



**FROM BILL TO ACT: EXAMINING THE TRANSGENDER PERSONS
(PROTECTION OF RIGHTS) AMENDMENT ACT, 2026 AND ITS IMPLICATIONS
FOR THE EXISTING LEGAL FRAMEWORK**

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ABSTRACT

This study provides an overview of the evolution of transgender rights in India. This is achieved by understanding the context of landmark judgements, like in the National Legal Services Authority v Union of India (2014) case, in relation to the enactment of the Transgender Persons (Protection of Rights) Act 2019. This legislative framework establishes mechanisms for identity recognition, anti-discrimination protection, and welfare obligations. However, even after the passing of the law, courts have held that there is still a wide gap between the law and its implementation; thus, there is a difference between law in books and law in practice, which is why courts continue to direct the Government to implement what the law already prescribes. The Transgender Persons (Protection of Rights) Amendment Act 2026, passed by both Houses of Parliament in March 2026, aims to change this existing framework. This article also considers the amendment changes, considering the 2019 framework and how these changes align with the implementation gaps as seen in the judicial decisions through statutory analysis and review of relevant case law.

Keywords: Transgender Rights, Amendment, Legal Recognition, Implementation.

INTRODUCTION

The Supreme Court's judgement in National Legal Services Authority v. Union of India (2014) became a turning point in the legal status of transgender persons in India as it recognised the right to self-perceived gender identity as protected under Articles 14, 15, 19 and 21 of the Constitution of India.¹ The Court, in its judgment, directed the legislature and executive to create a framework to implement the constitutional guarantees into enforceable rights. This

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¹ National Legal Services Authority v Union of India AIR 2014 SC 1863

resulted in the enactment of the Transgender Persons (Protection of Rights) Act 2019, followed by the Transgender Persons (Protection of Rights) Rules 2020, which together established mechanisms for identity recognition, anti-discrimination protection, employment safeguards, and healthcare obligations.²

Despite this mechanism, it is noted in several High Court judgments that the provisions of the Act have not been fairly implemented by the institutions. In *Beoncy Laishram v State of Manipur*, educational authorities refused to update official documents despite clear statutory obligations under the 2019 Act and 2020 Rules.³ In *State of Maharashtra v Arya Vijay Pujari*, the State Government had failed to frame recruitment rules for transgender persons even beyond the two-year deadline mandated by the Rules.⁴ These decisions reflect a broader pattern where courts have been required to enforce what the legislation already provides, rather than interpret contested legal questions.

The Transgender Persons Protection of Rights Amendment Bill, 2026, was passed by the Lok Sabha on March 24, 2026, and by the Rajya Sabha on March 25, 2026.⁵ This new law changes the rules that were made in 2019. The Transgender Persons Protection of Rights Amendment Bill 2026 gives us a chance to see if it fixes the problems that the courts found with the law. This article will look at the law from 2019, the new rules from 2020 and the Transgender Persons Protection of Rights Amendment Bill 2026. It will also look at what the courts have said about these laws. It does not seek to evaluate the policy choices underlying the legislation but confines itself to mapping the legal changes introduced by the Amendment against the deficiencies identified by courts in the existing framework.

THE PRE-AMENDMENT LEGAL FRAMEWORK: THE 2019 ACT AND 2020 RULES

In order to understand the significance of the Transgender Persons (Protection of Rights) Amendment Act, 2026, it is necessary to first examine the legal framework as it existed before the amendment. The Transgender Persons (Protection of Rights) Act, 2019, read with the Transgender Persons (Protection of Rights) Rules, 2020, establishes the statutory basis for recognition, protection, and welfare of transgender persons in India. These provisions outline the definition of transgender persons, the process of legal recognition, and the obligations

² Transgender Persons (Protection of Rights) Act 2019; Transgender Persons (Protection of Rights) Rules 2020

³ *Beoncy Laishram v State of Manipur* WP(C) No 392 of 2024 (Manipur High Court, 19 August 2025)

⁴ *State of Maharashtra v Arya Vijay Pujari* WP No 15033 of 2022 (Bombay High Court, 9 December 2022)

⁵ The Transgender Persons (Protection of Rights) Amendment Bill 2026

imposed on the State and other institutions. An overview of this framework provides the foundation for examining subsequent legislative developments.

