

Evaluating the Implementation of the Transgender Persons (Protection of Rights) Amendment Act: An Analysis of Administrative Access and Article 21

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ABSTRACT

This study examines the legal, constitutional, and administrative effects of the Transgender Persons (Protection of Rights) Act and the later 2026 amendment, alongside the constitutional protections guaranteed under Articles 14, 15, 19, and 21 of the Indian Constitution and the Supreme Court's landmark judgment in *NALSA v. Union of India*. By looking closely at how procedural delays, medical board rules, and mandatory ID checks create administrative gatekeeping hurdles that impact personal dignity, this research maps out a constructive way forward using global models and cooperative federalism. Using a qualitative doctrinal and desk-based legal and policy analysis rather than primary field case studies, the paper clearly separates what the written statutory text says from actual administrative realities and prospective projections. It highlights practical policy solutions, such as official self-identification, simpler paperwork, community support groups, and better trans-friendly healthcare. Ultimately, this study shows how public systems can be reformed to truly protect personal dignity, guarantee fair welfare access, and uphold constitutional rights for all gender-diverse people.

Keywords: Transgender Rights, NALSA Precedent, Article 14, 15, 19 and 21, Constitutional Protections, Self-Identification, Cooperative Federalism, Personal Dignity, Gender Diversity

1. INTRODUCTION

India's jurisdiction on transgender recognition has witnessed a profound evolution under high-profile litigation and progressive legislature, establishing a robust legal framework in recent years. The Supreme Court's judgment in *National Legal Services Authority v. Union of India*, (2014) 5 SCC 473 held that the right to self-identification is sacrosanct and intrinsically woven with the constitutional rights of equality, freedom of speech and expression, autonomy, and dignity enshrined under Articles 14, 15, 19, and 21 of the Constitution. The apex court ruled that a transgender person's gender identity cannot be determined by medical or physiological evaluations but rather self-perception without any external judgment.

While the Transgender Persons (Protection of Rights) Act, 2019 developed a comprehensive legal framework for the protection and promotion of the rights of transgender people, the 2026 Amendment Act, however, imposed significant restrictions on the rights of self-identification. Furthermore, this recent amendment bestows a decisive power on the appropriate government to certify a transgender person following a medical board's opinion and the District Magistrate's approval. Although the Transgender Persons (Protection of Rights) Act, 2019 and its 2026 Amendment Act are in force, the implementation mechanism remains unclear and possibly subject to state-level discretion. Therefore, this paper seeks to investigate the nuances of the Transgender Persons (Protection of Rights) Act, 2019 and its 2026 Amendment Act, primarily concerned with certification on the grounds of self-identification, by evaluating the statute's provisions, constitutional validity, and scholarly literature.

This study will focus on the certification process as a multi-step procedure comprising application, medical board's hearing and recommendation, District Magistrate's order, and the final issuance of a certificate by the adjudicating authority. The scope of this paper will also encompass the rights of self-identification, bodily privacy, autonomy, equality, and dignity of the transgender community under Indian Constitutional Law. While the implementation of the Transgender Persons (Protection of Rights) Act, 2019 remains inconsistent across states, the personal laws, social norms, and administrative practices significantly impact the transgender people's access to welfare services. Therefore, this paper will also review the federal structure

of India and analyse the varied transgender rights laws at the state level. This research will contribute to the existing literature by situating the certification process and the concept of self-identification within the broader context of constitutional law, rights, and welfare state's obligations towards the transgender, intersex, and non-binary persons.

2. OBJECTIVES

1. To examine the shift from self-identification towards state-mediated certification under the 2026 Amendment Act and its implications for autonomy and self-determination.
2. To analyse the implications of bureaucratic and medical requirements for gender recognition in relation to constitutional guarantees of equality, non-discrimination, freedom of expression, privacy, dignity, and liberty under Articles 14, 15, 19, and 21.
3. To examine structural and procedural barriers documented in existing legal, administrative, and secondary evidence concerning identity certification and access to welfare benefits.
4. To assess the inclusivity of the amended legal framework with respect to intersex and non-binary identities and identify potential areas of exclusion.
5. To evaluate the consistency of the amended certification framework with the principles of autonomy, dignity, privacy, and self-determination established in *NALSA v. Union of India* and subsequent constitutional jurisprudence.

3. RESEARCH QUESTIONS

1. How does the Indian legal framework balance the shift towards government-mediated gender certification against the constitutional right to self-identification?
2. How do bureaucratic and medical requirements for gender recognition interact with constitutional guarantees of equality, non-discrimination, freedom of expression, privacy, and dignity under Articles 14, 15, 19, and 21?
3. What structural and procedural barriers are documented in existing legal, administrative, and secondary evidence regarding identity certification and access to associated social benefits?
4. How inclusive is the amended legal framework regarding recognition and protection of intersex and non-binary identities?

5. To what extent is the certification framework introduced by the 2026 Amendment consistent with the principles of autonomy, dignity, privacy, and self-determination established in *NALSA v. Union of India* and subsequent constitutional jurisprudence?

