

SYNOPSIS

The Petitioner is filing the present writ petition in public interest under Article 32 of the Constitution of India, challenging the constitutional validity of the impugned regulatory regime (**“Impugned Regulatory Regime”**) insofar as it treats gender identity as determinative of biological sex for legal purposes and enables biological males to obtain opposite gender certificates (**“Opposite Gender Certificates”**) and avail the constitutional and statutory protections exclusive to women, i.e., biological females. The Impugned Regulatory Regime includes Section 7 of the Transgender Persons (Protection of Rights) Act 2019 (**“TP Act”**), as amended in 2026, the Transgender Persons (Protection of Rights) Rules, 2020, all rules and policies (Central and State) in this regard, the administrative practices, which include all certificates and official documents issued or modified pursuant thereto. The challenge is founded on Articles 14, 15(3), 16, 19(1)(a), 21 and 25(1) of the Constitution, as well as the constitutional requirements of legal certainty and the rule of law.

The Petitioner, Women’s Declaration International India (**“WDI India”**), is a trust registered under the laws of India, which forms part of Women’s Declaration International (**“WDI”**). WDI is constituted as a feminist, non-partisan, all-volunteer and all female organisation advocating for the rights, dignity, safety, and freedom of women. The Petitioner’s members and constituency comprise women whose constitutional, statutory and social protections are directly affected by the present petition.

The Petitioner acknowledges and respects that all persons have equal rights and affirms that no person should face discrimination or indignity on the ground of self-professed gender identity or gender expression. It submits, however, that recognising the rights of one disadvantaged group cannot come at the cost of women's rights to equality, dignity and freedom.

The central constitutional issue is that self-professed or socio-cultural gender identity or certificate or document cannot change a person's biological sex or enable a biological male to access the entire spectrum of rights, protections and entitlements created specifically for biological females. The Petitioner's case is that sex is a biological attribute determined at conception and that it is immutable, it is not altered by documentation, certification, counselling, hormonal interventions, or surgery. Sex and gender identity are distinct: gender identity concerns a person's deeply felt internal experience, while sex is the stable immutable biological category on which numerous constitutional and statutory protections for women are premised. Protections on the ground of sex presuppose that "sex" is a legally intelligible, ascertainable, and stable category. Where gender identity is treated as capable of determining, constituting, or overriding sex, the category upon which these protections depend becomes constitutionally uncertain.

The operative defect of the Impugned Regulatory Regime is the conflation of "gender identity" and "sex". Persons have the rights to believe in gender identities and hold and express these internal experiences. The Impugned Regulatory Regime legally recognises this identity by overwriting the sex marker in official documents

with the person's professed internal experience. Upon such change in the sex marker, the entry is propagated across documents including Aadhaar, voter identity cards, passports and birth certificates. The amendments in 2026 do not cure this structural defect: a biological male who has undergone medical intervention remains biologically male, however, even post the amendments in 2026, he will be able to obtain documentation that continues to classify him as "female" for varied purposes.

The Impugned Regulatory Regime has produced tangible negative effects across multiple domains. Biological males holding documentation recording "female" identities have contested and won elections in seats reserved for women. A biological male was permitted to compete in the women's category in a contact sport, winning a state-level championship. A biological male was directed to be appointed as a "female" nursing assistant in a government hospital. A biological male was admitted to the NCC Girls Division despite concerns regarding shared accommodation and intimate facilities. Biologically female persons were treated as engaging in "body shaming" for describing a biological male placed in a women's hostel as male. Biologically male persons are also housed within women's jails. In each instance, the legal system treated self-professed gender identity as overriding biological sex, without examining whether biological sex was material to the right, protection, or entitlement in question, as well as the intended objective of the affirmative action meant for biological females.

The constitutional and statutory architecture for the protection of women is predicated upon their biological sex, including their

physical vulnerability, their historical and continuing disadvantage, and the specific considerations of bodily privacy, safety, integrity, dignity and personal security.

