - 9**. Copy of news article titled as "What are the key findings of

the NHS gender identity review?” is annexed herewith as **Annexure P - 10**. Copy of International Covenant on Civil and Political Rights is annexed herewith as **Annexure P - 11**.

Copy of International Covenant on Economic, Social and Cultural Rights is annexed herewith as **Annexure P - 12**. Copy of Yogyakarta Principles is annexed herewith as **Annexure P - 13**. Copy of Yogyakarta Principles plus 10 is annexed herewith as **Annexure P - 14**. Copy of news article titled as “Advisory Opinion OC-24/17” is annexed herewith as **Annexure P - 15**. Copy of relevant extracts of Judgment titled as “Van Kuck Vs. Germany” is annexed herewith as **Annexure P - 16**. Copy of relevant extracts of Judgment titled as “AP, Garçon and Nicot Vs. France” is annexed herewith as **Annexure P - 17**. Copy of Report titled as “Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment” is annexed herewith as **Annexure P - 18**.

Copy of relevant extracts of Judgment titled as XY Vs. Ontario (Government and Consumer Services) is annexed herewith as **Annexure P - 19**. Copy of BLOG titled as “The 2026 Transgender Amendment Bill and its Roll-Back of Constitutional Rights” is annexed herewith as **Annexure P - 20**. Copy of news article titled as “What are the changes being proposed to Transgender Persons (Protection of Rights) Act, 2019 | Explained” is annexed herewith as **Annexure P - 21**. Copy of

news article titled as “SC-appointed panel asks Centre to withdraw Transgender Bill that removes right to self-determination” is annexed herewith as **Annexure P - 22**.

Copy of news article titled as “An Analysis Of The Transgender Persons Act And The 2026 Amendment Bill” is annexed herewith as **Annexure P - 23**. Copy of news article titled as “The New Transgender Bill Pushes India Back In Its Fight For Transgender Rights” is annexed herewith as **Annexure P - 24**. Copy of news article titled as “‘Trans rights being pushed back by a decade’: Community members oppose proposed transgender law changes” is annexed herewith as **Annexure P - 25**.

Copy of news article titled as “‘Unconstitutional’, ‘Brahminical’: Why Trans Persons Are Opposing Amendments to Their Rights Law” is annexed herewith as **Annexure P - 26**. Copy of news article titled as “The Transgender Persons Act and the question of identity: Who gets to define a trans life?” is annexed herewith as **Annexure P - 27**. Copy of news article titled as “How the Trans Amendment Bill 2026 erases those it claims to protect” is annexed herewith as **Annexure P - 28**. Copy of article titled as “Protection to Prosecution: The Criminalization of Transgender Existence in India's 2026 Amendment Bill” is annexed herewith as **Annexure P - 29**.

Copy of news article titled as “Transgender Amendment Act 2026: Act may disrupt gender-affirmative care, warn health practitioners” is annexed herewith as **Annexure P - 30**. Copy of news article titled as “Parliament Budget Session Highlights: Parliament passes Transgender Rights Amendment Bill, 2026” is annexed herewith as **Annexure P - 31**. Copy of news article titled as “Activists condemn transgender bill passage in Lok Sabha, say haste in Rajya Sabha 'scary'” is annexed herewith as **Annexure P - 32**. Copy of news article titled as “Transgender Rights Bill 2026 Sparks Protest in Delhi” is annexed herewith as **Annexure P - 33**. Copy of news article titled as “UN Human Rights Office Says India's Changed Transgender Law Risks Hard-Won Rights” is annexed herewith as **Annexure P - 34**.

40. That the following provisions of the Transgender Persons (Protection of Rights) 2019 Act as amended by Transgender Persons (Protection of Rights) Amendment Act, 2026 are being challenged in the present petition:

IMPUGNED PROVISIONS

- a. Section 2(aa) of the 2019 Act, inserted by Section 2(ii) of the Amendment Act, 2026
- b. Section 2(k), (including clauses (i), (ii) and proviso), as substituted by Section 2(iv) of the Amendment Act, 2026

- c. Omission of Section 4(2) by Section 3 of the Amendment Act, 2026
- d. Section 6 as amended by Section 4 of the Amendment Act, 2026
- e. Section 7 as amended (including 1A, 2) by Section 5 of the Amendment Act, 2026
- f. Sections 18(e) and 18(f) as substituted by Section 7 of the Amendment Act, 2026

