

Transgender Persons Act, 2019 & 2026 Amendment

Mains: GSII - Polity & Governance

Why in News?

Recently a PIL has filed challenging the Transgender Persons Act, 2019, as amended in 2026 that gender identity recognition should not automatically grant women-specific constitutional and statutory protections.

What is the PIL About?

- **Legal Recognition and Biological Sex** - The petition argues that gender identity recognition does not change biological sex.
- **Women-Specific Protections** - It seeks to reserve women-specific benefits exclusively for biological females.
- **Access to Women-Only Spaces** - It raises concerns about hostels, prisons and women-only facilities.
- **Privacy and Dignity** - It highlights privacy concerns during bathing, toileting and medical assistance.
- **Constitutional Validity** - It challenges Section 7 and Rule 7 under several constitutional provisions.

What did the Transgender Persons Act, 2019 and 2020 Rules Provide?

- **Section 6 - Certificate of Identity** - Allowed transgender persons to obtain identity certificates from the District Magistrate.
- **Section 7 - Revised Certificate** - Allowed gender changes after surgery through revised certificates issued by the District Magistrate.
- **Change of Name** - Allowed changes to first names in birth certificates and official documents.
- **Rule 7 - Certification Procedure** - Prescribed procedures for changing gender, name and photographs in official documents.
- **Medical Intervention** - Rule 6 included counselling, hormonal therapy and surgical intervention for certification purposes.

What did the Transgender Persons Amendment Act, 2026 Change?

Narrowed Definition - Restricted transgender recognition to specified identities, intersex variations and coerced identity cases.

- **Exclusion of Self-Perceived Identity** - Excluded different sexual orientations and self-perceived gender identities from the amended definition.
- **Removal of Self-Identification** - Removed Section 4(2), which recognised the right to self-perceived gender identity.
- **Medical Board Certification** - Required medical board recommendations before the District Magistrate issued identity certificates.
- **Mandatory Revised Certification** - Made revised certification mandatory following specified gender-affirming surgery.
- **Removal of Name-Change Provision** - Removed the earlier name-change provision and restricted eligibility under Section 6(4).

The Amendment received Presidential assent on March 30, 2026, and commenced on May 25, 2026.

What does the Petition Say about the NALSA Judgment, 2014?

- **NALSA Judgment** - Recognised gender identity as an essential part of dignity and personal freedom.
- **Legal Recognition** - Directed governments to recognise transgender persons legally as male, female or third gender.
- **Reconsideration of NALSA** - Seeks reconsideration of the constitutional right to recognise self-professed gender identity.
- **Protection and Recognition** - Supports protection against discrimination but questions compulsory legal recognition of self-identified gender.
- **Biological Sex and Gender Identity** - Argues that gender identity recognition does not automatically change biological sex.
- **Harmonious Interpretation** - Seeks to interpret NALSA alongside *Supriyo v. Union of India* (2023).

What is the Constitutional and Governance Significance?

- **Gender Equality** - Highlights the challenge of balancing transgender rights with women's constitutional protections.
- **Right to Identity** - Raises questions about personal autonomy, dignity and legal recognition under Article 21.
- **Affirmative Action** - Raises concerns about gender-based reservations under Article 15(3).
- **Privacy and Safety** - Highlights the need to balance individual privacy, dignity and safety.
- **Judicial Interpretation** - Requires clarity on biological sex, gender identity and constitutional protections.

What is the Way Forward?

- **Constitutional Balance** - Protect transgender rights while preserving constitutionally guaranteed safeguards for women.
- **Evidence-Based Policymaking** - Examine implications for sports, prisons, public employment and reservation policies.
- **Stakeholder Consultation** - Consult transgender communities, women's groups, legal experts and human rights institutions.
- **Clear Legal Framework** - Establish fair guidelines addressing identity, privacy, safety and gender-specific facilities.
- **Judicial Clarity** - Ensure constitutional interpretation upholds dignity, equality and non-discrimination for everyone.

Reference

[The Hindu| Transgender Persons Act: the PIL challenging the law's impact](#)