However, the Impugned Regulatory Regime violates Article 14 by placing biological males holding “woman” documents in the same class as biological females for the purposes of special provisions made for women. The classification rests on no intelligible differentia: the two groups share neither the same biological characteristics nor the same social and historical circumstances of sex-based disadvantage. Nor does the classification bear a rational nexus to the distinct objects of special provisions made for the advancement and empowerment of women, including political representation, privacy, safety, physiological fairness in matters such as combat sports, and maternity-related protection.

The classification does not even bear a rational nexus to the stated object of the TP Act itself which is “*to provide for protection of rights of transgender persons and their welfare and for matters connected therewith and incidental thereto*” (emphasis supplied). The operative effect of the Impugned Regulatory Regime disproportionately extends beyond this object by authorizing Opposite Gender Certificates (and thus their cascading negative effects) which have no nexus to the protection, welfare or any such connected object for transgender persons – rather it impinges upon the protections and welfare statutorily granted to biological females.

The Impugned Regulatory Regime, and in particular Section 7 of the TP Act, suffer from the vice of being vague, overbroad and disproportionate. The term “gender” is not defined in the statute. In the absence of this definition, the provision providing for “*Change in gender*” (Section 7) in an overbroad and vague manner, ends up disproportionately authorizing, in effect, a change in biological sex. This has grossly discriminatory effects on biological females, as explained below, and must be struck down for being unconstitutionally vague, overbroad and disproportionate.

The Impugned Regulatory Regime also disadvantages biological females who profess a different gender identity by issuing “man” documents which potentially exclude them from the largesse of special provisions made for women. This classification too rests on no intelligible differentia; female persons who identify as transgender or “man” share all the same biological characteristics and socio-economic and historical disadvantages as other females.

The Impugned Regulatory Regime is consequently arbitrary, disproportionate, and discriminatory against biological females. In particular, it dilutes the operation of affirmative measures under Article 15(3) and the constitutional reservations for women; undermines equality of opportunity for women in public employment under Article 16; compromises the bodily privacy, safety, integrity, dignity, and personal security of women in sex-segregated spaces, intimate care settings, and criminal-law safeguards protected under Article 21; and compels all persons to express belief in gender identities or recognise biological males as “women”, in violation of the freedom of speech and expression,

including the right not to affirm a proposition one does not accept, guaranteed under Articles 19(1)(a) and 25(1) of the Constitution.

The Impugned Regulatory Regime violates legal certainty and the rule of law by rendering “sex” indeterminate across the statutory and administrative framework. By conflating “sex”, a fixed and immutable biological classification, with “gender identity”, a self-perceived, fluid, non-verifiable and mutable belief, it creates uncertainty as to who qualifies as female for constitutional reservations, educational measures, criminal-law protections, sex-segregated spaces, data collection and administrative eligibility, and invites inconsistent decision-making by authorities. Comparative international jurisprudence is consistent with preserving the distinction that sex refers to biological sex, i.e., male and female.

The Petitioner also seeks reconsideration of the judgment in *National Legal Services Authority (NALSA) v. Union of India* (2014) 5 SCC 438 (“*NALSA*”) (paragraphs 74 and 135.2) wherein this Hon’ble Court held that legal recognition of gender identity is part of right to dignity and freedom under the Constitution and State and Central Governments are directed to grant legal recognition of gender identity as male or female or transgender. The Petitioner does not challenge the constitutional protection afforded to self-identified transgender persons against discrimination, violence or indignity or the right to freedom of expression. Nor does it challenge the rights to hold or express a self-determined gender identity. Rather, it submits that such protection does not entail a constitutional right or entitlement to require the State to legally recognise a self-professed gender identity.

The Petitioner also seeks a clarification to *NALSA* considering it did not decide that legal recognition of gender identity changes legal sex or places a biological male within the constitutional or statutory class of biological females thereby entitling him to the same legal status and rights as biological females. The operative directions did not examine the impact of the integration of males into women's category, spaces or entitlements. *NALSA* should therefore be read harmoniously with *Supriyo v. Union of India*, 2023 SCC OnLine SC 1348, the later Constitution Bench decision that noted the distinction between sex and gender identity, so that gender identity is protected without redefining "sex" or "women".