4. LITERATURE REVIEW

The research about the Transgender Persons (Protection of Rights) Act and its recent 2026 amendments looks closely at how legal terms are changing and explores privacy rights in the constitution and practical difficulties faced on the ground. Employing a qualitative, doctrinal, and desk-based legal and policy analysis, this study examines these legislative shifts rather than relying on primary field case-study evidence. To carefully assess how these legal changes affect the rights, personal freedom and well-being of trans and gender-diverse people, the following themes focus on several key areas. Our main analysis focuses on identity conflicts, gaps in the law, past court rulings, administrative barriers, and paperwork difficulties faced by the individuals:

The 'Identity' Conflict

Legal recognition is considered as a fundamental step towards securing the empowerment of vulnerable groups, but the legal status of gender identity has experienced critical changes at the legislative level. According to the Supreme Court ruling in *National Legal Services Authority v. Union of India (2014)*, the self-determination of one's gender falls under the right to body integrity, self-determination, and dignity protected under Article 21 of the Constitution. Beyond Article 21, forcing individuals to go through state-mandated medical checks also brings Articles 14, 15, and 19 into question. Because cisgender citizens do not face these screening hurdles, imposing them exclusively on transgender and non-binary individuals creates an unequal classification. This runs counter to the right to equality under Article 14, the protection against sex discrimination under Article 15, and the freedom of expression and bodily autonomy guaranteed under Article 19(1)(a).

By subjecting transgender and non-binary individuals to mandatory administrative screening and medical boards requirements not imposed on cisgender citizens, the framework creates an unconstitutional, discriminatory classification.

While Section 4(2) of the Transgender Persons (Protection of Rights) Act of 2019, states that transgender person has the right to a self-perceived gender identity, but this section is deleted in the Transgender Persons (Protection of Rights) Amendment Act of 2026, which limits the right to gender autonomy to medical interventions certified by the state. The reports by the PRS Legislative Research (2026) and the Centre for Law and Policy Research [CLPR] (2026) highlight that replacing self-determination with mandatory medical board verifications and bureaucratic oversight poses serious threats to the transgender people's fundamental rights and freedoms.

The Silence on Intersex and Non-Binary Identities

One of the more upsetting aspects of the 2026 Amendment Act lies in its silences. The 2019 Act sought to provide for the category of 'transgender person', which included trans men, trans women, genderqueer persons and intersex persons (largely along the lines of *NALSA v. Union of India* (2014)). However, the Amendment Act narrows down the list to include only certain social categories such as *hijras*, *kinner*, *aravani*, *jogtas* and certain types of intersex conditions (PRS Legislative Research, 2026). According to Human Rights Watch (2026), in essence, the redrafted Act excludes from legal recognition those individuals who identify themselves as trans-men, trans-women or even non-binary people other than those enumerated above. Similarly, the Centre for Law and Policy Research (2026) too points out that while the definition contained in the new Act seeks to incorporate both the socio-cultural as well as biological aspects, it does not incorporate the aspect of 'identity', thereby leaving out trans-masculine and non-binary people. It is interesting to note that there is no mention of intersex voices specifically; most commentary treats intersex persons as a subcategory folded into the transgender definition rather than as a group with distinct medical and legal needs of their own (The Caravan, 2026). This silence matters because it means the people most likely to fall through administrative cracks are also the ones least discussed in policy debate.

Accountability and Monitoring Mechanisms

The 2026 Amendment Act's transfer of power from private citizens to public servants is one of its primary problems. Prior to this, the court ruling in *NALSA v. Union of India* (2014) declared that individuals had the freedom to choose their own gender. The government now has the authority to determine a person's identity since the Amendment Act demands medical evidence

to verify a person's gender. According to experts like Bhardwaj (2026), this change violates the principles of respect for human dignity and personal freedom outlined in Article 21. Priya and Kumar (2026) notes that the law also restricts what is considered transgender and makes it more difficult for people to support one another, which increases the need for appropriate checks and balances. If there is no clear way to monitor and review these processes, they could end up being used to exclude people instead of helping them

Privacy and Dignity (Article 21)

The intersection of state regulation and personal identity is directly related to Article 21 of the Constitution of India, which protects the rights of life, personal liberty, and human dignity. The landmark case of *Justice K.S. Puttaswamy v. Union of India (2017)* and the research conducted by Centre for Communication Governance [CCG] (2021), it is possible to state that body integrity, identity, and personal space are recognized as crucial elements of the right to privacy.

Based on standard legal and human rights practices, administrative systems often rely on medical boards to distribute welfare, forcing people to disclose private and personal information.

NALSA vs. the Certificate Requirement

The conflict between judicial precedent and legislative practice steals the show in this discussion. In *NALSA v. Union of India (2014)*, the Court had rejected biological and medical tests for gender altogether as it had found self-identification to be sufficient to guarantee constitutional safeguards under Articles 14, 19, and 21. Though the 2019 Act has diverged in many respects from NALSA, it nevertheless did allow a party to approach the District Magistrate for a certificate without any mandatory medical evaluation (CJP, 2026).

In analysing these developments, when looking at these changes, it helps to keep a clear separation between what the written statutory text actually says, what empirical reports from groups like PRS Legislative Research show about administrative bottlenecks, and what analysts expect will happen in practice.

