

THE TRANSGENDER PERSONS (PROTECTION OF RIGHTS) ACT, 2019.

Summary

The Transgender Persons (Protection of Rights) Act, 2019 is a landmark law that seeks to provide protection to transgender individuals against discrimination and abuse. The act provides for the recognition of transgender persons, their right to self-perceived gender identity, and prohibits discrimination against them in education, employment, healthcare, and other areas. It also provides for the establishment of a National Council for Transgender Persons and transgender rights courts. The act criminalizes offenses such as forced separation from family, denial of services, and physical and sexual abuse against transgender persons.

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CHAPTER I: PRELIMINARY

Section 1: Short Title, Extent And Commencement

(1) This Act may be called the Transgender Persons (Protection of Rights) Act, 2019.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Simplified Act

(1) This law is known as the Transgender Persons (Protection of Rights) Act, 2019.

(2) It applies to the entire country of India.

(3) The law will become active on a date that the Central Government of India decides. They will announce this date in an official publication called the Official Gazette.

Section 2: Definitions

In this Act, unless the context otherwise requires,

"appropriate Government" means,

in relation to the Central Government or any establishment, wholly or substantially financed by that Government, the Central Government;

in relation to a State Government or any establishment, wholly or substantially financed by that Government, or any local authority, the State Government;

"establishment" means

any body or authority established by or under a Central Act or a State Act or an authority or a body owned or controlled or aided by the Government or a local authority, or a Government company as defined in section 2 of the Companies Act, 2013 (18 of 2013), and includes a Department of the Government; or

any company or body corporate or association or body of individuals, firm, cooperative or other society, association, trust, agency, institution;

"family" means a group of people related by blood or marriage or by adoption made in accordance with law;

"inclusive education" means a system of education wherein transgender students learn together with other students without fear of discrimination,

neglect, harassment or intimidation and the system of teaching and learning is suitably adapted to meet the learning needs of such students;

"institution" means an institution, whether public or private, for the reception, care, protection, education, training or any other service of transgender persons;

"local authority" means the municipal corporation or Municipality or Panchayat or any other local body constituted under any law for the time being in force for providing municipal services or basic services, as the case may be, in respect of areas under its jurisdiction;

"National Council" means the National Council for Transgender Persons established under section 16;

"notification" means a notification published in the Official Gazette;

"person with intersex variations" means a person who at birth shows variation in his or her primary sexual characteristics, external genitalia, chromosomes or hormones from normative standard of male or female body;

"prescribed" means prescribed by rules made by the appropriate Government under this Act; and

"transgender person" means a person whose gender does not match with the gender assigned to that person at birth and includes trans-man or trans-woman (whether or not such person has undergone Sex Reassignment Surgery or hormone therapy or laser therapy or such other therapy), person with intersex variations, genderqueer and person having such socio-cultural identities as kinner, hijra, aravani and jogta.

Simplified Act

This law is about the rights of transgender people. Here's what some of the terms mean:

"appropriate Government" refers to:

the Central Government for its own actions or for organizations it mainly funds;

the State Government when it comes to actions by the State, organizations it mainly funds, or local authorities like city or town councils.

"establishment" includes:

organizations created by laws, government agencies, local authorities, or government-owned companies;

private companies, partnerships, co-ops, societies, trusts, agencies, or other groups.

"family" means people connected by blood, marriage, or legal adoption;

"inclusive education" means teaching transgender students with other students in a way that's fair and meets their needs, without them being scared of being treated badly or bullied;

"institution" refers to any place, public or private, that offers services like care, protection, education, or training for transgender people;

"local authority" means local government bodies like city councils that provide services to the community;

"National Council" refers to the group set up by this law to look after transgender persons' interests;

"notification" means an official announcement by the government;

"person with intersex variations" means someone born with physical sex traits that don't fit typical definitions of male or female;

"prescribed" means set out in rules made by the government under this law; and

"transgender person" means someone whose gender identity is different from the sex they were assigned at birth. This includes a wide range of identities, such as trans-men and trans-women, whether or not they've had surgery or medical treatment, people born with bodies that don't fit typical definitions of male or female, and people who identify with specific cultural roles in South Asia like kinner, hijra, aravani, and jogta.