The Petitioner therefore seeks a declaration that the Impugned Regulatory Regime, particularly including Section 7 of the TP Act and Rule 7 of the TP Rules are unconstitutional. The Petitioner further seeks a reading down of *NALSA* with regard to a constitutional right to legal recognition of self-professed gender identity. Finally, the Petitioner seeks a clarification of *NALSA* confirming that transgender status or gender identity does not override biological sex or require biological males to be treated as women or to receive benefits of special provisions made for women. This relief preserves the constitutional rights and dignity of transgender persons while restoring the coherence, enforceability, and equal protection of the special provisions created for biological females.

LIST OF DATES

Date	Events
15.04.2014	This Hon'ble Court delivered its judgment in <i>National Legal Services Authority v. Union of India</i> , (2014) 5 SCC 438 (" <i>NALSA</i> "), recognising that transgender persons have the right to legal recognition of self-professed gender identity.
15.04.2014 to January 2020	In the absence of any central statute, document-issuing authorities relied upon the directions of this Hon'ble Court in <i>NALSA</i> to alter the "gender" field in official identity documents, including Aadhaar and passport records, from "male" to "female" or <i>vice versa</i> , on the basis of self-identification, State-level welfare board policies, or the generic route of affidavit, newspaper publication and Gazette notification. This enables biological males to acquire "female" documentation without any surgery or independently verifiable medical intervention (" Pre-TP Act Regime ").
05.12.2019	The Transgender Persons (Protection of Rights) Act, 2019 (" TP Act ") received the assent of the President of India. Section 7 of the TP Act provided that a transgender person who had undergone surgery to change gender "may" obtain from the District Magistrate a revised certificate indicating change of gender as "male" or "female". However, Section 7

Date	Events
	did not provide for any change of gender or sex in official documents.
10.01.2020	The TP Act was enforced <i>vide</i> Gazette notification No. S.O. 135(E), dated 10 January 2020.
25.09.2020	The Transgender Persons (Protection of Rights) Rules, 2020 (“TP Rules”) under Section 22 of the TP Act were notified. Rule 7 of the TP Rules provided for issuance of certificates of identity to applicants seeking change of gender. Rule 7(3) provided that such certificate shall entitle the applicant to record or change the gender, as well as photograph and name, in all official documents provided in Annexure 1 to the TP Rules, in accordance with the gender identity specified in the said certificate, thereby conflating sex with gender identity. To this extent, the TP Rules were <i>ultra vires</i> Section 7 of the TP Act. Further, Rules 2(i) and 6(1) of the TP Rules defined “medical intervention” to include counselling, hormonal therapy and surgical intervention if any, materially diluting the standard for “surgery” under Section 7(1) of the TP Act.
17.10.2023	A five-judge Constitution Bench of this Hon'ble Court in <i>Supriyo @ Supriya Chakraborty v. Union of India</i> , (2023) 9 SCC 1, clarified the distinction between sex and gender identity, thereby reaffirming the constitutional basis for treating sex and gender identity as distinct legal characteristics.

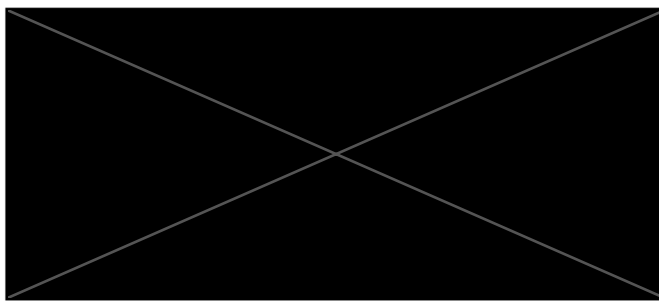
Date	Events
13.03.2026	The Transgender Persons (Protection of Rights) Amendment Bill, 2026 was introduced. The Statement of Objects and Reasons recorded that the legislative policy underlying the TP Act was intended to protect only a specified class of persons <i>“who face severe social exclusion due to biological reasons, for no fault or choice of their own”</i> and that the purpose of the TP Act <i>“was and is not to protect each and every class of persons with various gender identities, self-perceived sex/gender identities or gender fluidities.”</i>
24.03.2026	The Transgender Persons (Protection of Rights) Amendment Bill, 2026 was passed by the Lok Sabha.
25.03.2026	The Transgender Persons (Protection of Rights) Amendment Bill, 2026 was passed by the Rajya Sabha.
30.03.2026	The Transgender Persons (Protection of Rights) Amendment Act, 2026 received the assent of the President of India. The amendment effected five material changes: (a) the definition of “transgender person” under Section 2(k) was narrowed, and now expressly and retrospectively excludes “self-perceived sexual identity”; (b) Section 4(2), which conferred the statutory right to self-perceived gender identity, was omitted; (c) a transgender person who has a certificate of such status under Section 6 of the TP Act is now mandatorily required (“may” is