41. That this petition in the nature of Public Interest Litigation has been filed by the petitioner on the basis of the limited availability of data in the Public Domain. The writ has been based on authentic information and documents made available through publicly available documents obtained from websites of government, newspaper articles, news reports, Research papers, and judgments of Hon'ble Apex Court. The present petition raises questions of law of far-reaching constitutional importance, affecting the fundamental rights of transgender persons and the limits of legislative power under the Constitution of India. The following substantial questions of law arise for consideration by this Hon'ble Court:

QUESTIONS OF LAW

- A. Whether Parliament can, by ordinary legislation, dilute or alter the content of a fundamental right authoritatively interpreted by the Hon'ble Supreme Court in *NALSA Vs. Union of India*, without a constitutional amendment, and whether such action violates the basic structure of the Constitution?
- B. Whether the removal of statutory recognition of self-perceived gender identity violates Articles 14, 19(1)(a) and 21 of the Constitution?
- C. Whether gender identity forms an intrinsic part of dignity, autonomy, privacy and personal liberty under Article 21, as recognized in *K.S. Puttaswamy Vs. Union of India*?
- D. Whether subjecting gender identity to medical or administrative certification violates the constitutional guarantees of dignity, bodily integrity and decisional autonomy under Article 21?
- E. Whether the impugned amendment violates Article 14 by introducing arbitrary and medically-based classification of transgender persons, lacking intelligible differentia and rational nexus?
- F. Whether the impugned amendment is under-inclusive in excluding similarly situated persons, including trans men, non-binary persons and self-identified individuals, thereby denying equal protection of laws?

- G. Whether the imposition of additional verification requirements exclusively on transgender persons constitutes hostile discrimination and violates substantive equality under Articles 14 and 15?
- H. Whether the creation of a de facto identity tracking mechanism and requirement of disclosure of gender identity to State authorities violates the right to privacy, informational autonomy and decisional freedom under Article 21 as recognized in *K.S. Puttaswamy Vs. Union of India*?
- I. Whether the impugned amendment results in denial of equal protection under criminal law and creates a legal vacuum affecting protection of bodily integrity of transgender persons?
- J. Whether the impugned amendment fails the test of proportionality by imposing intrusive and disproportionate restrictions where less restrictive alternatives (such as self-identification) are available?
- K. Whether the impugned amendment suffers from procedural arbitrariness due to lack of consultation with affected communities and absence of adequate legislative deliberation?
- L. Whether the impugned amendment violates the doctrine of non-retrogression by withdrawing an already recognized and operational fundamental right without compelling justification?

42. That in view of the facts & circumstances of the case, the present petition is being instituted challenging the constitutional validity of Sections 2(aa), 2(k) (including clauses (i), (ii) and proviso), Section 6, Section 7 and Section 18(e) and 18(f) of the Transgender Persons (Protection of Rights) Act, 2019, as amended by the Transgender Persons (Protection of Rights) Amendment Act, 2026 (hereinafter referred to as the “Impugned Amendment”) being prima facie arbitrary and unconstitutional. The present petition is also being instituted challenging the constitutional validity of omission of Section 4(2), of the Transgender Persons (Protection of Rights) Act, 2019, by the Impugned Amendment on the following amongst other grounds, which are in alternate and without prejudice to each other: -

GROUND OF CHALLENGE

A. BECAUSE it is a settled principle of constitutional law that once the Hon’ble Supreme Court has interpreted a fundamental right and authoritatively defined its content, such interpretation becomes an integral part of the Constitution itself and cannot be altered, diluted, or redefined by ordinary legislation. This limitation on legislative power forms part of the basic structure of the Constitution, as consistently held in *Kesavananda Bharati*

Vs. State of Kerala, Minerva Mills Vs. Union of India and I.R. Coelho Vs. State of Tamil Nadu, wherein it has been held that Parliament's legislative power is subject to constitutional limitations and Parliament cannot abrogate, override, or substantially impair fundamental rights as judicially interpreted. The content of fundamental rights, once settled, cannot be legislatively rewritten except through constitutional amendment. The impugned amendment, by seeking to alter the essential content of the fundamental right to gender identity through ordinary legislation, violates the basic structure of the Constitution and is liable to be struck down.