CHAPTER II: PROHIBITION AGAINST DISCRIMINATION

Section 3: Prohibition Against Discrimination

No person or establishment shall discriminate against a transgender person on any of the following grounds, namely:

- (a) the denial, or discontinuation of, or unfair treatment in, educational establishments and services thereof;
- (b) the unfair treatment in, or in relation to, employment or occupation;
- (c) the denial of, or termination from, employment or occupation;
- (d) the denial or discontinuation of, or unfair treatment in, healthcare services;
- (e) the denial or discontinuation of, or unfair treatment with regard to, access to, or provision or enjoyment or use of any goods, accommodation, service, facility, benefit, privilege or opportunity dedicated to the use of the general public or customarily available to the public;
- (f) the denial or discontinuation of, or unfair treatment with regard to the right of movement;
- (g) the denial or discontinuation of, or unfair treatment with regard to the right to reside, purchase, rent, or otherwise occupy any property;
- (h) the denial or discontinuation of, or unfair treatment in, the opportunity to stand for or hold public or private office;
- (i) the denial of access to, removal from, or unfair treatment in, Government or private establishment in whose care or custody a transgender person may be.

Simplified Act

It is not allowed for anyone or any organization to treat transgender people unfairly for any of these reasons:

- (a) Refusing to let them into, kicking them out of, or treating them badly in schools or other educational services;
- (b) Treating them badly at work or in their profession;
- (c) Not giving them a job, firing them, or forcing them to leave their job or profession;
- (d) Refusing them healthcare services, stopping their healthcare, or treating them badly when they get healthcare;

(e) Not allowing them to use or enjoy things like goods, places to stay, services, facilities, benefits, privileges, or opportunities that are usually available to everyone;

(f) Not allowing them to move freely or treating them badly when they do;

(g) Not allowing them to live in, buy, rent, or use any property, or treating them badly in these situations;

(h) Not allowing them to run for or hold a public or private office, or treating them badly in these opportunities;

(i) Not allowing them into, kicking them out of, or treating them badly in any government or private place where they might be under care or custody.

CHAPTER III: RECOGNITION OF IDENTITY OF TRANSGENDER PERSONS

Section 4: Recognition Of Identity Of Transgender Person

(1) A transgender person shall have a right to be recognised as such, in accordance with the provisions of this Act.

(2) A person recognised as transgender under sub-section (1) shall have a right to self-perceived gender identity.

Simplified Act

(1) A person who identifies as transgender is allowed to have that identity legally acknowledged based on the rules of this law.

(2) Once a person is legally recognized as transgender, they can legally identify with the gender they feel is true for them.

Section 5: Application For Certificate Of Identity

A transgender person may make an application to the District Magistrate for issuing a certificate of identity as a transgender person, in such form and manner, and accompanied with such documents, as may be prescribed: Provided that in the case of a minor child, such application shall be made by a parent or guardian of such child.

Simplified Act

A transgender individual can ask the local government official, called the District Magistrate, for a document that officially recognizes them as transgender. This request must be done in a specific way and include certain paperwork, which will be detailed in the rules. If the person is under 18, their parent or guardian must make this request for them.

Section 6: Issue Of Certificate Of Identity

(1) The District Magistrate shall issue to the applicant under section 5, a certificate of identity as a transgender person after following such procedure and in such form and manner, within such time, as may be prescribed indicating the gender of such person as transgender.

(2) The gender of the transgender person shall be recorded in all official documents in accordance with the certificate issued under sub-section (1).

(3) A certificate issued to a person under sub-section (1) shall confer rights and be a proof of recognition of his identity as a transgender person.

Simplified Act

(1) After following the required steps and using the proper forms, the District Magistrate will give the person who asked for it a certificate that says they are transgender. This certificate will be given out within a certain time frame and will show that the person's gender is transgender.