However, the 2026 Amendment has taken away even this small victory by repealing Section 4(2) of the original Act, which had provided for the right to determine one's own gender, and

replacing it with a provision requiring the advice of a medical board to the District Magistrate prior to the issuance of the certificate (PRS Legislative Research, 2026; The Print, 2026). Legal analysts argue that this gives back the power of validating gender identity to the state and negates what was settled in NALSA over a decade back. The Supreme Court Observer (2025) also provides evidence of continuing failures of implementation under the previous 2019 legislation, showing that it had already become a “punishing process” for the applicants even before the stricter rules rolled out in 2026.

Medicalization and the Gender Binary

One of the common ideas appearing throughout the various descriptions in scientific writing references the fact that the 2026 Amendment reestablishes the medical approach to sex, which NALSA truly sought to avoid. The 2019 Act introduced self-identification, while the Amendment requires legal recognition in accordance with the recommendations of medical boards and requires the access to medical procedures, such as hormone therapy, depending on the legal gender of the individual (Washington Blade, 2026). The Carr-Ryan Centre for Human Rights (2026) claims that this issue extends beyond the transgender community because medical institutions are now obliged to provide information about gender-related treatment to the District Magistrate, which can impact intersex individuals and even the representatives of cisgender groups coming for the same medical treatments. It has already been noted by the scholars working on sexual health issues in India that the medical framework tends to reduce gender to a diagnostic category and prevent the understanding of gender as the lived identity, which is different from one being assigned at birth (Rupesh et al. 2023). Such a tendency appears to be established by the 2026 Amendment in laws in India by the reaffirmation of a binary understanding of gender that contradicts constitutional freedoms and the reality of gender-diverse people in India.

Barriers in Administrative Processes

Administrative processes act as a necessary link between welfare laws and actual welfare benefits. Government data and policy reviews from the Ministry of Social Justice and Empowerment (2020) and the Press Information Bureau (2026), highlight those online platforms, like the National Portal for Transgender Persons, are built to simplify certification process and overcome bureaucratic hurdles. According to the research and official reviews

(e.g., Bhattacharya et al., 2022), practical implementation is harder due to institutional issues. Complicated procedures, strict paperwork rules, and identity checks often create practical challenges for people applying as they try to deal with official systems. Analysing these application steps shows us exactly how the government actions decide whether the transgender people get their basic rights.

Federalism and State-Level Implementation

With respect to India's federal system, national laws are often enforced independently in each state. The Amendment Act is not different. While the federal government has established resources such as the National Portal for Transgender Persons, state-level organizations are mostly responsible for how these are implemented. According to Aashiga (2026), district magistrates and medical committees handle matters extremely differently, which results in unequal access to official recognition. Because *Hijra* and *Gharana* populations' traditional family patterns don't fit neatly into official categories, this is particularly challenging for them. According to Dutta and Bakshi (2026), relying on official institutions for acknowledgment restores authority, which contradicts the notion of individuals making their own decisions. In real life, this means that the rights of a transgender person can change depending on the state they live in, which raises important concerns about how the federal government is held responsible.

Accessibility of Welfare and Public Services

Many transgender people continue to face difficulties gaining access to public services and welfare programs, even after receiving legal recognition. More than half of the transgender people polled possessed identity cards, but less than one in five had updated other legal documents, according to Aggarwal et al. (2026). Their access to chances for training, housing, and healthcare is greatly impacted by this disparity. According to Raghuram et al. (2024), stigma and cumbersome administrative procedures make it difficult for transgender people to receive regular medical treatment, frequently depriving them of essential services. According to D'Souza et al. (2026), the Amendment Act's emphasis on medicalizing identification has made these issues worse by forcing people to undergo intrusive procedures that violate their dignity. These findings indicate that having legislation alone is insufficient and in order to

achieve true accessibility, the structural barriers that keep individuals from leading dignified lives must be addressed

5. RESEARCH GAP

While the current research focuses on how the 2019 and the 2026 Acts clash over legal definitions, the NALSA case, and Article 21 privacy rights, a major gap remains regarding how local government paperwork, bureaucratic decisions, website technical glitches, and state-level implementation impact non-binary people, intersex individuals, and traditional groups like *Hijras* of different states in real life. Most studies currently focus on legal fights rather than analysing the compulsory medical boards and personal self-determination. While much of the existing desk-based literature focuses heavily on broad constitutional debates over self-determination, there is still a clear gap when it comes to looking at how everyday administrative rules, paperwork workflows, and bureaucratic hurdles actually intersect with Articles 14, 15, and 21 on the ground. To address this research gap, we must shift our attention from laws written on paper to the ground realities, analysing what people experience while getting government aid and the unfair hurdles they face during the documentation process under the updated rules.

6. RESEARCH METHODOLOGY

This study is a qualitative doctrinal and desk-based legal and policy analysis. It uses secondary and official sources only and does not use primary data or a systematic case-study design. It looks at the Transgender Persons (Protection of Rights) Amendment Act, 2026 and its significance for access to administration and constitutional rights under Article 21, but it does not claim to evaluate how the Act is working on the ground. The reason for this is the recent nature of the Amendment Act. As it was enacted in March 2026 and came into force only in May 2026, the availability of empirical evidence regarding its working is scarce, such as in the case of the granting of certificates and medical board suggestions, etc. In addition, the study uses secondary sources written on the issue, including commentaries, government documents, media sources and academic works, to evaluate the interpretation, perception and critique offered by various parties involved with the Amendment Act.