- B. BECAUSE the impugned amendment is ex-facie violative of the binding constitutional principles laid down by the Hon'ble Supreme Court in *National Legal Services Authority Vs. Union of India*, (2014) 5 SCC 438, wherein it was unequivocally held that gender identity is determined by self-perception and that transgender persons have a fundamental right to self-identify their gender under Articles 14, 19 and 21. The Hon'ble Supreme Court recognized self-identified gender as an intrinsic facet of dignity, autonomy, and personal liberty, independent of any medical or biological determination. The impugned amendment, by removing self-perceived gender identity and subjecting it to State-controlled processes of verification and certification, substantially dilutes and impairs the effective exercise of these fundamental rights guaranteed under Articles 14, 19 and 21.

C. BECAUSE the impugned amendment proceeds on a fundamentally erroneous and scientifically unsustainable premise that gender identity can be objectively determined through medical or biological criteria and can be classified into limited, state-recognized categories:

- i. Established medical and psychological literature recognizes gender identity as personal and internal sense of self, evolving, inherently subjective, self-perceived experience arising from a complex interplay of biopsychosocial factors and not amenable to objective external verification. Further, contemporary medical literature acknowledges that the etiology of gender identity remains uncertain, thereby precluding the existence of any definitive or uniform medical test for its determination.
- ii. It is submitted that contemporary medical standards, including diagnostic frameworks such as DSM-5, do not treat gender identity itself as a condition capable of objective determination, but rather recognizes only the distress arising from Gender Dysphoria i.e. incongruence between experienced gender and assigned sex, if any.
- iii. It is further submitted that not all transgender persons experience Gender Dysphoria or seek medical intervention, and global medical standards, including those reflected in the WHO, ICD-11 and international

clinical guidelines such as the WPATH Standards of Care, recognize that gender identity exists independently of medical diagnosis or treatment and encompasses a wide spectrum of identities, including non-binary and non-medically transitioning individuals. International standards, including the WPATH Standards of Care, recognize the diversity of gender identities, including non-binary and non-medically transitioning individuals, and emphasise that legal recognition should not be contingent upon medical procedures or diagnosis.

- iv. Recent medical reviews and policy assessments have highlighted the absence of high-quality, consistent, or long-term scientific evidence, as well as the lack of universally accepted clinical benchmarks for determining gender identity. In such circumstances, any attempt at standardized medical certification becomes inherently uncertain, subjective, and incapable of uniform application, rendering the statutory requirement scientifically unworkable and manifestly arbitrary.
- v. In such circumstances, the imposition of a mandatory medical certification requirement for recognition of gender identity is not merely disproportionate but is founded on a scientifically indeterminate and conceptually flawed premise, making the impugned amendment manifestly

arbitrary and violative of Articles 14 and 21 of the Constitution.

Requiring a person to submit to medical examination or certification in order to validate their gender identity amounts to treating identity as a pathological condition, which is constitutionally impermissible and contrary to the guarantee of dignity.

D. BECAUSE certain aspects of human identity are part of constitutional personality and therefore lie beyond routine state regulation. These include gender identity, sexual orientation, personal relationships and bodily autonomy. The right to privacy protects the autonomy of individuals in matters relating to personal identity, and gender identity falls squarely within the domain of personal identity. The verification mechanisms introduced by the impugned amendment require transgender persons to disclose intimate aspects of their identity to authorities. The intrusion by way of impugned amendment violates the right to privacy recognized by the Hon'ble Supreme Court in *Justice K.S. Puttaswamy Vs. Union of India*, (2017) 10 SCC 1.

The state can regulate conduct, but not the identity itself. The impugned amendment transforms gender identity from a matter of personal autonomy into an attribute subject to state determination by way of medical examination and certification

by State authorities. Such transformation is constitutionally impermissible.

E. BECAUSE the Hon'ble Supreme Court has recognized dignity as the central value of the Constitution in *National Legal Services Authority Vs. Union of India*, *Justice K.S. Puttaswamy Vs. Union of India* and *Navtej Singh Johar Vs. Union of India*. In *Francis Coralie Mullin Vs. Administrator, Union Territory of Delhi*, (1981) 1 SCC 608, the Hon'ble Supreme Court held that the right to life includes the right to live with human dignity. Human dignity includes self-definition, gender identity and freedom from humiliation by the State. However when the State requires transgender persons to prove their identity, it not only subjects them to institutional humiliation but places the identity of transgender persons under the control of the State. The requirement of medical examination and certification by authorities amounts to intrusion into bodily integrity and surveillance over identity of a person, thereby violating the right to dignity and bodily autonomy under Article 21.