(2) This transgender identity certificate will be used to record the person's gender on all official papers.

(3) The certificate given to the transgender person is not just an official document showing their gender identity but also gives them certain legal rights.

Section 7: Change In Gender

(1) After the issue of a certificate under sub-section (1) of section 6, if a transgender person undergoes surgery to change gender either as a male or female, such person may make an application, along with a certificate issued to that effect by the Medical Superintendent or Chief Medical Officer of the medical institution in which that person has undergone surgery, to the District

Magistrate for revised certificate, in such form and manner as may be prescribed.

(2) The District Magistrate shall, on receipt of an application along with the certificate issued by the Medical Superintendent or Chief Medical Officer, and on being satisfied with the correctness of such certificate, issue a certificate indicating change in gender in such form and manner and within such time, as may be prescribed.

(3) The person who has been issued a certificate of identity under section 6 or a revised certificate under sub-section (2) shall be entitled to change the first name in the birth certificate and all other official documents relating to the identity of such person: Provided that such change in gender and the issue of revised certificate under sub-section (2) shall not affect the rights and entitlements of such person under this Act.

Simplified Act

(1) Once a transgender person gets a certificate recognizing their gender identity, if they then have surgery to change their gender to male or female, they can ask for a new certificate. They must apply to the District Magistrate with a certificate from the hospital where the surgery happened, confirming the change. The application must be made in a specific way, which will be explained in the rules.

(2) When the District Magistrate gets the application and the hospital certificate, they will check that the certificate is correct. If everything is in order, they will give out a new certificate that shows the person's new gender. This will be done in a certain way and within a set time, which will also be explained in the rules.

(3) After getting the new certificate, the person can change their first name on their birth certificate and all other official papers that show who they are. However, even after changing their gender and getting a new certificate, they still keep all the rights and benefits they had under this law.

CHAPTER IV: WELFARE MEASURES BY GOVERNMENT

Section 8: Obligation Of Appropriate Government

(1) The appropriate Government shall take steps to secure full and effective participation of transgender persons and their inclusion in society.

(2) The appropriate Government shall take such welfare measures as may be prescribed to protect the rights and interests of transgender persons, and facilitate their access to welfare schemes framed by that Government.

(3) The appropriate Government shall formulate welfare schemes and programmes which are transgender sensitive, non-stigmatising and non-discriminatory.

(4) The appropriate Government shall take steps for the rescue, protection and rehabilitation of transgender persons to address the needs of such persons.

(5) The appropriate Government shall take appropriate measures to promote and protect the right of transgender persons to participate in cultural and recreational activities.

Simplified Act

(1) The government will work to ensure that transgender people are fully and actively included in society.

(2) The government will create specific programs to support transgender people, protect their rights, and help them get benefits from government welfare schemes.

(3) The government will design welfare programs that are considerate of transgender people, and do not treat them unfairly or make them feel ashamed.

(4) The government will act to help transgender people who need rescue, protection, or help to get back on their feet, focusing on their specific needs.

(5) The government will ensure that transgender people have the same opportunities as everyone else to enjoy cultural events and fun activities.

CHAPTER V: OBLIGATION OF ESTABLISHMENTS AND OTHER PERSONS

Section 9: Non-Discrimination In Employment

No establishment shall discriminate against any transgender person in any matter relating to employment including, but not limited to, recruitment, promotion and other related issues.

Simplified Act

Section 9 - Fair Treatment in Employment: No workplace is allowed to treat transgender individuals unfairly in any job-related situations. This includes hiring, giving promotions, and all other employment matters.

Section 10: Obligations Of Establishments

Every establishment shall ensure compliance with the provisions of this Act and provide such facilities to transgender persons as may be prescribed.

Simplified Act

Section 10 Simplified: Every workplace or organization must follow the rules of this law and give transgender people the necessary facilities that are specified by the government.

Section 11: Grievance Redressal Mechanism

Every establishment shall designate a person to be a complaint officer to deal with the complaints relating to violation of the provisions of this Act.

