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Transgender Persons Amendment Bill 2026 — Self-ID vs Medical Certification Debate

25 March 2026

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CURATED & WRITTEN BY

Bharat Choudhary

UPSC Educator & Content Creator •

[linkedin.com/in/epicbharat](https://www.linkedin.com/in/epicbharat)

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🔪 WHY IN NEWS

The Lok Sabha passed the Transgender Persons (Protection of Rights) Amendment Bill, 2026, by voice vote on March 24, narrowing the definition of transgender persons by excluding self-perceived identities and introducing mandatory medical board certification.

The Amendment — What Changed

The Transgender Persons (Protection of Rights) Act, 2019, originally defined a transgender person as one “whose gender does not match the gender assigned at birth” and included persons with intersex variations as well as those who self-identify as transgender. The 2026 Amendment Bill makes several critical changes.

Narrowed Definition

The revised definition specifically lists socio-cultural identities — **kinner, hijra, aravani, jogta, and eunuch** — and persons with intersex variations (congenital differences in primary/secondary sexual characteristics, chromosomal patterns, gonadal development, or hormonal response). Crucially, the amendment **excludes individuals who “self-perceive” as transgender persons** — a significant departure from the self-identification principle.

Medical Board Certification

Under the amended provisions, the **District Magistrate** will issue the identity certificate only after examining the recommendation of a **designated medical board**. This effectively replaces the earlier process where self-declaration was considered sufficient, bringing the certification process closer to a medical gatekeeping model.

Parliamentary Process

The Bill was introduced on **March 14, 2026**, by Social Justice and Empowerment Minister **Virendra Kumar**. It was **not referred to a Parliamentary Standing Committee**, drawing sharp criticism from the opposition. Congress MP **Priyanka Gandhi Vadra** argued that the Bill should have undergone deeper scrutiny given its impact on fundamental rights.

NALSA Judgment – The Self-Identification Principle

The **NALSA v. Union of India (2014)** judgment was a landmark ruling by the Supreme Court that:

- Recognised transgender persons as a **“third gender”**
- Affirmed the **right to self-identification** of gender as part of the right to autonomy under **Article 21**
- Directed the government to treat transgender persons as **socially and educationally backward classes** entitled to reservation
- Held that discrimination on the basis of gender identity violates **Articles 14, 15, 16, and 19**

The 2026 Amendment’s exclusion of self-perceived identities arguably conflicts with the spirit of the NALSA judgment, which explicitly stated that the right to self-identification is “the basic right of self-determination.”

Constitutional Questions

ARTICLE	RELEVANCE
Article 14	Equality before law — does exclusion of self-identified persons create an unreasonable classification?
Article 15	Prohibition of discrimination on grounds of sex — includes gender identity per NALSA
Article 19(1)(a)	Freedom of expression — gender expression is protected
Article 21	Right to life and personal liberty — includes right to dignity and self-determination

International Comparison

COUNTRY	APPROACH
Argentina (2012)	Full self-declaration, no medical requirement
Malta (2015)	Self-declaration at civil registry
Denmark (2014)	Self-declaration with 6-month reflection period
United Kingdom	Gender Recognition Certificate via panel
India (2026 Amendment)	Medical board recommendation + DM certification

Civil Society Response

Multiple LGBTQIA+ organisations protested the Bill across India, arguing that:

- ❶ The medical certification requirement pathologises gender identity
- ❷ The exclusion of self-perceived identity contradicts NALSA
- ❸ The Bill was rushed without adequate consultation with the transgender community
- ❹ The definition limits protection only to traditional categories, excluding non-binary and gender-fluid persons

The Broader Policy Landscape

The 2019 Act itself had faced criticism for:

- Not providing reservation (despite NALSA directing it)
- Insufficient criminal penalties for abuse (6 months to 2 years vs 7 years under IPC for similar offences against women)
- No provision for marriage or adoption rights
- Begging prohibition targeting hijra community's traditional livelihood

The 2026 Amendment further narrows protections rather than addressing these structural gaps.

UPSC RELEVANCE

NALSA v. Union of India (2014), Transgender Persons Act 2019, Article 14/15/21, Section 377 (Navtej Singh Johar 2018)

Rights of vulnerable sections; self-identification vs state certification; role of judiciary in expanding rights; Parliamentary scrutiny of legislation

“Should gender identity be a matter of self-declaration or medical certification? Discuss with reference to NALSA judgment.”

★ FACTS CORNER — KNOWLEDGEPEDIA

TRANSGENDER PERSONS ACT, 2019:

Passed by Parliament: November 2019

Rules notified: September 2020

National Council for Transgender Persons: chaired by Union Minister of Social Justice

Certificate of identity issued by District Magistrate

NALSA V. UNION OF INDIA (2014):

Bench: Justice K.S. Radhakrishnan and Justice A.K. Sikri

Recognised transgender persons as “third gender”

Affirmed right to self-identification under Article 21

Directed OBC-like reservations for transgender persons

KEY STATISTICS:

2011 Census: 4.88 lakh transgender persons in India

Transgender community literacy rate: ~56% (vs national ~74%)

Transgender National Portal launched: November 2020

OTHER RELEVANT FACTS:

Navtej Singh Johar v. Union of India (2018): Section 377 IPC read down

Yogyakarta Principles (2006): international standards on SOGI rights

K.S. Puttaswamy v. Union of India (2017): right to privacy includes sexual orientation

Madras HC (2021) recommended banning “conversion therapy”

Sources: [PRIS India](#), [ANI](#), [The Quint](#), [DD News](#)

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