F. BECAUSE the impugned amendment further fails the *proportionality* tests of *no least restrictive alternative* and *no excessive burden* on individual autonomy as laid down in *Puttaswamy*. The Impugned Amendment fails to satisfy the test of proportionality, which governs the constitutionality of restrictions on fundamental rights. The Hon'ble Supreme Court in *Modern Dental College Vs. State of Madhya Pradesh*, (2016) 7 SCC 353, held

that restrictions on fundamental rights must satisfy that the measure undertaken pursues a legitimate aim, is suitable to achieve that aim, is necessary and proportionate.

The impugned amendment for gender recognition imposes intrusive verification requirements with disproportionate and excessive burden by mandating medical certification. Less restrictive alternatives such as self-declaration exist that would achieve administrative objectives without infringing fundamental rights. The State has failed to demonstrate that such intrusive measures are necessary to achieve any legitimate objective. The amendment therefore fails the test of proportionality and is liable to be struck down.

G. BECAUSE the impugned amendment is violative of Article 14 of the Constitution of India, which guarantees equality before the law and equal protection of the laws, and prohibits arbitrary State action as consistently held by the Hon'ble Supreme Court:

- i. It is a settled principle that arbitrariness is antithetical to equality, as laid down by the Hon'ble Supreme Court in *E.P. Royappa Vs. State of Tamil Nadu* and *Maneka Gandhi Vs. Union of India*. The Impugned Amendment fails this test as it introduces a state-controlled mechanism for recognition of identity, replacing an existing rights-based framework, without any rational or constitutionally permissible basis.
- ii. The above classification fails the first limb of Article 14 because it is based on medical and anatomical markers,

which the Hon'ble Supreme Court has already held to be not determinative of gender identity in *NALSA Vs. Union of India* and excludes individuals whose identity is psychological and self-determined, which forms the core of gender identity jurisprudence. Therefore, the classification lacks any *intelligible differentia* grounded in constitutional principles.

- iii. The impugned amendment is devoid of *rational nexus* as even assuming a legitimate objective (i.e., targeted delivery of benefits), the means adopted are manifestly disproportionate and overbroad. The Amendment excludes genuine transgender persons who are unable or unwilling to undergo medical scrutiny and it conditions identity upon state approval, thereby denying recognition to constitutionally protected identities. Thus, the classification has no rational nexus with the object sought to be achieved.
- iv. The impugned amendment is liable to be struck down on the ground of *manifest arbitrariness*, as recognized by the Hon'ble Supreme Court in *Shayara Bano Vs. Union of India* as not only it removes an existing statutory protection (self-perceived identity) but it replaces it with a coercive and intrusive regime by operating in a manner that is capricious, irrational and disproportionate.

- v. The impugned amendment imposes additional procedural and medical burdens exclusively upon transgender persons for recognition of identity. It is a matter of record that no such verification or certification is required for cisgender persons and identity of cisgender persons is accepted as a matter of course. This results in hostile discrimination and unequal treatment of transgender persons.
- vi. Article 14 mandates substantive equality, particularly for historically marginalised communities. The practical effect of the Amendment is that a section of transgender persons may be denied legal recognition altogether. Instead of removing barriers, the impugned amendment creates additional barriers and deepens exclusion within an already vulnerable class. Such persons would be excluded from the identity documents, the welfare measures and protection under law. This is contrary to the constitutional mandate of inclusive equality and results in a form of civil exclusion, contrary to Article 14.

H. BECAUSE the impugned amendment, particularly the section 18(e)(ii) and 18(f)(ii) of the amendment act introducing penal consequences for “compelling” a person and child to outwardly present a transgender identity and the absence of any clear definition of “legitimate” gender-affirmative care, creates a

regime of legal uncertainty which has a chilling effect on the provision of medical treatment.

It is submitted that in the absence of clear statutory safeguards or clinical standards, medical practitioners are exposed to potential civil and criminal liability, leading to a well-founded apprehension that many may refrain from providing gender-affirmative care altogether. Such apprehension has already been expressed by professional medical bodies, indicating that the impugned provisions are likely to disrupt established treatment protocols and restrict access to care thereby resulting in a regulatory chilling effect on constitutionally protected healthcare services.