Simplified Act

Simple Explanation of Section 11

Every workplace or organization must appoint someone to handle any complaints about the mistreatment of transgender people, as per the rules of this law.

Section 12: Right Of Residence

(1) No child shall be separated from parents or immediate family on the ground of being a transgender, except on an order of a competent court, in the interest of such child.

(2) Every transgender person shall have:

(a) a right to reside in the household where parent or immediate family members reside;

- (b) a right not to be excluded from such household or any part thereof;
 - (c) a right to enjoy and use the facilities of such household in a non-discriminatory manner.
- (3) Where any parent or a member of his immediate family is unable to take care of a transgender, the competent court shall by an order direct such person to be placed in a rehabilitation centre.

Simplified Act

- (1) Children cannot be taken away from their parents or close family just because they are transgender. This can only happen if a court decides it's for the child's best interest.
- (2) Transgender people have the right to:
- (a) live in the same home as their parents or immediate family;
 - (b) not be kicked out of their home or any part of it;
 - (c) use the home and its facilities fairly, without discrimination.
- (3) If a parent or close family member can't care for a transgender person, the court can order that they be placed in a place that can help them, like a rehabilitation center.

CHAPTER VI: EDUCATION, SOCIAL SECURITY AND HEALTH OF TRANSGENDER PERSONS

Section 13: Obligation Of Educational Institutions To Provide Inclusive Education To Transgender Persons

Every educational institution funded or recognised by the appropriate Government shall provide inclusive education and opportunities for sports, recreation and leisure activities to transgender persons without discrimination on an equal basis with others.

Simplified Act

Section 13 - Simplified Explanation

All schools and educational programs that get money or approval from the government must include transgender people. They should let transgender

people learn, play sports, and enjoy fun activities just like everyone else, without treating them unfairly.

Section 14: Vocational Training And Self-Employment

The appropriate Government shall formulate welfare schemes and programmes to facilitate and support livelihood for transgender persons including their vocational training and self-employment.

Simplified Act

The government must create plans and programs to help transgender people make a living. This includes providing them with job training and helping them start their own businesses.

Section 15: Healthcare Facilities

The appropriate Government shall take the following measures in relation to transgender persons, namely:

to set up separate human immunodeficiency virus Sero - surveillance Centres to conduct serosurveillance for such persons in accordance with the guidelines issued by the National AIDS Control Organisation in this behalf;

to provide for medical care facility including sex reassignment surgery and hormonal therapy;

before and after sex reassignment surgery and hormonal therapy counselling;

bring out a Health Manual related to sex reassignment surgery in accordance with the World Profession Association for Transgender Health guidelines;

review of medical curriculum and research for doctors to address their specific health issues;

to facilitate access to transgender persons in hospitals and other healthcare institutions and centres;

provision for coverage of medical expenses by a comprehensive insurance scheme for Sex Reassignment Surgery, hormonal therapy, laser therapy or any other health issues of transgender persons.

Simplified Act

The government must do the following things for transgender individuals:

Create special centers to monitor the spread of HIV among transgender people, following the rules set by the National AIDS Control Organisation.

Provide medical facilities that include gender change surgery and hormone treatments.

Offer counseling before and after gender change surgery and during hormone treatment.

Publish a health guide on gender change surgery that follows the World Professional Association for Transgender Health's standards.

Update medical school courses and research to better address the health needs of transgender people.

Make it easier for transgender people to get medical treatment in hospitals and other health centers.

Offer a complete insurance plan to cover the medical costs for gender change surgery, hormone therapy, laser therapy, or any other health care needed by transgender people.

CHAPTER VII: NATIONAL COUNCIL FOR TRANSGENDER PERSONS

Section 16: National Council For Transgender Persons

(1) The Central Government shall by notification constitute a National Council for Transgender Persons to exercise the powers conferred on, and to perform the functions assigned to it, under this Act.