This study is essentially qualitative in character since it addresses issues of law and law-making that have to do more with meaning, interpretation, administrative practices and constitutional principles rather than results which are quantifiable in any way. This research will use a doctrinal and desk study method and examine publicly available documents concerning transgender rights in India. While reporting the findings, the study keeps three things apart: what the amended law actually provides, what the available administrative and court evidence establishes and what the authors or other commentators anticipate may happen in practice. These three are not treated as equivalent findings.

These sources consist of government documents, legislation, legal sources, scholarly sources, media reports and civil society materials. The primary legal materials are the text of the Transgender Persons (Protection of Rights) Act, 2019 and of the Amendment Act, 2026 (read through the Amendment Bill, Bill No. 79 of 2026) (Lok Sabha, 2026), Articles 14, 15, 19 and 21 of the Constitution, and the judgments in *NALSA v. Union of India* (2014) and *Justice K.S. Puttaswamy v. Union of India* (2017). Reports on the Supreme Court hearings are used only to record the present status of the challenge to the Amendment Act. Government sources are made up of documents and press releases about the SMILE Scheme of the Ministry of Social Justice and Empowerment (Press Information Bureau, 2026). The other source is the official government website called the National Portal for Transgender Persons that acts as a platform for issuance of transgender certificates and identity cards (Ministry of Social Justice and Empowerment, n.d.). Material on the National Council for Transgender Persons was also considered, mainly for its role in advising on and monitoring the measures under the Act. The bill-tracking material from PRS Legislative Research has been used to provide clear analysis of the legislative changes under the Amendment Act. Also included in the study are legal analyses from institutions dealing with gender and constitutional law issues, media reports from national and international news organisations, reports from human rights institutions and a few scholarly articles dealing with the health and rights of transgender people in India.

Sources were chosen on the basis of how relevant they were to the Amendment Act; how credible and verifiable they are and how much they helped in answering the research questions. In cases where there was more than one source for the same topic, priority was accorded to those sources that offered something new, rather than repeating the same information. This

strategy was adopted to maintain the focus of the research, as well as incorporate various perspectives pertaining to the topic under discussion.

7. ANALYSIS/ DISCUSSION

The key issue that this section seeks to address is not simply whether the 2026 Amendment has been enacted, but what the amended law provides and what kind of implementation the available evidence shows— whether the new bureaucratic processes have made legal recognition more accessible or increasingly contingent upon verification by state and medical institutions. Each finding below separates what the amended law provides, what the available evidence establishes, and what is only anticipated, so that these three are not read as equivalent findings. Where one of these labels is missing under a finding, there is nothing of that kind to report. Statutory provisions are cited by section number (Lok Sabha, 2026).

1. Legal force vs administrative effectiveness

What the law provides: The Amendment is a law and one must be careful not to conflate the fact that it is a law with a different and more difficult question: whether the key novel procedure introduced by the Amendment – mandatory medical board recommendation before certification – is actually being carried out as intended. That procedure is in Section 6(1) of the principal Act as amended, under which the District Magistrate issues the certificate only after examining the recommendation of the ‘authority’, defined in the new Section 2(aa) as a medical board headed by a Chief Medical Officer or a Deputy Chief Medical Officer, and, if considered necessary or desirable, after taking the assistance of other medical experts (Lok Sabha, 2026). The Act received Presidential assent on 30 March 2026 (The Bridge Chronicle, 2026) and under Section 1(2) it comes into force on the date the Central Government notifies in the Official Gazette (Lok Sabha, 2026).

What the evidence shows: The Act is reported to have come into force from 25 May 2026, according to what counsel for one of the petitioners told the Supreme Court on 3 August 2026 (ETV Bharat, 2026a). Official sources describe the existing certification infrastructure, including the National Portal for Transgender Persons and the SMILE scheme, as continuing (Ministry of Social Justice and Empowerment, n.d.; Press Information Bureau, 2026; The News Minute, 2026). This is not settled, because the same counsel also told the Court that the portal

had become non-functional (ETV Bharat, 2026a). On 17 August 2026 the Union told the Court that identity cards issued before the Amendment remain valid, while the petitioners asked for cancelled cards to be restored and for protection for persons with pending applications (ETV Bharat, 2026b; LiveLaw, 2026). These are statements made in court and not findings on how the system is working. What is yet unknown from the data is whether the newly introduced medical board process is being used in a consistent way across districts. Field reporting from August 2026 reports uncertainty among applicants and activists regarding some details of the medical board process, including the requirement for gender affirmation surgery before certification, despite the fact that it is not specified in the Amendment as such a general condition (The News Minute, 2026).

Status of the constitutional challenge: The constitutionality of the Amendment itself is sub judice. The Supreme Court issued notice to the Union Government on 4 May 2026 without interim relief being granted, partly because the law had not then been notified (Lawctopus, 2026; Supreme Court Observer, 2026). On 15 June 2026 it stayed the High Court proceedings on the same challenge and issued notice on the Union's transfer petitions (LawBeat, 2026). On 3 August 2026 a three-judge bench listed all the petitions for final hearing and observed orally that the Amendment cannot take away rights that have already accrued (The Federal, 2026). On 17 August 2026 the bench recorded the Union's statement on existing cards, said it would wait for the Union's reply affidavit and fixed the petitions for final hearing after three weeks (LiveLaw, 2026). The sources reviewed (the latest dated 17 August 2026) show no ruling on constitutional validity yet.