The consequence of such chilling effect is the denial of safe and regulated healthcare and the creation of barriers forcing individuals towards unsafe or unregulated alternatives, thereby directly infringing the right to health, dignity and bodily autonomy under Article 21, and rendering the impugned provisions manifestly arbitrary under Article 14.

- I. BECAUSE the impugned amendment is *ex facie* unconstitutional as it violates the *doctrine of non-retrogression* in constitutional jurisprudence, that once a fundamental right has been judicially recognized and its content authoritatively defined by the Hon'ble Supreme Court, the State cannot enact a law that has the effect of regressing from, diluting, or withdrawing such protection except upon satisfaction of the highest standards of

constitutional scrutiny. The doctrine that constitutional rights cannot be progressively curtailed or rolled back without compelling justification is implicit in the scheme of Part III and flows from the guarantee of substantive equality, dignity and liberty. The Hon'ble Supreme Court in *NALSA Vs. Union of India* recognized the right of transgender persons to self-determine their gender identity as an intrinsic facet of Articles 14, 19 and 21, which was thereafter given statutory recognition under the Transgender Persons (Protection of Rights) Act, 2019. The impugned amendment, by displacing self-identification with a regime of State-controlled certification, effects a clear legislative rollback of an already crystallised fundamental right, thereby offending the guarantee of substantive equality, dignity and personal autonomy. Such retrogressive curtailment of fundamental rights, absent compelling justification and strict constitutional scrutiny, is impermissible and liable to be struck down as violative of Articles 14 and 21.

- J. BECAUSE the impugned provisions, insofar as they mandate or permit determination of gender identity through medical boards, physical examination, or certification, are manifestly arbitrary and violative of Articles 14 and 21 of the Constitution, read in light of India's obligations under international human rights law, particularly Article 17 of the International Covenant on Civil and Political Rights and Article 12 of the International Covenant on Economic, Social and Cultural Rights, which, read

together, protect identity, bodily integrity, and decisional autonomy from State intrusion:

- i. Article 17 of the ICCPR, as authoritatively interpreted by the UN Human Rights Committee, protects not only informational privacy but also bodily integrity, personal autonomy, and identity, and prohibits any arbitrary or disproportionate interference therewith. The imposition of medical examination or certification for the purpose of recognizing gender identity constitutes a direct and invasive intrusion into the most intimate sphere of personal identity, fails the test of necessity and proportionality and lacks any compelling State interest, and is therefore an impermissible interference with privacy and dignity.
- ii. Article 12 of the ICESCR, as elaborated in General Comment No. 14 of the Committee on Economic, Social and Cultural Rights, guarantees the right to bodily autonomy and includes freedom from non-consensual medical treatment. Any requirement compelling an individual to undergo medical scrutiny, examination, or certification as a condition for legal recognition of their identity amounts to coercive medical intervention, thereby violating their fundamental rights.
- iii. The Yogyakarta Principles (2006) and Yogyakarta Principles plus 10 (2017), which constitute authoritative

international standards and have been recognized by the Hon'ble Supreme Court in *National Legal Services Authority Vs. Union of India*, unequivocally affirm that gender identity is a matter of self-determination and cannot be made contingent upon any medical procedure, diagnosis, or certification (Principles 3 and 18). The term "medical procedures" is of wide amplitude and covers any medical intervention used as a condition for recognition; consequently, certification by a medical board or any form of physical examination constitutes a prohibited medical precondition. These principles further affirm that gender identity cannot be subjected to any requirement of validation or invasive process affecting bodily integrity (Principles 31 and 32), and must be self-identified, not determined by any external authority.

The Hon'ble Supreme Court has consistently held that international conventions and human rights norms constitute a legitimate and important interpretive aid in the enforcement of fundamental rights under Part III, and in *Vishaka Vs. State of Rajasthan* it was held that such norms must be read into constitutional guarantees in the absence of inconsistency with domestic law, in order to give them meaningful content.