(2) The National Council shall consist of -

(a) the Union Minister in-charge of the Ministry of Social Justice and Empowerment, Chairperson, ex officio;

(b) the Minister of State, in-charge of the Ministry of Social Justice and Empowerment in the Government, Vice-Chairperson, ex officio;

(c) Secretary to the Government of India in-charge of the Ministry of Social Justice and Empowerment, Member, ex officio;

(d) one representative each from the Ministries of Health and Family Welfare, Home Affairs, Housing and Urban Affairs, Minority Affairs, Human Resources Development, Rural Development, Labour and Employment and Departments of Legal Affairs, Pensions and Pensioners Welfare and National Institute for Transforming India Aayog, not below the rank of Joint Secretaries to the Government of India, Members, ex officio;

(e) one representative each from the National Human Rights Commission and National Commission for Women, not below the rank of Joint Secretaries to the Government of India, Members, ex officio;

(f) representatives of the State Governments and Union territories by rotation, one each from the North, South, East, West and North-East regions, to be nominated by the Central Government, Members, ex officio;

(g) five representatives of transgender community, by rotation, from the State Governments and Union territories, one each from the North, South, East, West and North-East regions, to be nominated by the Central Government, Members;

(h) five experts, to represent non-governmental organisations or associations, working for the welfare of transgender persons, to be nominated by the Central Government, Members; and

(i) Joint Secretary to the Government of India in the Ministry of Social Justice and Empowerment dealing with the welfare of the transgender persons, Member Secretary, ex officio.

(3) A Member of National Council, other than ex officio member, shall hold office for a term of three years from the date of his nomination.

Simplified Act

The Indian government will create a National Council for Transgender Persons. This council will have certain responsibilities and authority under this law.

The members of this council will include:

The Minister of Social Justice and Empowerment (Chairperson, by virtue of their position);

The Minister of State for Social Justice and Empowerment (Vice-Chairperson, by virtue of their position);

The Secretary of the Ministry of Social Justice and Empowerment (Member, by virtue of their position);

One person from each of several government departments and the NITI Aayog, all high-ranking officials (Members, by virtue of their positions);

One person each from the National Human Rights Commission and the National Commission for Women, both high-ranking officials (Members, by virtue of their positions);

One representative from different regions of India, chosen in turn by the central government (Members, by virtue of their positions);

Five members of the transgender community from different regions, chosen in turn by the central government (Members);

Five experts from NGOs or groups that help transgender people, chosen by the central government (Members); and

The Joint Secretary of the Ministry of Social Justice and Empowerment who deals with transgender welfare (Member Secretary, by virtue of their position).

Except for the officials who are members because of their job (ex officio), each member will serve for three years from when they are chosen.

Section 17: Functions Of Council

The National Council shall perform the following functions, namely:

to advise the Central Government on the formulation of policies, programmes, legislation and projects with respect to transgender persons;

to monitor and evaluate the impact of policies and programmes designed for achieving equality and full participation of transgender persons;

to review and coordinate the activities of all the departments of Government and other Governmental and non-Governmental Organisations which are dealing with matters relating to transgender persons;

to redress the grievances of transgender persons;

to perform such other functions as may be prescribed by the Central Government.

Simplified Act

The National Council has these main jobs:

to give advice to the Central Government on how to make policies, plans, laws, and projects for transgender people;

to check and see how well the policies and plans are working to make sure transgender people are treated equally and can fully participate in society;

to look over and help organize the work of all government departments and other groups that deal with issues affecting transgender people;

to help solve problems that transgender people may face;

to do any other tasks that the Central Government says they should do.

CHAPTER VIII: OFFENCES AND PENALTIES

Section 18: Offences And Penalties

Whoever -compels or entices a transgender person to indulge in the act of forced or bonded labour other than any compulsory service for public purposes imposed by Government;

denies a transgender person the right of passage to a public place or obstructs such person from using or having access to a public place to which other members have access to or a right to use;

forces or causes a transgender person to leave household, village or other place of residence;

harms or injures or endangers the life, safety, health or well-being, whether mental or physical, of a transgender person or tends to do acts including causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse,

shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years and with fine.

