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# Transgender Persons Amendment Bill 2026 — Self-Identification vs Medical Certification

26 March 2026 · 3 min read

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## ✎ WHY IN NEWS

Parliament passed the Transgender Persons (Protection of Rights) Amendment Bill, 2026, which replaces self-perceived gender identification with medical board-based certification, sparking controversy over the erosion of the NALSA judgment's principles.

## What Changed

| PROVISION               | ORIGINAL ACT (2019)                     | AMENDMENT BILL (2026)   |
|-------------------------|---|---|
| Definition              | Based on self-perceived gender identity | Based on medical board recommendation   |
| Identity certificate    | DM issues on self-declaration           | DM issues only after medical board report   |
| New criminal offence    | —                                       | Kidnapping/forcing someone to assume transgender identity: 10 years to life imprisonment + Rs 2 lakh fine |
| National Council (NCTP) | Advisory role                           | Role unchanged but composition concerns raised  |

## The NALSA Judgment (2014) — Constitutional Foundation

In **National Legal Services Authority (NALSA) v. Union of India (2014)**, a two-judge bench of the Supreme Court delivered a landmark ruling:

- ❶ **Recognised transgender persons as “third gender”** — directed governments to treat them as socially and educationally backward classes
- ❷ **Upheld right to self-identification** of gender — no requirement of sex reassignment surgery or medical certification
- ❸ **Grounded in Articles 14 (equality), 15 (non-discrimination), 19 (freedom of expression), and 21 (right to life and dignity)**
- ❹ Directed Centre and states to provide **reservations, education, health, and social welfare** measures

The 2026 Amendment effectively overrides the self-identification principle by requiring a medical board’s recommendation — critics argue this rolls back the NALSA judgment.

## Controversy and Opposition

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### Against the Amendment

- **Kalki Subramaniam** (prominent transgender activist) resigned from the National Council for Transgender Persons (NCTP) in protest
- Opposition parties argued the bill violates the NALSA judgment’s core principle of self-identification
- Concerns that medical gatekeeping will humiliate transgender persons and create bureaucratic barriers
- The new criminal offence (forcing someone to assume transgender identity) could be misused against families supporting gender-questioning children

### Government’s Position

- Amendment prevents potential misuse of self-declaration provisions
- Medical board adds credibility and prevents fraudulent claims
- New criminal offence protects vulnerable persons from being coerced into changing gender identity

## Timeline of Transgender Rights in India

| YEAR | DEVELOPMENT  |
|------|--|
| 2009 | Election Commission allows “Other” gender option on voter ID                           |
| 2014 | <b>NALSA v. UOI</b> — SC recognises third gender, upholds self-identification          |
| 2018 | SC decriminalises Section 377 (Navtej Singh Johar v. UOI)                              |
| 2019 | Transgender Persons (Protection of Rights) Act enacted                                 |
| 2020 | Transgender Persons (Protection of Rights) Rules notified                              |
| 2020 | National Council for Transgender Persons (NCTP) constituted                            |
| 2020 | National Portal for Transgender Persons launched                                       |
| 2026 | <b>Amendment Bill passed</b> — replaces self-identification with medical certification |

## SMILE Scheme

The **SMILE (Support for Marginalised Individuals for Livelihood and Enterprise)** scheme under the Ministry of Social Justice and Empowerment provides:

- Scholarship for transgender students
- Skill development and livelihood support
- Comprehensive rehabilitation for persons engaged in begging
- Health coverage through Ayushman Bharat

### UPSC RELEVANCE

NALSA judgment (2014), Transgender Persons Act 2019, Section 377, NCTP, Articles 14, 15, 19, 21

*Rights of vulnerable sections, governance issues in identity certification, judicial activism vs legislative action*

*Ethical dimensions of mandatory medical certification for gender identity*

## ★ FACTS CORNER — KNOWLEDGEEDIA

### TRANSGENDER RIGHTS IN INDIA:

NALSA v. UOI (2014): SC recognised third gender, upheld self-identification

Transgender Persons Act: 2019 (original); Amendment Bill 2026

NCTP: National Council for Transgender Persons (under MoSJE)

Section 377: Decriminalised by SC in Navtej Singh Johar v. UOI (2018)

Census 2011: ~4.88 lakh transgender persons (widely considered undercount)

### CONSTITUTIONAL PROVISIONS:

Article 14: Right to equality before law

Article 15: Prohibition of discrimination on grounds of religion, race, caste, sex, place of birth

Article 19(1)(a): Freedom of speech and expression (includes right to expression of gender identity)

Article 21: Right to life and personal liberty (includes right to dignity)

### OTHER RELEVANT FACTS:

Kalki Subramaniam: Artist, activist, writer; resigned from NCTP (March 2026)

SMILE Scheme: Support for Marginalised Individuals for Livelihood and Enterprise (MoSJE)

Madras HC (2019): Banned sex reassignment surgery on intersex infants without consent

Yogyakarta Principles (2006): International principles on sexual orientation and gender identity

Sources: [PRIS India](#), [The Hindu](#), [Indian Express](#)

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