Date	Events
	<p>replaced by “shall”) to apply for a certificate under Section 7 of the TP Act; (d) removal of the erstwhile Section 7(3), which entitled a transgender person who has obtained a revised certificate for change in gender identity to either male or female to change “the first name” in the birth certificate and all other official documents relating to the identity of such person (including the official documents enlisted in Annexure 1 of the TP Rules); and (e) addition of Section 6(4) to limit the entitlement of ‘change of the first name in the birth certificate and all other official documents’ to change of identity to ‘transgender’. This clarifies that the ‘change in gender’ under Section 7 is not to be recognized in official documents. ...</p> <p>The amendments did not cure the structural defect: a biological male who has undergone medical intervention remains biologically male, however, even post the recent amendments in 2026, this person will be able to obtain “woman” documentation that continues to operate for varied purposes.</p>
25.05.2026	The amendments came into force via enforcement notification S.O. 2620(E) from the Ministry of Social Justice and Empowerment.
October 2026	Hence, the present writ petition.

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
(UNDER ARTICLE 32 OF THE CONSTITUTION OF
INDIA)
WRIT PETITION (CIVIL) NO. OF 2026
PUBLIC INTEREST LITIGATION

IN THE MATTER OF:

Women's Declaration International India



...Petitioner

VERSUS

1. UNION OF INDIA

Through its Secretary,
Ministry of Social Justice and Empowerment,
Government of India,
Shastri Bhawan, Dr. Rajendra Prasad Road
New Delhi – 110001

2. UNION OF INDIA

Through its Secretary,
Ministry of Law and Justice,

Government of India,
Shastri Bhawan, Dr. Rajendra Prasad Road,
New Delhi – 110001

3. UNION OF INDIA

Through its Secretary,
Ministry of Health and Family Welfare,
Government of India,
Nirman Bhawan,
New Delhi – 110001

...Respondents

**A WRIT PETITION IN PUBLIC INTEREST UNDER
ARTICLE 32 OF THE CONSTITUTION OF INDIA FOR
ISSUANCE OF WRIT/ORDER/DIRECTION
CHALLENGING SECTION 7 OF THE TRANSGENDER
PERSONS (PROTECTION OF RIGHTS) ACT, 2019
(AMENDED IN 2026), RULE 7 OF THE TRANSGENDER
PERSONS (PROTECTION OF RIGHTS) RULES, 2020 AND
RELATED LAWS AS UNCONSTITUTIONAL FOR BEING
VIOLATIVE OF ARTICLES 14, 15, 16, 19(1)(a), 21 AND 25(1)
OF THE CONSTITUTION OF INDIA 1950**

TO,
THE HON'BLE CHIEF JUSTICE AND
HIS COMPANION JUDGES OF THE HON'BLE
SUPREME COURT OF INDIA

THE HUMBLE PETITION OF
THE PETITIONER ABOVENAMED

MOST RESPECTFULLY SHOWETH THAT:

1. The Petitioner is filing the present writ petition in public interest under Article 32 of the Constitution of India, challenging the constitutional validity of the impugned regulatory regime ("**Impugned Regulatory Regime**") insofar as it treats gender identity as determinative of sex for legal purposes and enables biological males to obtain opposite gender certificates ("**Opposite Gender Certificates**") and avail the constitutional and statutory protections exclusive to biological females. The Impugned Regulatory Regime includes Section 7 of the Transgender Persons (Protection of Rights) Act 2019 ("**TP Act**"), as amended in 2026 ("**2026 Amendments**"), the Transgender Persons (Protection of Rights) Rules, 2020 ("**TP Rules**"), all rules and policies (Central and State) and administrative practices in this regard, which includes all certificates and official documents issued or amended pursuant thereto. The challenge is founded on Articles 14, 15, 16, 19(1)(a), 21 and 25(1) of the Constitution, as well as the constitutional requirements of legal certainty and the rule of law.
2. The Petitioner is a feminist, women only, volunteer-run organisation for advocating the sex-based rights of women in India, whose social, statutory and constitutional protections are directly and adversely affected by the subject matter of this Petition. The Petitioner's PAN Card number is AAATW9085H. The Petitioner has no annual income.

3. The Petitioner has no personal interest, or any private or oblique motive, in filing the present writ petition. There is no civil, criminal, revenue or any other litigation involving the Petitioner, which has or could have a legal nexus with the issues in this public interest litigation.
4. Respondent No. 1 is the Union of India, through the Ministry of Social Justice and Empowerment, Respondent No. 2 is the Union of India through the Ministry of Law and Justice and Respondent No. 3 is the Union of India through the Ministry of Health and Family Welfare.

BACKGROUND

a. About the Petitioner

5. The Petitioner, Women's Declaration International India ("**WDI India**") is a trust registered under the India Trust Act 1882. The Petitioner is constituted as a feminist organisation to advocate for the rights, dignity, and safety of women in India. WDI India is affiliated with Women's Declaration International ("**WDI**") which is an international group of volunteer women founded on the Declaration on Women's Sex-Based Rights ("**Declaration**"). The Declaration has been signed by women and organisations from more than 150 countries. The India chapter of WDI was formally launched on 13 June 2021, leading to the subsequent registration of WDI India to establish an independent Indian public

charitable trust to continue and develop work in India concerning the rights and interests of women.

6. The Petitioner's members and the constituency it represents comprise women, regardless of gender identity or gender conformity, whose statutory, constitutional, and social protections are directly affected by the subject matter of this Petition. The Petitioner brings this Petition as an advocate for the interests of its women members and constituents, whose rights *inter alia* under Articles 14, 15, 16, 19(1)(a), 21 and 25(1) of the Constitution are imperilled by the statutory and administrative mechanisms impugned herein. The Petitioner submits that the rights of the women on whose behalf it advocates including the right to equality, the preservation of sex-based legal protections, and right to privacy are being eroded by the operation of the Impugned Regulatory Regime, and that this erosion warrants the intervention of this Hon'ble Court.
7. The Petitioner states, at the outset, that it fully acknowledges and respects the right to equality, freedom of speech and expression and the right to life with dignity of transgender-identified persons in India. The Petitioner affirms that no person ought to be subjected to discrimination or indignity on the ground of self-professed gender identity or diverse gender expression. However, the recognition of the rights of this class must not come at the cost of the rights to equality, freedoms, and right to life with dignity and the right to privacy of women. As this Hon'ble Court held in *National Legal*

Services Authority v. Union of India (2014) 5 SCC 438 (“*NALSA*”), transgender-identified persons are entitled to recognition as equal citizens, dignity, and protection. The Petitioner submits that it is both possible and constitutionally necessary for the law to protect transgender-identified persons fully while preserving interests of and special provisions created for biological females. It is this reconciliation that the present Petition seeks.

b. Sex and Gender Identity: The Conceptual Distinction

8. The Petitioner submits that “sex” and “gender identity” are distinct concepts, and that the conflation of the two lies at the root of the constitutional infirmity addressed in this Petition. In scientific and academic literature, it is agreed that “gender identity” and “sex” are two distinct concepts, and that a transgender-identified person is someone whose “gender identity” does not match their “biological sex”:

- a. “Sex” refers to a person’s biological and physiological characteristics such as chromosomal, gonadal, hormonal, and anatomical. Sex is binary and immutable and determined at conception, ordinarily by the presence or absence of a functional SRY gene. Human beings are mammals and among mammals, males are those who develop on a pathway to producing small gametes and females are those who develop on a pathway to producing large gametes. It is respectfully submitted that hormones and surgeries can alter appearances of transgender-

identified persons to some extent but cannot alter the sex of an individual. Chromosomes and many anatomical attributes are unchanged by hormonal interventions or Sex Reassignment Surgery (SRS).