K. BECAUSE constitutional courts and legislatures across jurisdictions have rejected mandatory medical certification as a precondition for legal recognition. International jurisprudence

has unequivocally settled that legal recognition of gender identity must be based solely on self-identification and free consent, without any requirement of medical, psychiatric or expert certification. Comparative constitutional practice, including in jurisdictions such as Argentina, Ireland, the United Kingdom and the United States, reflects an emerging global consensus that gender identity is a matter of individual autonomy and cannot be subjected to medical gatekeeping. The international consensus is reflected in the judgments passed by various courts of law across Jurisdictions:

- i. Inter-American Jurisprudence (Binding Persuasive Authority): The Inter-American Court of Human Rights in *Advisory Opinion OC-24/17* (Paras 115–120, 129–131, 146) has categorically held that gender identity must be recognized solely on the basis of free and informed consent of the individual, and that States are prohibited from requiring medical or psychological certifications, thereby establishing that any form of medical board certification constitutes an impermissible intrusion into autonomy and dignity.
- ii. European Court of Human Rights: The European Court of Human Rights in *X and Y Vs. Romania* has held that legal gender recognition procedures must be accessible and free from intrusive and burdensome requirements, which necessarily excludes medical board certification and expert

validation mechanisms. In *Van Kück Vs. Germany* (Paras 69–75, 82), it has been held that gender identity forms the core of private life, and that the State cannot substitute its judgment, including through medical experts, over the individual's self-identification. Similarly, the *A.P., Garçon and Nicot Vs. France* (Paras 123–135) and *Y.Y. Vs. Turkey* decisions of the European Court of Human Rights have categorically held that requiring sterilization, surgery, or medical procedures as a prerequisite for legal gender recognition violates the right to respect for private life under Article 8 of the European Convention, as it amounts to coercive interference with bodily integrity and personal autonomy. Further, the United Nations Special Rapporteur on torture, in Report No. A/HRC/22/53 (para 88), has recognized that forced or coerced medical procedures imposed as a condition for legal recognition of gender identity may amount to ill-treatment, as they undermine bodily integrity and informed consent.

- iii. Canadian Jurisprudence: In *XY Vs. Ontario*, the Human Rights Tribunal of Ontario held that requiring transgender persons to undergo surgical procedures and furnish medical certification as a precondition for recognition of their gender identity constitutes substantive discrimination, as it imposes burdens not faced by others, perpetuates stereotypes, and unjustifiably conditions legal

recognition upon medical intervention (paras 14–17, 102–115). In *Hansman Vs. Neufeld*, the Court recognized gender identity as an inherent and self-defined characteristic, central to dignity and equality, and not subject to external validation, including by medical or administrative authorities.

- iv. European Union (CJEU): The Court of Justice of the European Union in *MB Vs. Secretary of State for Work and Pensions* has held that conditions imposed for gender recognition must satisfy the test of proportionality, and excessive requirements are impermissible. In *Deldits Case (C-247/23)*, it has been held that refusal to recognize gender identity on the ground of absence of medical proof violates fundamental rights, thereby negating the necessity of medical certification.
- v. Argentina: In *ALITT Vs. Argentina*, which laid the foundation for Argentina’s Gender Identity Law, it was recognized that gender identity is based on individual self-perception, and that legal recognition cannot be made contingent upon medical diagnosis, psychiatric evaluation, or certification by any authority, thereby rejecting all forms of medical gatekeeping.
- vi. United States Jurisprudence: In *Grimm Vs. Gloucester County School Board*, it has been recognized that gender identity is not contingent upon medical procedures or

proof, and cannot be subjected to evidentiary validation by the State. In *Bostock Vs. Clayton County*, the United States Supreme Court recognized gender identity as an intrinsic aspect of sex, thereby affirming that identity is inherent to the individual and not contingent upon medical certification or institutional validation.

- vii. Malta: The legal framework in Malta, under the Gender Identity, Gender Expression and Sex Characteristics Act, recognizes gender identity solely on the basis of self-declaration, and expressly dispenses with any requirement of medical or psychological certification, thereby affirming that identity is a matter of personal autonomy and self-determination, and cannot be subjected to validation by any medical board or authority.

Apart from the aforementioned settled jurisprudence, several constitutional courts across jurisdictions including Japan, Ireland, Hong Kong, Germany, Nepal, Pakistan, Australia, and the Czech Republic have consistently held that gender identity cannot be subjected to medical certification or expert validation, thereby establishing a near-universal constitutional consensus against such requirements.

It shall not be out of place to mention that the Hon'ble Supreme Court has consistently held that comparative constitutional law and evolving global human

rights standards constitute legitimate interpretive aids in the adjudication of fundamental rights, particularly where such standards advance the values of dignity, autonomy, and equality, as recognized in *National Legal Services Authority Vs. Union of India* and *Navtej Singh Johar Vs. Union of India*. The impugned amendment however, by reintroducing a regime of mandatory medical certification by a Medical Board headed by the Chief Medical Officer, places India in departure from evolving global constitutional standards of dignity, autonomy and equality, way below established global human rights standards and imposes a disproportionate restriction on fundamental rights under Articles 14 and 21.