Section 2(k) of the Transgender Persons Act of 2019 defines a transgender person as one whose gender does not match the gender assigned at birth.⁶ This includes people who're trans-men, trans-women and people who are born with bodies that are not typically male or female. The Act also talks about people who do not fit into the categories of male or female. The Act says that these people have the right to be known as the gender they feel they are. This is stated in section 4 of the Act.⁷ To make this happen, sections 5 and 6 of the Act say that people can apply for an identity card from the District Magistrate.⁸ This card is proof of their gender. The Transgender Persons Rules of 2020 add to this by saying how people can apply for the card.⁹

The Act also protects people from being treated unfairly. Section 3 of the Act says that it is not okay to treat people differently because of their gender.¹⁰ This applies to sectors like education, jobs, healthcare and using services. Section 9 of the Act says it is not okay to discriminate against people when hiring or dealing with employment issues.¹¹ The government must ensure that people are treated fairly and have access to the things they require.¹² It is also stated that people should get help if they need it, including special treatments and counselling.¹³ The Transgender Persons Rules of 2020 say that companies should have policies that make sure everyone is treated fairly.¹⁴ All these rules work together to protect the rights of transgender persons. Taken together, these provisions establish a structured statutory framework governing recognition, non-discrimination, welfare measures, healthcare access, and employment protections for transgender persons before the 2026 Amendment.

KEY CHANGES INTRODUCED BY THE AMENDMENT ACT, 2026

The Transgender Persons (Protection of Rights) Amendment Act 2026 introduces several modifications to the framework established under the 2019 Act while retaining its foundational principles. One big change is how the law defines a “transgender person”.¹⁵ The 2026

⁶ Transgender Persons (Protection of Rights) Act 2019, s 2(k)

⁷ *ibid* s 4.

⁸ *ibid* ss 5–6

⁹ Transgender Persons (Protection of Rights) Rules 2020, rr 4–5

¹⁰ Transgender Persons (Protection of Rights) Act 2019, s 3

¹¹ *ibid* s 9

¹² *ibid* s 8

¹³ *ibid* s 15

¹⁴ Transgender Persons (Protection of Rights) Rules 2020, r 12

¹⁵ Transgender Persons (Protection of Rights) Amendment Act 2026, s 2

Amendment makes a significant change to the legal recognition process by removing Section 4(2) from the original Act. This subsection used to offer a clear legal basis for the right to self-perceived gender identity. The updated framework now shifts toward a more organised administrative model.¹⁶

Legally, this raises an interesting question about how the new provisions will relate to the 'self-identification' principle set by the Supreme Court in *National Legal Services Authority v Union of India* (2014). Furthermore, the role of the District Magistrate under Section 6 has been redefined to include recommendations from a designated medical authority. While this change seems to seek more uniform procedures in issuing identity certificates, it alters the certification process from a simple declaration to one that involves institutional verification. This change shows a move toward a medico-administrative model of recognition.¹⁷ The Amendment also inserts section 6(4), which enables individuals to change their name in official documents upon issuance of an identity certificate.¹⁸

There are certain changes introduced in section 7 as to how people can get official recognition after having gender-affirming surgery; now there are steps to follow and more paperwork to do, such as mandatory certification by medical institutions and prescribed application procedures before the District Magistrate.¹⁹ The Amendment also strengthens institutional representation by modifying section 16 to include broader participation from State and Union Territory authorities in the National Council.²⁰

A significant change in the law comes with the replacement of Section 18. This change broadens the range of specific offences and increases the related penalties. The amendment introduces clearer definitions of prohibited acts, such as forced labour and denial of access to public spaces. While these tougher punishments intend to reinforce the protections offered by the Act, the wider wording of these provisions will likely need careful interpretation by the courts to ensure accurate enforcement in practice.²¹ Finally, amendments to section 22 provide for procedural clarity in rule-making, particularly in relation to documentation and certification requirements.²² Lastly, the law is clearer about how to make rules and what documents people

¹⁶ *ibid* s 3

¹⁷ *ibid* s 4

¹⁸ *ibid* s 4

¹⁹ *ibid* s 5

²⁰ *ibid* s 6

²¹ *ibid* s 7

²² *ibid* s 8

need to get certified. All these changes are making the law more detailed and stronger. The Transgender Persons Amendment Act of 2026 is trying to make things better for transgender people by making the law more specific and by getting people involved.