What is anticipated: Hence, the conclusion drawn is very exact: the statutory framework is in force, but the working of the earlier certification infrastructure is itself contested and the publicly available information is lacking regarding the consistent implementation of the newly introduced medical board-based certification process. How that process will work across districts is, at this stage, an expectation and not an established fact.

2. The change in the locus of decision-making authority: self-identification to institutional verification

What the law provides: According to *NALSA v. Union of India* (2014), a person's self-perceived gender identity is enough for constitutional recognition. Although Section 4(2) of the 2019 Act sought to incorporate the above principle into statutory law, the 2026 Amendment omits Section 4(2) altogether (Lok Sabha, 2026) and through the amended Section 6(1) makes certification a two-step process: first, verification of one's application by the medical board and secondly, the final decision to be made by a District Magistrate (PRS Legislative Research, 2026). As a consequence, the decision on who is recognised no longer rests with the individual's own declaration of gender identity; it rests with the recommendation of a medical board and the final decision of a District Magistrate.

What the evidence shows: This is reported consistently by independent legal platforms, bill summaries on government websites and rights organisations such as Human Rights Watch (2026), Amnesty International (2026) and Lawctopus (2026). The above change is characterised by Lawctopus (2026) as philosophical rather than procedural. In whatever way administrative clarity has been sought to be achieved; the locus of decision-making authority has shifted from the individual to the institution and this provides the foundation for many issues discussed further. Nothing in this finding depends on an anticipated effect, since it follows from the text of the law.

3. Certification as a gatekeeping chain, rather than a singular gatekeeping point

What the law provides: The process now runs as a chain. It starts with the application to the District Magistrate under Section 5, followed by the recommendation of the medical board (Sections 2(aa) and 6(1)), then the decision of the District Magistrate, who may seek the help of other medical experts whom the Act does not define, then the certificate of identity under Section 6, and then the entitlement to change the first name in the birth certificate and other official documents (the new Section 6(4)). A person who undergoes surgery to change gender must also obtain a revised certificate, since 'may' has been changed to 'shall' in Section 7(1), and the medical institution has to furnish the details of the person to the District Magistrate and the authority (the new Section 7(1A)) (Lok Sabha, 2026). The amended text does not state what criteria the board will apply, and procedure, form and time are left to rules as they were under the existing Section 6(1).

What the evidence shows: The examination of the true process, involving the application process, medical board assessment, District Magistrate's decision, certification, and finally the identity card itself, reveals that each of these steps may potentially be an area of delay or discretion on its own, with the 2026 Amendment bringing about another step in the process rather than replacing the current system. It is important to note that the system prior to the 2026 Amendment had already been described in literature as one which was quite burdensome, with the Supreme Court Observer (2025) characterising the pre-2026 certification system as a harsh process on its own without even the requirement of a medical board. The certificate also works as a gatekeeping mechanism for everything that comes after it. Counsel told the Supreme Court on 4 May 2026 that benefits under schemes like Ayushman Bharat and SMILE are available to transgender persons only on certification (Supreme Court Observer, 2026), and CJP (2026) describes the certificate as the gateway to welfare schemes, healthcare, insurance and reservations. A delay or refusal at one link of the chain therefore does not stay at that link; it passes on to every service that asks for the certificate. On a reading of the text, a person who falls outside the amended definition in Section 2(k) is outside the Act altogether and so cannot enter the chain at all.

What is anticipated: The inclusion of an additional stage involving medical-board assessment and associated disclosure requirements therefore creates a plausible risk of increased administrative burden. However, it is not clear to what extent this new step affects the process in terms of either time or approval rates from the current data available. CLPR (2026) and Lawtopus (2026) also expect problems such as invasive examinations, limited access to medical boards in rural areas and unclear appeal routes, but these are expected problems and not documented outcomes.

4. Articles 14, 15, 19 and 21: a proportionality problem, not a settled violation

Constitutional position: The more tenable academic interpretation would be that the Amendment raises an unresolved issue regarding proportionality rather than having been deemed unconstitutional in its totality – that decision is left for the Supreme Court to make. NALSA (2014) and the landmark decision of Justice K.S. Puttaswamy v. Union of India (2017) together place bodily autonomy, informational privacy and self-defined identity within the protection of Article 21. The points below link each Article to a specific administrative

consequence of the Amendment. They are arguments raised in the petitions and in the commentary and none of them has yet been decided by the Court (Lawctopus, 2026; India Legal, 2026).

Article 14 (equality): Two points are raised. The first is that the amended Section 2(k) lists specified categories and carries a provision that it shall not include persons with different sexual orientations and self-perceived sexual identities (Lok Sabha, 2026). A person outside these categories cannot get a certificate of identity or the entitlements attached to it. The second is that medical board verification puts a verification duty which is not typically imposed on cisgender citizens (Lawctopus, 2026).

Article 15 (non-discrimination): NALSA read the word ‘sex’ in Articles 15 and 16 as including gender identity. Since the certificate is the document through which welfare schemes, healthcare and reservations are reached (CJP, 2026), a person who is refused it or kept waiting for it is treated differently in access to these on the basis of gender identity.

