

Impact of Transgender Persons (Protection of Rights) Amendment Act, 2026: Inputs and Themes from Workshop

Context: On August 24th, 2026 the Vidhi Centre for Legal Policy in collaboration with the Keshav Suri Foundation organised an intimate closed door panel and workshop to deliberate strategies to engage with the legal landscape in light of the Transgender Persons (Protection of Rights) Amendment Act, 2026 (**'Amendment Act'**) at the LaLit New Delhi. The panel and workshop was attended by community members, civil society, lawyers, academics and healthcare professionals to deliberate the different pathways for engagement. It was guided by the themes identified in Vidhi Centre for Legal Policy's report [What Can the State Government Do?](#) and its accompanying [advocacy toolkit](#).

The workshop and discussion revealed both concerns and the impact of the Amendment Act on the ground on transgender persons, queer civil society and healthcare professionals. The same are reflected below for the consideration of the Committee.

A. The Amendment Act

The **Amendment Act** has:

- narrowed the definition of 'transgender person', removed the explicit right to self-identify one's gender,
- made a medical recommendation compulsory before a transgender identity card can be issued, and,
- introduced new criminal offences which are vague and based on harmful stereotypes about the community.

While only Courts can decide whether the Amendment Act is constitutional, State Governments have power under Section 22 of the Transgender Persons (Protection of Rights) Act 2019 (**'2019 Act'**), to enact rules that operationalise the law in ways that protect transgender rights in the State. This power cannot be used to override the Amendment Act, but it can be used to fill gaps, simplify procedures, provide clarifications, and prevent misuse on the ground. Further, the Amendment Act will have to be operationalised keeping in mind the fundamental right to health, the fundamental right to privacy, and India's health and privacy laws.

B. Themes

The following key-themes emerged from stakeholder discussion at the panel and workshop:

Theme 1: Lived-experiences as evidence

Advocacy in relation to the Amendment Act, whether before Courts or with Governments needs to draw from people's lived experiences as they constitute important and critical bodies of evidence. Building a record of such evidence while protecting the privacy of those who share such lived experience is important to demonstrate the on-ground impact of the Amendment Act. Such lived experience and impact must inform both law and the operationalisation of the law as well as advocacy.

Theme 2: Right to self-identification and gender identity

- a. **Conflation of Intersex Status with Transgender Identity:** The transgender identity and intersex status are being wrongly treated as a part of the same class. Intersex status does not determine the gender identity of the person. Intersex persons may or may not be transgender persons. Thus legal and policy reform must be informed by this distinction. An intersex person's identity, whether they identify as a man, woman, non-binary, or transgender, should not be dictated by chromosomes, genitalia, or mandatory medical scrutiny. It is critical that specific needs of persons with intersex variations are accounted for in the law and they are not incorrectly classified.

Further, the medical model which is hinged on repeated certification contributes to pathologisation of both intersexed bodies as well as transgender persons. This especially adversely impacts persons with intersex variations who were diagnosed in childhood and who may not have easy access even to their own medical records, especially if they have left their family home. Further, a certification regime may also lead to incorrect classification of such persons. It was also pointed out that India's last census counted persons with intersex variations only in a vague, unscientific way, folded into a broader 'transgender children' category.

However, at the same time the 2019 Act is the only law which extends protections to persons with intersex variations. Further, certain judgements particularly of the High Court of Madras and High Court of Kerala pertaining to surgeries on infants with intersex variations must be implemented through uniform protocols.

- b. **Erasure of Transgender Men, Non-Binary, and Genderqueer Persons:** It was noted that there is a real asymmetry in how the narrow definition plays out: a transgender woman can often invoke a recognised socio-cultural label to fall within the definition of transgender person under the Amendment Act. However, transgender men, non-binary transgender persons and genderqueer persons frequently have no equivalent label to fall back on, leaving them vulnerable.

Stakeholders also flagged legal concerns with strategies such as attempting a broad interpretation of the terms such as 'kinner, hijra, aravani and jogta' as the Amendment Act moves toward fixed categories and away from self-identification. Thus it is critical that engagement is also attempted at the level of legislative change to revert to a broader definition.