- L. BECAUSE the impugned amendment restricts the ability of transgender persons to express their identity unless such identity is recognized through state certification. Gender identity and gender expression constitute forms of expression protected under Article 19(1)(a). The ability of individuals to express their gender identity through appearance, behaviour and social interaction forms an integral part of personal expression. In *NALSA*, the Hon'ble Supreme Court recognized that gender expression is protected under Article 19. Hence such restrictions amount to an unreasonable interference with freedom of expression.

M.BECAUSE the impugned amendment creates an artificial and constitutionally impermissible classification within the class of transgender persons by restricting recognition of gender identity to those satisfying state-imposed medical, biological, or socio-cultural criteria, while excluding persons whose identity is based on self-perception, lived experience, or psychological identity, including those who do not seek or are unable to obtain such certification.

This results in a division between a state-recognized class and an excluded class, including trans-men, non-binary persons, and other individuals who do not undergo medical transition or satisfy clinical diagnostic standards, though similarly situated and equally entitled to constitutional protection, thereby rendering the classification manifestly *under-inclusive* and arbitrary.

While many transgender persons possess a legitimate and constitutionally protected gender identity independent of medical transition, however imposing the condition of recognition upon medical verification renders such persons invisible in law and excludes them from access to rights, statutory protections, and welfare measures.

It is well-settled that a law conferring recognition or protection must extend to all similarly situated persons, and any exclusion of a substantial segment of the same class is per se arbitrary and violative of Article 14.

The effect of such exclusion is to deny legal recognition and consequential access to rights and statutory protections, thereby rendering fundamental rights illusory and violating the guarantees of equality, dignity, and personal liberty under Articles 14 and 21.

N. BECAUSE the impugned amendment is vitiated by *procedural arbitrariness*, having been enacted without meaningful consultation with affected stakeholders, including the transgender community and statutory bodies such as the National Council for Transgender Persons, and in disregard of the recommendations of a Supreme Court-constituted advisory panel. The legislative process also bypassed detailed parliamentary scrutiny, including reference to a select committee, despite the far-reaching impact of the amendment on fundamental rights. It is submitted that where a law substantially affects fundamental rights of a vulnerable class, the absence of consultative and deliberative safeguards renders the legislation arbitrary and violative of Article 14.

O. BECAUSE the combined effect of restrictive recognition of gender identity and consequential exclusion from statutory frameworks creates a legal vacuum, whereby transgender persons are effectively denied protection equivalent to that available to cisgender persons under criminal law and allied legal regimes, particularly in matters concerning bodily integrity, sexual violence, workplace protection, and anti-

trafficking laws. Access to justice is an integral facet of Article 21, and the Hon'ble Supreme Court in *Hussainara Khatoon Vs. State of Bihar* has held that the right to life includes the right to effective and meaningful legal remedies, which cannot be rendered illusory by structural or procedural barriers. Recognition of gender identity is a foundational prerequisite for the enforcement of legal rights, and any framework that restricts such recognition necessarily impairs the ability of transgender persons to access legal protections and remedies. Such structural denial of equal protection of laws are manifestly arbitrary and violative of Articles 14 and 21, and render the impugned amendment liable to be struck down.

P. BECAUSE the impugned amendment suffers from excessive delegation and confers unguided and arbitrary discretion upon executive authorities, including medical boards and district magistrates, without prescribing clear, objective, or constitutionally permissible standards for determination of gender identity. Such uncanalised discretion is liable to result in inconsistent, subjective, and discriminatory outcomes, and is violative of Articles 14 and 21.

Q. BECAUSE the impugned amendment is unconstitutional as it undermines and reverses the *doctrine of transformative constitutionalism*, which mandates that the Constitution be interpreted to progressively advance dignity, equality, and inclusion of historically marginalized communities.

In *Navtej Singh Johar Vs. Union of India* and *National Legal Services Authority Vs. Union of India*, the Hon'ble Supreme Court affirmed that constitutional interpretation must be guided by dignity, autonomy, and inclusiveness, and recognized transgender persons as a constitutionally protected class entitled to full and equal citizenship. However the impugned amendment has the effect of rolling back the constitutional recognition and inclusion of transgender persons, thereby reversing the progress achieved through the aforesaid binding precedents.