Article 19 (expression): NALSA also treated the expression of gender identity, through dress, words and behaviour, as part of the freedom of expression under Article 19(1)(a). Lawctopus (2026) points to the effect of institutional verification on gender expression and liberty. In administrative terms, the medical board and the District Magistrate now decide whether a person’s identity is officially recognised and the mandatory revised certificate under Section 7(1) ties a change in the recorded gender to surgery.

Article 21 (dignity, privacy and bodily autonomy): A medical board examination touches bodily integrity and the new Section 7(1A) requires medical institutions to give the details of persons who have undergone gender-change surgery to the District Magistrate and the authority (Lok Sabha, 2026). Petitioners say this raises serious privacy concerns (Lawctopus, 2026), which is the point at which the reasoning in Puttaswamy on informational privacy becomes relevant.

Proportionality: The official reasoning for the introduction of the provision – namely, that the definition in 2019 was too broad and could not identify the subjects of protection – is a valid

governmental goal (Lawctopus, 2026); the Statement of Objects and Reasons also says that identification should not rest on a claimed self-perceived identity (Lok Sabha, 2026). However, the question of whether the medical verification is proportionate to that goal is one which still requires an answer from the Court.

5. Definitional exclusion is textual and not administrative

What the law provides: As opposed to the findings above, this one does not require any data regarding functioning, because it is a feature of the text of the statute and not of its application.

The Amendment introduces a narrower statutory definition as compared to the wider interpretation contained in the 2019 Act, which recognises specified socio-cultural identities such as *hijra*, *kinner*, *aravani* and *jogta* and specified intersex variations, among others, as set out in the amended definition (PRS Legislative Research, 2026; Human Rights Watch, 2026). The amended Section 2(k) also adds ‘eunuch’ and persons who have been compelled by force, allurement, inducement, deceit or undue influence to assume a transgender identity and its provision says that the definition shall not include, nor shall ever have been so included, persons with different sexual orientations and self-perceived sexual identities (Lok Sabha, 2026). The earlier express mention of trans-men, trans-women and genderqueer persons is therefore not carried forward. The question is thus not only administrative, but of the categories themselves recognised under the statute. It should be noted that the amended definition includes specified intersex variations and hence the concern is not one of excluding all the intersex individuals, but those whose characteristics or identities are not captured by the specified categories.

What the evidence shows: The provision to Section 2(k) is itself under challenge before the Supreme Court, which issued notice on a separate petition against it and tagged it with the pending batch (India Legal, 2026).

What is anticipated: The literature highlights specific concerns for trans-masculine and non-binary individuals and questions the efficacy of the amended framework for the recognition of those individuals (Centre for Law and Policy Research, 2026; The Caravan, 2026). How many people are actually left outside in practice is not shown by any data yet.

6. Certification does not automatically translate into welfare access

What the law provides: The amended Section 6(4) entitles a person who holds a certificate of identity to change the first name in the birth certificate and other official documents (Lok Sabha, 2026), so the statute itself links the updating of documents to the certificate.

What the evidence shows: Despite the success in gaining certification, it does not seem that certification will definitely translate to subsequent access in administrative processes. There have been survey results in this paper's literature review that indicate most of the survey participants possess transgender identity cards, but only a small number of them were able to

update their legal documents related to these identity cards (Aggarwal et al., 2026). This indicates that certification cannot definitely lead to documentation, enrolment and welfare access. The survey does not appear to have been designed to measure the effect of the 2026 Amendment, so it shows a gap that already existed and not an effect of the Amendment.

What is anticipated: When there are more welfare benefits that rely on proof of recognised identity, the problem in certification or documentation can also hinder access to healthcare, housing, education and social protection services.

7. Federal structure and the possibility of uneven implementation

What the law provides: The new Section 2(aa) allows the medical board to be appointed by the Central Government, a State Government or a Union territory Administration (Lok Sabha, 2026), which itself leaves room for differences between jurisdictions.

What the evidence shows: Before 2026, there was some evidence suggesting that discretion at the district administrative level may result in differential access based on one's location (Aashiga, 2026).

What is anticipated: Since the certification is conducted by District Magistrates and medical boards functioning within administrative structures at the state and district level, as opposed to a centralised administration, the implementation of the Amendment may differ from

jurisdiction to jurisdiction despite the standardisation of the statutory regime. This institutional diversity remains present under the 2026 Amendment since the latter adds another institutional dimension in the form of medical board participation, in addition to the District Magistrate's decision-making. Nevertheless, the level of this diversity under the 2026 Amendment regime can only be determined through comparative data at the state- and district-levels.

8. Accountability and grievance redressal

What the law provides: The amended framework does not provide a dedicated statutory right of appeal against the refusal of a certificate of identity under the new legislation. None of the amending provisions, which cover Sections 2, 4, 6, 7, 16, 18 and 22 of the principal Act, provides an appeal against a refusal and the legislative literature available does not specify any procedure for appealing against the substantive decisions made (Lok Sabha, 2026; CJP, 2026). The National Council for Transgender Persons has an advisory and monitoring function, but this is not the same as having the right of individual appeal.

What the evidence shows: Yet, at the same time, the National Portal has provisions in place for handling grievances on issues of delay in getting a certificate issued (Ministry of Social Justice and Empowerment, n.d.). The difference is that having a process to report the delay in the issuance of the certificate is not the same thing as having a statutory right to appeal against the decision on the substantive eligibility issue.

