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**DAILY EDITORIAL  
ANALYSIS**

**TOPIC**

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**TRANSGENDER PERSONS  
(PROTECTION OF RIGHTS)  
AMENDMENT BILL, 2026**

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## TRANSGENDER PERSONS (PROTECTION OF RIGHTS) AMENDMENT BILL, 2026

### Context

- Recently, the **Transgender Persons (Protection of Rights) Amendment Bill, 2026** was passed by Rajya Sabha (*earlier passed by Lok Sabha*) to amend the **Transgender Persons (Protection of Rights) Act, 2019** that suffers from **conceptual confusion between sex, gender identity, and intersex variations**, and weak implementation mechanisms.

### Key Provisions of the 2026 Amendment

- Narrowed Definition:** Restricts 'transgender person' to socio-cultural identities (hijra, kinner, aravani, etc.), intersex variations, and persons forcibly altered (castration, mutilation, etc.)
  - It **excludes** gender-fluid identities, non-heteronormative gender expressions, and sexual orientation diversity.
- Removal of Self-Identification:** Deletes '**self-perceived gender identity**' (Section 4(2)); and introduces **medical board certification** (headed by CMO).
- Increased Medical Surveillance:** Mandatory reporting of transgender surgeries to District Magistrate, and medical authority.
- Penal Provisions:** 5–14 years imprisonment for forced transgender presentation and exploitation.

### Structural Issues in Bill: Continuity of Core Problems

- Conflation of Sex, Gender, and Intersex:** The Bill continues to treat **sex (male/female)** as gender identity; and clubs **intersex persons within transgender category**.
  - This conflation violates **Article 21 (privacy, bodily integrity)**, and ignores distinct healthcare and legal needs.
- Violation of International Standards:** WHO & UN define intersex as **innate biological variations requiring separate safeguards**.
  - India's approach contradicts global human rights norms.
- Lack of Reliable Data:** No credible national data on transgender persons, and intersex population.
  - Policy without data leads to **exclusion and invisibility**.
- Medicalisation of Identity:** Shift from self-identification to **state-controlled medical certification**.
  - It is criticised as violating autonomy, and reintroducing gatekeeping.
- No Ban on Non-consensual Surgeries:** Continued absence of prohibition on infant 'normalising' surgeries. Intersex surgeries linked to **lifelong trauma and rights violations**.
- No Separate Legal Framework:** Long-standing demand for **distinct intersex legislation ignored**.
  - It results in intersex persons remaining **legally invisible**.

### Institutional and Governance Issues

- Outdated Institutional Framework:** It retains the National Council for Transgender Persons; and ignores the proposal for **Gender Identity/Expression & Sex Characteristics (GIESC) Framework**.
  - The current framework is **scientifically inaccurate and exclusionary**.
- Privacy Concerns:** Mandatory reporting of surgeries; and no strong data protection safeguards.

### Exploitation and Social Structures

- Partial Criminalisation:** Punishes external coercion; and **fails to regulate internal exploitative systems**. Eg: Hijra jamath-gharana structures

- **Child Protection Gaps:** No framework for missing children; and trafficking of gender non-conforming minors.
- **Lack of Intersectionality:** No provisions addressing caste (SC/ST), disability, poverty, and religion.
  - ◆ It leads to **layered discrimination without remedies.**
- **Absence of Civil Rights:** The Bill is silent on marriage, adoption, inheritance, divorce, and succession.
  - ◆ It contradicts **full citizenship and dignity under the Constitution.**

### Constitutional and Ethical Concerns

- **Against Constitutional Mandates:** Violation like Equality (Art 14), Expression (Art 19); and Life & dignity (Art 21)
- **Against NALSA Judgment (2014):** NALSA upheld the **right to self-identified gender.** However, the amendment reverses the above principle.

### Way Forward

- **Legal Reforms:** Separate laws for transgender persons; and intersex persons; restore **self-identification principle.**
- **Scientific Classification:** Distinguish sex, gender identity and sexual orientation.
- **Ban Harmful Practices:** Prohibit non-consensual intersex surgeries
- **Institutional Reform:** Shift to **GIESC-based framework**
- **Social Protection:** Regulate exploitative systems; and protect gender non-conforming children.
- **Civil Rights Inclusion:** Extend family law rights.

### Conclusion

- The **Transgender Persons (Protection of Rights) Amendment Bill, 2026** attempts administrative tightening but **fails to address foundational flaws.**
- It emphasises that **rights-based, evidence-driven, and distinction-sensitive frameworks** are essential for meaningful inclusion, and risks reinforcing exclusion rather than eliminating it, without separating biological sex, gender identity, and intersex variations.

Source: TH

### Daily Mains Practice Question

- [Q] Examine the major shortcomings of the Transgender Persons (Protection of Rights) Amendment Bill, 2026. Suggest measures to ensure a more rights-based and intersectional legal framework.