- c. **TG Cards and Everyday Access:** Only around 36,000 people hold a national Transgender Card ('TG Card') which showcases the limited access to the card at the national level. Further, the application process for TG Cards have come to a complete standstill since the Amendment Act with the national portal no longer being operational and physical in person applications no longer being accepted. The only alternative, a gazette notification, is expensive and effectively forces people to publicly out themselves in a newspaper. Stakeholders reported that police are already treating card-possession as a proxy for whether someone "really" counts as transgender, in one case reportedly registering a transgender woman's complaint of sexual assault only as 'grievous hurt' because she did not have a card. It was noted that the barriers extend well beyond policing, into hostel access for transgender students, corporate insurance coverage, health insurance coverage, and even national entrance exams such as NET/JRF. The Centre's assurance in Court needs to translate into action at the stage of implementation.

Theme 3: Healthcare and Privacy

- a. **Unequal access across the community:** There are several barriers to accessing healthcare for transgender persons. Even when transgender persons approach doctors for general healthcare (for instance, a flu, or a viral infection) the first response of the healthcare professional is to focus on their gender identity as opposed to providing them care.

There is less trust in the public healthcare system among transgender men, private care can be unaffordable, and doctors trained to think in binary terms often struggle with basic gynaecological or reproductive care. Stakeholders added that access has generally been easier for transgender women and people from hijra and kinnar communities than for transgender men and genderqueer people. However, ever since the Amendment Act there is a substantial body of anecdotal evidence (one stakeholder pointed out that 8 out of 10 healthcare professionals are refusing care) showcasing that care is being delayed or patients are being told to simply wait until the litigation is settled or new rules enacted.

There are several laws, including the 2019 Act, which recognise refusal and discontinuation of care as constituting discrimination and prohibit it. It is critical that medical establishments and healthcare professionals continue to abide by such laws despite the Amendment Act.

- b. **Medical certification and identity:** One stakeholder, trained as a doctor, pointed out that healthcare providers already work within a defined international framework, the WHO's ICD-11 classifications for gender incongruence (codes HA60, HA61, HA6Z), and asked why India's own data-sharing mandate has no equivalent clarity: there is no clear format for what must be shared with the District Magistrate, by whom, or for how long it is kept, unlike existing Indian reporting regimes for HIV and AIDS (Prevention and Control) Act, 2017 or under the Prenatal Diagnostic Technique (Prohibition of Sex-Section) Act, 1994 which do have defined formats. Another stakeholder reiterated

the forced-outing risk this creates for intersex applicants in particular. A point was made about how little information doctors actually need for provision of care: *"I have to treat cough and cold also. I have to treat other things also,"* and how doctors should only have access to the information that is actually required for the treatment in front of them. The gender identity of the patient should not be relevant when transgender persons are seeking care and this mandate must be institutionalised across medical establishments and healthcare professionals. Gender identity and related matters, insofar as they arise in medical practice and the provision of healthcare, should therefore be understood as medico-social issues rather than medico-legal issues, and should not be treated as a basis for unnecessary medico-legal scrutiny or disclosure.

Further protocols need to be established aligned with the Supreme Court's judgement in *Puttaswamy v. Union of India* and the Digital Personal Data Protection Act, 2023 to ensure health data is processed in such a manner that the right to privacy of transgender persons is protected.