What is anticipated: Rules framed later may provide a review route, but none had been identified in the sources reviewed, so the absence of an appeal remains a gap and not a documented harm.

9. Digitisation decreases friction but does not eliminate it

What the evidence shows: The National Portal for Transgender Persons combines all applications and aims to minimise some forms of friction caused by the in-person bureaucracy through an end-to-end, online process of certification and enables monitoring and tracking of applications (Ministry of Social Justice and Empowerment, 2020). In this regard, digitisation can help make the process easier. The portal was also reported to the Supreme Court on 3

August 2026 to have become non-functional (ETV Bharat, 2026a); this is a statement made in court and has not been independently verified in the sources reviewed.

What is anticipated: Nevertheless, the digitisation of a procedure does not eliminate the barriers that exist in this process because they may instead be relocated or supplemented by new forms of administrative difficulty. The necessity of a medical board is an administrative requirement irrespective of whether communication or scheduling takes place online or offline and people with limited access to, or familiarity with, digital resources may face additional difficulties. Thus, based on the evidence reviewed for this study, a more balanced assessment needs to be made: digitisation helps to decrease some types of administrative friction, but its impact on structural barriers still needs to be assessed at the national level.

8. POLICY RECOMMENDATIONS

1. Bringing Back Self-Identification and Removing Medical Control Over Legal Recognition.

The 2014 NALSA decision clearly said that medical and biological tests should not be used when a transgender person wants to get legal recognition. It said that a transgender person's own statement is enough to get the rights given by Articles 14 15 19 and 21. However the new 2026 Amendment Act wants to require checking by a board. This would take the power from the person. Give it to the government. This could break the idea of proportionality that was explained by Justice K.S. Puttaswamy in the Right to Privacy decision. Other places have shown that self-identification works. For example, Argentina's 2012 Gender Identity Law allows people to get recognition by saying it themselves without needing any medical help. The UNDP said that in 2013. India's new law should change to remove the need for checks. This not breaks the right to personal body control and private information as Justice K.S. Puttaswamy said but also doesn't work well in real life.

2. Saying Clearly That Intersex and Non-Binary People Are Also Covered

The 2026 Amendment Act makes the definition of "transgender person" than the original Transgender Persons (Protection of Rights) Act of 2019. It says the law only applies to "hijra" "kinner" "aravani" and "jogta" groups, but not to intersex or non-binary people. This is a step compared to the NALSA decision and could be seen as unfair because of someone's sex, which

is not allowed by Article 15. The rights of intersex and non-binary people in India are not clearly covered by the laws. Other places have good examples. The German Federal Constitutional Court said in 2018 that there should be a "choice for legal gender. Human Rights Watch reported that in 2018. Indias law must change to recognize intersex and non-binary identities and give proper choices for documents. Also, it should stop -consensual medical treatments on intersex babies and create the right legal plans.

3. Making it Easier to Get Help and Not Making One Paper the Way

In many cases even if transgender people get a certificate, they still can't get help because of problems in the system. Even though many transgender people have identity cards few update other papers like address proof, which stops them from getting healthcare, housing or education. Studies from 2026 by Aggarwal and others show this. It has been suggested that while a certificate may be needed, getting help should not be connected to one paper because this is a single point of failure. Transgender people must be helped to use documents as proof of identity and the process should not take too long. Other places have examples: in Uruguay the governments data for social help is linked to gender so help is given automatically. Human Rights Watch said that in 2018. Indias law must change to use ways with proper digital protection. Also, there should be options for people without access.

4. Making Sure There Are Ways to Report Problems and Get Help

The new rules make the government responsible for certifying gender changes. This needs to be watched to stop abuse and make sure the system works fairly and clearly. Without this the process could become very personal. Leave people out. The Constitution says that the government can't take away or limit the rights of citizens under Articles 14 and 15. An example from another place shows what can be done: the Irish Gender Recognition Act 2015 has a way to check applications again with help from people in society. Oireachtas said that in 2015. Indias legal system needs ways to solve problems with clear work. Separate systems could be made at the state levels. Transgender, intersex and non-binary people along with others must be part of checking how things are going and giving reports on how it's working. It's important to tell the difference between delays in processing and real problems with getting recognition.

5. Making Sure There Are Basic National Rules and Working Together Across the Country

India is a country with parts that work on their own. There are differences in how things are done in different places. District leaders and medical groups do things, which makes it hard for transgender people to get the same rights all over the country. Aashiga said in 2026 that this is happening. The central government must create national rules for gender change, papers, medical behavior, help and solving problems so these are the same everywhere. It's important that with national rules states can make their own ways to fit their local needs like the hijra groups in Tamil Nadu or the khakhi hijras in Assam. Similar ideas could be used for how doctors and other workers treat people with rules given to hospitals and health centers and training, for police and help workers. Canadas way of working between the center and the states is a good example. It shows how to balance rules and local needs while following the Constitution. Also, money should be spent on training the workers in areas so that transgender, intersex and non-binary people get fair treatment.