- b. "Gender identity" refers to a person's self-perceived deeply felt internal and individual belief about themselves (their personal sense of being a man or a woman or transgender or other, often based on societally observed roles and stereotypes), which may or may not correspond to his or her sex and which may be fluid. It is submitted that such a belief is worthy of protection within the bounds of freedom of speech and expression and the right to life with dignity but is not an immutable characteristic capable of subsuming sex in a part or the whole of the population.
9. Medical and surgical interventions undertaken as part of gender medicine may alter a person's physiological form, appearance, secondary sex characteristics and certain bodily functions. By way of illustration, a biological male may undergo feminising hormone therapy, breast augmentation, orchiectomy, penectomy, vaginoplasty, facial feminisation surgery or voice surgery. Similarly, a biological female may undergo testosterone therapy, mastectomy, hysterectomy, oophorectomy, metoidioplasty, phalloplasty or other reconstructive procedures. Such interventions may alter external appearance, hormonal profile, anatomy and other physical characteristics of the body.

10. It is submitted that any medical or surgical intervention, however extensive it may be, does not alter the person's biological sex or alter chromosomes or genetics. These procedures may remove, reconstruct or modify particular organs, bodily features or secondary sex characteristics, but they do not convert the biological sex of the person into that of the opposite sex.
11. Even as per the Hon'ble Supreme Court in *NALSA* and *Supriyo v. Union of India*, 2023 SCC OnLine SC 1348 ("*Supriyo*"), "sex" and "gender identity" are distinct. However, the extant laws and policies and judicial precedents do not consider the clear distinction and record a conflated use of "sex" and "gender identity".

c. Gender has multiple meanings and is used equivocally

12. "Gender" has multiple meanings. In some legislations and judicial pronouncements, it is used as a synonym for sex. This meaning is also common in administrative records.
13. "Gender" is also used to refer to social stereotypes and cultural norms associated with either sex; "masculinity" and "femininity." Article 5 of the Convention on the Elimination of All Forms of Discrimination Against Women, 1979, ratified by India in 1993, enjoins parties to take appropriate measures to eliminate "prejudices and customary and all other practices which are based on the idea of the inferiority or the

superiority of either of the sexes or on stereotyped roles for men and women.”

14. “Gender” is also used as a shorthand for “gender identity”, that is one’s deeply felt self-perceived internal experience and sense of being a man, woman, transgender, or other.

d. The Petitioner’s Case

15. The Petitioner is concerned with the distinct question of whether a change in “gender identity”, operates, or ought to operate, to alter a person’s legal status as a member of one biological sex or entitle them to avail any special provisions created for the opposite sex.
16. Given the Petitioner’s role in the protection of women’s rights, the present Petition concerns the issues: (a) that special provisions created for women must be accessible exclusively to biological females; (b) that no certificate or document procured under the Impugned Regulatory Regime shall entitle a biological male to avail of any special provisions created for the upliftment and empowerment of biological females; (c) that the Impugned Regulatory Regime, insofar as it permits such entitlements to be claimed on the basis of certificates/documents, is unconstitutional; (d) that special provisions for women must be accessible to biological females with “man” documents; and (e) that the right to legal recognition of gender identity introduced in *NALSA* must be reconsidered.

17. The Statement of Objects and Reasons accompanying the Transgender Persons (Protection of Rights) Amendment Bill, 2026 (Bill No. 79 of 2026) ("**Statement of Objects and Reasons of the 2026 Amendment Bill**"), as introduced in Lok Sabha on 12 March 2026, records that the legislative policy underlying the TP Act was intended to protect only a specified class of persons "*who face severe social exclusion due to biological reasons, for no fault or choice of their own.*". The Statement of Objects and reasons states that "*the purpose*" of the TP Act "*was and is not to protect each and every class of persons with various gender identities, self perceived sex/gender identities or gender fluidities.*" The Parliament acknowledged that the original vague definition of "transgender person" had made it impossible to identify the genuine beneficiaries of the impugned statute and had created complex issues in the working of other statutory enactments, rendering the definition incompatible with several provisions under penal, civil and personal laws enacted by Parliament and the State Legislatures. A copy of the 2026 Amendment Bill along with the Statement of Objects and Reasons is annexed as ANNEXURE P-1 [pp. 121 to 132].