Simplified Act

If someone does any of the following to a transgender person:

Makes them work against their will or for no pay, except for government-required public service;

Prevents them from going into public places or using public areas that others can use;

Forces them to move out of their home, village, or place they live;

Hurts them, puts them in danger, or damages their mental or physical health in any way, including physical, sexual, verbal, emotional, or financial harm;

then that person can be sent to jail for at least six months, but up to two years, and also have to pay a fine.

CHAPTER IX: MISCELLANEOUS

Section 19: Grants By Central Government

The Central Government shall, from time to time, after due appropriation made by Parliament by law in this behalf, credit such sums to the National Council as may be necessary for carrying out the purposes of this Act.

Simplified Act

Easy Explanation of Section 19

The government of India will provide money to the National Council for Transgender Persons when needed. This money will help the Council do its job, which is to protect the rights of transgender people. The money will be given out after the Indian Parliament agrees on how much should be spent.

Section 20: Act Not In Derogation Of Any Other Law

The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force.

Simplified Act

This law adds to the existing laws and does not replace or reduce the importance of other laws that are currently applicable.

Section 21: Protection Of Action Taken In Good Faith

No suit, prosecution or other legal proceeding shall lie against the appropriate Government or any local authority or any officer of the Government in respect of anything which is in good faith done or intended to be done in pursuance of the provisions of this Act and any rules made there under.

Simplified Act

Explanation of Section 21

If the government, local authorities, or any government officer does something or plans to do something based on what this law and its rules require, and they do it honestly and with good intentions, then no one can take them to court or legally go after them for those actions.

Section 22: Power Of Appropriate Government To Make Rules

(1) The appropriate Government may, subject to the condition of previous publication, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

(a) the form and manner in which an application shall be made under section 5;

(b) the procedure, form and manner and the period within which a certificate of identity is issued under sub-section (1) of section 6;

(c) the form and manner in which an application shall be made under sub-section (1) of section 7;

(d) the form, period and manner for issuing revised certificate under sub-section (2) of section 7;

(e) welfare measures to be provided under sub-section (2) of section 8;

(f) facilities to be provided under section 10;

(g) other functions of the National Council under clause (e) of section 17; and

(h) any other matter which is required to be or may be prescribed.

(3) Every rule made by the Central Government under sub-section (1), shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(4) Every rule made by the State Government under sub-section (1), shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such legislature consists of one House, before that House.

Simplified Act

(1) The government can create specific rules to implement this law, but they must first announce these rules to the public.

(2) Specifically, the government can establish rules on the following topics:

(a) How to apply for a legal gender change (section 5 of the Act);

(b) The process and time frame for getting an official identity certificate (section 6(1));

(c) How to apply for a change in the gender on official documents (section 7(1));

(d) How to get an updated identity certificate if there's a change in gender (section 7(2));

(e) What kind of support and benefits the government will provide (section 8(2));

(f) The facilities and services that should be available (section 10);

(g) Additional responsibilities of the National Council for transgender persons (section 17(e)); and

(h) Any other issues that need to be addressed through rules.

(3) Any rules made by the Central Government must be presented to both houses of Parliament. They have 30 days, which can be split over different sessions, to review them. If both houses agree on changes or decide to reject

the rule, it will be modified or not put into effect accordingly. However, this won't affect anything that's already been done under the rule.

(4) Any rules made by the State Government need to be shown to the state legislature. If the legislature has two houses, it must be presented to both; if there's only one house, it must be presented to that one.

Section 23: Power To Remove Difficulties

(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty: Provided that no such order shall be made after the expiry of the period of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Simplified Act

(1) If there are any problems in applying this law, the Central Government can issue an order to fix these problems. This order must be consistent with the law and is only meant to help overcome the problems. However, the government can't issue such orders more than two years after the law has started to be used.

(2) After the government makes such an order, it must be presented to both houses of the Parliament as soon as possible.