9. LIMITATIONS

The most important limitation associated with this study is that there is not enough information available regarding how the Transgender Persons (Protection of Rights) Amendment Act is working in practice. Since the act is so new, a significant part of the available information relates to interpretation of the law, policy discussion and the evaluation of its expected impact, while there is no evidence of the actual implementation results. Thus, some of the issues and possible outcomes highlighted in this study still remain purely speculative and cannot be considered as an empirically proven fact. Although attempts were undertaken to differentiate between what the law provides, what the evidence shows and what is only anticipated, the relatively short period of time since the Act came into force limits this possibility. For the same reason, the study is a doctrinal and desk-based analysis and should not be read as an evaluation of implementation outcomes.

The second limitation is related to the complete dependence of the research on secondary sources. The research does not make use of any primary data that could have been collected through interviews, field research and direct interaction with the transgender people, representatives of the government, District Magistrates, members of the medical board and other parties involved in the implementation of the provisions in question. In this way, while it

is possible for the study to explore the way the Amendment Act is presented, interpreted and discussed in the legal, governmental, academic and media literature, it will be impossible for it to determine the experiences of the transgender people in terms of their certification, medical board meetings and access to welfare mechanisms independently.

Another constraint has to do with the geographical and linguistic reach of the existing sources. In particular, the paper relies extensively on legal literature written in English, as well as English media reports and documents published by organisations which predominantly operate at the national level. This could lead to rather weak coverage of the experiences and the implementation context in small towns, the countryside and states or regions whose administrative capacity could be very different from that at the national level.

Moreover, the results of the study need to be understood in the context of the changing nature of the legal and administrative framework governing the Amendment Act. Currently, certain elements of its implementation are still under administrative development and the interpretation and implementation of particular provisions may later become influenced by additional rules and procedures, government decisions or even litigation. The challenge to the Amendment Act is still pending before the Supreme Court and this study follows it only up to the hearing of 17 August 2026. The amended provisions are also read from the text of the Amendment Bill as introduced in the Lok Sabha (Bill No. 79 of 2026) and not from the gazetted Act. The results can thus be seen as the analysis of the existing evidence and legal discourse on the matter at the moment of the research and cannot be considered a final evaluation of the implementation and impact of the Amendment Act. Future research, especially empirical research conducted following the implementation of the Amendment Act, might shed more light on the practical functioning of the framework and its implications.

10. CONCLUSION

This paper sought to explore whether the Transgender Persons (Protection of Rights) Amendment Act, 2026 is consistent with the constitutional values of autonomy, dignity, privacy and self-determination set out in the Supreme Court's 2014 judgment in *National Legal Services Authority v. Union of India*. As a doctrinal and desk-based analysis, it kept apart what the amended law provides, what the available evidence shows and what is only anticipated. On the first, the findings show that the Amendment is a significant deviation from the model of gender identification based on personal self-identification. On the other two, due to the fact

that the amended legislation and practice of its application are still quite new, the exact nature and degree of the implications of the changes in practical terms cannot be unequivocally confirmed – thus, the research gap outlined at the beginning of the paper, related to the actual experience of transgender people under this legislation, is far from closed.

Thus, it was found that the most fundamental change is connected with the location of the locus of decision-making. As Lawctopus (2026) and PRS Legislative Research (2026) show, through the deletion of Section 4(2) of the 2019 Act and the introduction of a medical board recommendation followed by District Magistrate approval, the legal process of gender recognition becomes increasingly institution-centred, as opposed to being based on personal self-determination. It is a substantial deviation from the principle of NALSA, which creates a constitutional tension in relation to Articles 14, 15, 19 and 21, since it removes self-perception as the basis of recognition and, as the petitioners and commentators argue, affects the autonomy, privacy and dignity of transgender people, although the issue of whether the medical verification procedure is proportional to the State's goals in this regard is pending before the Supreme Court and should be resolved there.

Also, according to the analysis, the amendments create several administrative checkpoints in the multi-stage procedure of certification of gender identity, which might create an actual risk of increased burden. Since the certificate is the document through which welfare entitlements are reached, a delay or refusal at any one stage can carry over to every service that depends on it, although the lack of statistics on the rate of approval and duration of processing precludes confirmation of the magnitude of this effect. In addition, there are inclusivity concerns with respect to the definition provided by the Amendments, as the amended Section 2(k) does not carry forward the earlier express mention of trans-men, trans-women and genderqueer people and adds a provision excluding persons with different sexual orientations and self-perceived sexual identities. This follows from the text of the law and does not depend on administrative data. Finally, certification does not necessarily entail issuing of updated documents and welfare benefits access.

However, the larger infrastructure is not entirely worthless – National Portal for Transgender Persons, SMILE scheme and other initiatives can be viewed as sincere attempts to help people gain access to their legal rights. Nevertheless, improvements in administrative mechanisms alone cannot address the issues that appear due to the new conditions of the process of obtaining the rights themselves. And this is exactly why the policy recommendations provided in this

paper are focused on changing the very conditions of legal recognition rather than just improving the existing system through its administrative fine-tuning. Thus, they include self-identification as a condition of getting recognised legally, protection of intersex and non-binary categories, disconnection of welfare services from a single certificate and creation of an independent and inclusive supervisory mechanism.

In any case, the legal framework of the 2026 Amendment makes the gender recognition process much more medical and administrative than the process under the self-identification model recognised in NALSA and reflected in Section 4(2) of the 2019 Act. The main policy problem here is that administrative clarity and welfare delivery should not violate individuals' autonomy and right to access their legal rights. The long-term effects of such transition may be assessed empirically in future and require further research based on states' experience.

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