GAPS AND IMPLEMENTATION CHALLENGES

Despite the detailed framework provided under the 2019 Act and the subsequent modifications introduced by the 2026 Amendment, certain challenges relating to implementation continue to be reflected in judicial decisions. Courts are still having to ensure that people follow the rules that are already in place. For example, in *Beoncy Laishram v State of Manipur*, the petitioner faced difficulties in updating educational certificates despite clear legal provisions recognising identity changes, indicating gaps in institutional implementation.²³ Similarly, in *State of Maharashtra v Arya Vijay Pujari*, the absence of appropriate hiring rules prevented transgender persons from effectively partaking in public employment processes, even though the Rules had prescribed a timeline for such measures.²⁴ At a broader level, instances such as *The President, N.D. Mohan v The District Collector* demonstrates challenges at the local administrative level, where statutory protections against discrimination required judicial reinforcement to ensure compliance.²⁵ These cases show that even though the law says that people should be treated equally and have access to benefits, it really depends on how well the administration executes and the level of awareness at various levels of governance. In this context, the 2026 Amendment has made things clearer, like introducing greater procedural clarity and institutional mechanisms; however, certain structural aspects, such as consistent enforcement, inter-departmental coordination, and uniform implementation across States, remain a point of criticism and consideration for the future.

A brief comparative reference may be made to other countries like Argentina, where they have a law that lets people choose their own gender identity and makes it easier to deal with the government,²⁶ or the United Kingdom, where people have to go through a formal process to get their gender recognised under the Gender Recognition Act 2004.²⁷ We can see that there are different ways to make these rules work. These frameworks illustrate different approaches to implementation, particularly in relation to administrative processes and institutional

²³ *Beoncy Laishram v State of Manipur*, Writ Petition (Civil) No 392 of 2024 (Manipur HC, decided on 19 August 2025).

²⁴ *State of Maharashtra v Arya Vijay Pujari*, Writ Petition Nos 15033 and 15037 of 2022 (Bombay HC).

²⁵ *The President, N.D. Mohan v The District Collector*, Writ Petition (MD) No 4330 of 2015 (Madras HC).

²⁶ Gender Identity Law 2012 (Argentina) (Law No 26.743).

²⁷ Gender Recognition Act 2004 (UK)

structures. In the Indian context, the fact that courts are still getting involved in making sure that people follow the rules shows that even though the law has gotten stronger, people are still having a hard time getting their rights because of how the rules are being put into practice.

CONCLUSION

The Transgender Persons (Protection of Rights) Act 2019, along with the Rules of 2020, set up a system to protect and help transgender people in India. This system was built on the directions given by the Constitution in the case of *National Legal Services Authority vs Union of India* (2014). However, court decisions like *Beoncy Laishram v State of Manipur*, *State of Maharashtra v Arya Vijay Pujari*, and *The President ND Mohan v The District Collector*, show that there is still a gap between what the law says and what actually happens. The gap between statutory provision and institutional compliance has remained a consistent concern, requiring repeated judicial intervention to enforce what the law already mandates.

The persistent gap between statutory mandates and institutional compliance has historically required the intervention of the courts to enforce existing protections. The Transgender Persons (Protection of Rights) Amendment Act 2026 aims to address these structural concerns, especially by clarifying the certification process, enhancing representation in the National Council, and strengthening the penal framework under Section 18. These amendments improve the legislative text but do not in themselves address the larger administrative challenges identified by the courts, such as inconsistent inter-departmental coordination, lack of uniform state-level enforcement and limited awareness among implementing officials. In the end, the success of the 2026 framework will not hinge on the precision of its provisions but on the strength of the enforcement mechanisms and the administrative will to implement it.

The court records we looked at show that the 2019 framework, even though it covered a lot of things, still needed the courts to step in at times to make sure people followed the rules. The 2026 Amendment made some changes to the way things are done. We do not know if this will actually make things work better. We can only find out if this works by seeing how it is used in life. What we found out by looking at the laws is that the 2026 Amendment is a change to the existing 2019 framework, not a new way of doing things. The problems that the courts found before the 2026 Amendment are still things to think about when we use the 2019 framework from now on. The 2019 framework and the 2026 Amendment are. We need to consider the 2019 framework when we think about the 2026 Amendment.