Such retrogressive legislative action, which dilutes rights already recognized by the Hon'ble Supreme Court, is antithetical to Articles 14 and 21 and impermissible within the constitutional framework.

R. BECAUSE the impugned amendment, particularly Section 7(1A), mandates disclosure of sensitive personal information relating to gender identity to State authorities, thereby enabling the creation of a de facto identity tracking mechanism without statutory safeguards, data protection standards, or limitation on use. Such compulsory disclosure of intimate personal identity violates the right to privacy, informational self-determination, and decisional autonomy under Article 21 as recognized in *K.S. Puttaswamy Vs. Union of India*.

43. That the Petitioner submits and affirms on oath that he does not have any personal interest or any personal gain or private motive or any other oblique reason in filing the present Writ Petition in Public Interest.
44. That the Petitioner has not been involved in any other civil or criminal or revenue litigation, which could have legal nexus with the present issues or cause of action involved in the present Petition.
45. That no similar petition has been filed by the Petitioner regarding the present cause, before this Hon'ble Court and / or Hon'ble Supreme Court.
46. That no prior representation has been made to any authority concerned for remedial actions since the petitioner is challenging the constitutionality of statute before this Hon'ble Court under the provisions of Article 226 of the Constitution of India in view of the principles of law already settled by this Hon'ble Court as it is a Central act.
47. That this petition in the nature of Public Interest Litigation has been filed by the petitioner on the basis of the limited availability of data on the Public Domain.
48. That the Petitioner is preferring the present Writ Petition in the form of PIL under Article 226 of the Constitution of India in the

interest of public at large. This Hon'ble Court has jurisdiction under Article 226 of the Constitution of India to issue directions and pass an appropriate writ/ order to the respondents for enforcement of fundamental rights of Transgender persons and address legislative problems affecting the interest of public at large.

49. That the Petitioner craves leave to add to, amend or alter the foregoing grounds as and when necessary and to urge additional grounds at the time of hearing with the permission of this Hon'ble Court.

PRAYER

In view of the above mentioned facts, circumstances and submissions made, it is most respectfully prayed that this Hon'ble Court may kindly and graciously be pleased to:

- a) Issue an appropriate writ, order or direction declaring that the Sections 2(aa), 2(k) (including clauses (i), (ii) and proviso), Section 4(2) (as omitted), Section 6, Section 7 and Section 18(e) and 18(f) of the Transgender Persons (Protection of Rights) Act, 2019, as amended/substituted by the Transgender Persons (Protection of Rights) Amendment Act, 2026, as unconstitutional and void for

being violative of Articles 14, 19(1)(a) and 21 of the Constitution of India;

- b) Declare that the right of transgender persons to determine their gender identity based on self-perception forms an integral component of the fundamental rights guaranteed under Articles 14, 19 and 21;
- c) Declare that any legislative or executive action that subjects the determination of gender identity to intrusive state verification violates the constitutional guarantees of dignity, autonomy and privacy;
- d) Declare that recognition of gender identity shall not be made contingent upon medical certification, medical board evaluation or any intrusive medical verification procedure;
- e) Direct the Union of India and all State Governments to ensure that transgender persons are recognized based on their self-identified gender identity, consistent with the judgment of this Hon'ble Court in *National Legal Services Authority Vs. Union of India*;
- f) Direct the Union and State Governments to ensure that transgender persons are not denied access to:
 - i. identity documentation,
 - ii. welfare schemes,
 - iii. healthcare services,
 - iv. educational opportunities,
 - v. employment protections,

on the ground that their gender identity has not been verified under the impugned amendment;

- g) Direct all police authorities and investigative agencies across the country to ensure that complaints made by transgender persons are registered and investigated without requiring verification of gender identity under the impugned amendment;
- h) Direct that transgender persons shall not be denied protection under criminal laws on the ground of lack of administrative certification of gender identity;
- i) Issue such further directions as may be necessary to ensure the effective protection of the constitutional rights of transgender persons, and
- j) pass such other orders as this Hon'ble Court may deem fit and proper in the interest of justice.

**FOR THIS ACT OF KINDNESS THE PETITIONER/ APPLICANT
HEREIN AS IN DUTY BOUND SHALL EVER PRAY.**

NEW DELHI
DATED: 06.04.2026

Chandresh Jain
PETITIONER

DR. CHANDRESH JAIN