18. The Statement of Objects and Reasons of the 2026 Amendment Bill articulates a foundational principle on the question of acquirability: "*that any enactment conferring rights, privileges and protections cannot have a definition clause whereby the status entitling such benefits can be acquired.*" Parliament has recorded that the identification of

transgender persons for the purposes of the TP Act cannot be extended based on “*acquirable characteristics, personal choice, or claimed self-perceived identity.*” The Petitioner submits that this principle applies with equal force to the regime challenged herein: if sex-based protections for biological females are to retain their constitutional purpose, the status of “female” cannot be acquired through documentation or self-declaration or through undergoing medical interventions of any nature.

19. The Parliament has thus expressly recognised the very mischief that the present Petition identifies: the incompatibility of a broad, acquirable gender-identity regime with statutory protections enacted for biological females. While the 2026 Amendments sought to address this mischief in part, the Impugned Regulatory Regime continues to permit biological males to obtain “woman” documents, thereby accessing the rights, privileges, and protections that Parliament and the State Legislatures have enacted for biological females.

e. The Impugned Regulatory Regime

20. The Petitioner challenges the legal and administrative framework which permits the State’s record of biological sex to be altered through a certification of gender identity, i.e., Opposite Gender Certificate, and causes the gender identity so recognised to be propagated across all official documentation by replacing the documentation of sex, and

allows such recognition to operate as the basis for determining sex-based rights, protections and entitlements.

21. The Impugned Regulatory Regime includes but is not limited to:

- i) Section 7 of the TP Act, as amended by the Transgender Persons (Protection of Rights) Amendment Act, 2026, insofar as it provides that a transgender person (holding a certificate to that effect under Section 6 of the TP Act) who has undergone “surgery to change gender” shall obtain an Opposite Gender Certificate from the District Magistrate. The Opposite Gender Certificate indicates “change in gender” as “male” or “female”, thereby permitting a biological male who has undergone surgery to acquire the legal status of a “female”, notwithstanding that surgery does not alter chromosomal sex, male puberty-derived physiological attributes, or similar markers of biological sex. A copy of the TP Act as amended is annexed as **ANNEXURE P-2 [pp. 133 to 149]**.
- ii) Rule 7 of the TP Rules provides for issuance of certificate of identity to applicant seeking “change in gender”. Rule 7(3) of the TP Rules provide that such a certificate shall entitle the applicant to record or change the “gender”, as well as photograph and name, in all such official documents provided in Annexure 1 to the TP Rules, in accordance with the gender identity specified in the said certificate of identity as male or female, as the case may be. This effectively conflates sex with gender identity.

The word “gender” is used to mean “gender identity” at the time of declaration of self-perceived identity and is then used to mean “sex” at the time of change of sex in all official documents including Aadhaar, voter identity card, passport, and birth certificate. A copy of the TP Rules is annexed as **ANNEXURE P-3 [pp. 150 to 163]**.

- iii) Specifically, Rule 7(3), Rule 7(5) and Rule 7(6) read with Form 4 (paragraph 5) of the TP Rules provide for recording a person’s changed identity under Section 7 of the TP Act to be recorded in all official documents. Without prejudice to the Petitioner’s position that Section 7 of the TP Act is unconstitutional, Rule 7(3), Rule 7(5) and Rule 7(6) read with Form 4 of the TP Rules are *ultra vires* of the TP Act. Unlike Section 6(2), Section 7 of the TP Act does not provide for a transgender person’s change in gender identity, to either male or female, to be recorded in all official documents. Therefore, the TP Act does not contemplate legal or statutory recognition of the changed gender identity to either male or female under Section 7 of the TP Act for all state or official purposes. However, Rule 7(3), Rule 7(5) and Rule 7(6) read with Form 4 of the TP Rules provide for such change in all official documentation. Therefore, these provisions of the TP Rules are *ultra vires* for being directly inconsistent with the mandatory provision of Section 7 read with Section 22(1)(c) and Section 22(1)(d) of the TP Act.