- c. **Chilling effect on gender-affirming care:** Stakeholders described the new offences under Section 18 creating fear well beyond their actual scope. In Chennai, some doctors are reportedly now insisting on a parental affidavit before providing gender-affirming care to adult patients, despite no such requirement existing in law. Similar accounts have emerged from Delhi, where both public and private hospitals have refused gender-affirming surgery to consenting adults holding TG Cards. In one recent instance, a well-known private clinic asked for written consent from the father of a patient well over the age of 25 after the family approached the doctor with threats, and in other instances, public hospitals initially refused surgery and went ahead only after community organisations intervened and explained that performing gender-affirming surgery on consenting adults posed no legal risk to practitioners, though an undertaking was still required. A stakeholder shared that in Jharkhand, a government order (secured by People for Change) directed that transgender clinics be opened in every district hospital and medical colleges. However, after the Amendment, this "stopped a little," with some patients already on hormone therapy losing access. On a more hopeful note, a stakeholder trained as a doctor, described Telangana's AIIMS 'Green Book Clinic', which provides care but cannot fund surgeries. The State's Chief Minister has since committed to covering these costs through the Chief Minister's contingency fund. Another stakeholder trained as a doctor shared that they are running a pan-India survey of healthcare providers (available in five languages), with around 150 of a targeted 1,000 to 2,000 responses so far; an early finding is that providers rarely refuse care outright but instead delay it, which is harder to detect than an outright denial. They also pointed out that the Amendment does not define 'gender-affirming care' at all, and that Section 15 of the 2019 Act, which places a positive obligation on the government to provide this care and prohibits discrimination has not been touched by the Amendment; the underlying duty to provide care was never removed, even if fear of Section 18 is doing damage in practice. It was noted a related litigation success: courts in Kerala and Karnataka had already granted favourable interim orders limited specifically to healthcare access, because advocates were able to show that continuity of care is the most crucial thing.

Theme 4: New Offences

- a. **Consequences of vague language:** Stakeholders pointed out that the new offences use undefined terms to criminalise 'compelling' someone to present as transgender, and that this vagueness is not a hypothetical risk. One stakeholder described a case already underway: a family filed a police complaint against a transgender-support organisation, alleging that a relative had been 'allured' into a transgender identity, despite documentation showing the person had approached the organisation voluntarily while fleeing family hostility. A stakeholder who is trained as a doctor pointed out how terms that denote harm to the body (such as mutilation, castration) have been conflated with medical terms (such as hormonal, surgical) in section 18 (f) leading to mistaken interpretation of two distinct processes i.e., criminal harm and legitimate medical care. Stakeholders viewed the new offence as a shift towards criminalisation based on suspicion, rather than the rights-based protections promised in NALSA and based on a transgender person's lived experience. They cautioned that expanding criminal law in the name of protection without holding meaningful dialogue with the community and in spite of wide-spread critique of the provision creates risks which can cause lasting and deep harm on the transgender persons. Stakeholders also flagged an asymmetry: while the new offences carry heavy penalties (five to ten years, up to life imprisonment involving minors), transgender persons remain comparatively unprotected against ordinary sexual violence, since mainstream criminal law treats sexual offences in strictly binary terms, and the 2019 Act's own original penalty range for sexual offences against a transgender person (six months to two years) remains far below standard rape sentencing, untouched by the Amendment. This creates both principled and practical injustice in the complete offence framework of the country, which reinforces that idea that violence against the transgender community is less severe than parallel offences under general criminal law of the land and other special legislations.
- d. **Protections beyond the law:** One stakeholder argued that protection here cannot rest on the State alone: the community needs its own independent legal defence networks and standardised documentation of voluntary consent-for both social affiliation with a CSO or kinship unit, and for medical care. This was so that doctors, community spaces, and peer groups have a ready, credible paper trail if a malicious complaint is filed. Another participant pointed to a 2020 Ministry of Home Affairs guideline on treating transgender persons in custody, covering correct pronoun use and self-identified names in court records, as already in tension with the Amendment, and suggested it could still be used as an interim tool in advocacy with police. A further, more cautionary note came from a stakeholder who described police in their city reaching out, for the first time, to hold 'sensitisation' sessions shortly after the Amendment was notified, despite years of the same police force previously refusing any such engagement. Rather than reading this as progress, the stakeholder called the timing "very, very apprehensive," noting that police were still telling community members that without a TG Card, a person "is not trans for now" for the purpose of registering a complaint, a reminder that sensitisation led unilaterally by the State, without community partnership, does not necessarily change practice on the ground.

Theme 5: Dialogue

Stakeholders emphasised that legislative reform and litigation, while important for claiming and protecting rights, cannot by themselves transform how the State understands or interacts with the transgender community. Meaningful reform requires sustained and open dialogue between the State and the community, alongside public sensitisation and awareness-building. Such engagement was seen as necessary not only to improve implementation of the present law, but also to prevent similar legislative errors in the future.