- iv) Rules 2(i) and 6(1) of the TP Rules, refer to “medical intervention” to include “*any gender affirming medical intervention undertaken by an individual to facilitate the transition to their self-identified gender, including but not limited to counselling, hormonal therapy, and surgical intervention, if any*”. Rule 6, read with Form 4 to the TP Rules, accordingly, permitted the issuance of an Opposite Gender Certificate upon “medical intervention”, thereby materially altering the standard for the “surgery” requirement under Section 7(1) of the TP Act. In operation, a biological male could obtain ‘woman’ or ‘female’ documents based on a notarised affidavit and a letter from a mental-health practitioner after a single counselling session, without any requirement of SRS and without independently verifiable medical intervention. The regime thereby made the acquisition of a status carrying women-specific legal consequences dependent upon assertion and administrative processing, rather than any surgery. This is also *ultra vires* the parent Act. A copy of sample affidavit is annexed as ANNEXURE P-4 [pp. 164].
- v) The administrative and executive practices that prevailed between 15 April 2014 and January 2020 (“**Pre-TP Act Regime**”), under which, in the absence of any central statute, document-issuing authorities relied upon the directions of this Hon’ble Court in *NALSA* to alter “gender” and “sex” in official identity documents, including Aadhaar and passport records, from “male” to

“female” or vice versa, on the basis of self-identification, state-level welfare board policies, or the generic route of affidavit, newspaper publication and Gazette notification.

- vi) Similar executive and legislative practices by the States (“**State Policies**”), which refer to sex and gender interchangeably and provide for identification cards/certificates issued by the State governments based on self-identification of gender identity. Several of these State Policies precede the TP Act and were premised on *NALSA*. For instance, the Karnataka State Policy on Transgenders, 2017 establishes a self-identification mechanism where a self-declared affidavit of gender identity is required for an identity card that is accepted for indicating “gender”, meaning sex, in various documents such as passports, birth certificates, ration cards, Aadhar, bank accounts and driving licenses. A copy of the Karnataka State Policy on Transgenders, 2017 is annexed to the writ petition as **ANNEXURE P-5 [pp. 165 to 183]**. Similarly, the West Bengal Transgender Persons (Protection of Rights) Rules, 2022, The State Policy for Transgenders in Kerala 2015, and Assam State Policy on Transgenders 2020 recognise self-identification as males, females, transgenders. A copy of the West Bengal Transgender Persons (Protection of Rights) Rules, 2022 is annexed as **ANNEXURE P-6 [pp. 184 to 197]**. A copy of the State Policy for Transgenders in Kerala 2015 is annexed as **ANNEXURE P-7 [pp. 198 to 219]**.

A copy of the Assam State Policy on Transgenders 2020 is annexed as **ANNEXURE P-8 [pp. 220 to 230]**.

- vii) All Opposite Gender Certificates and such other identity certificates under the TP Act, TP Rules, the Pre-TP Act Regime or even otherwise, insofar as such certificates and documents continue to record a person's gender identity instead of their biological sex, and continue to operate as the basis for males to access rights, benefits, protections and spaces created for biological females, or operate as the basis for biological females to forego such rights.
22. The 2026 Amendments effected five material changes: (a) the definition of "transgender person" under Section 2(k) was narrowed, and now expressly and retrospectively excludes "self-perceived sexual identity"; (b) Section 4(2), which conferred the statutory right to self-perceived gender identity, was omitted; (c) a transgender person who has a certificate of such status under Section 6 of the TP Act is now mandatorily required ("may" is replaced by "shall") to apply for a certificate under Section 7 of the TP Act; (d) removal of the erstwhile Section 7(3), which entitled a transgender person who has obtained a revised certificate for change in gender identity to either male or female to change "the first name" in the birth certificate and all other official documents relating to the identity of such person (including the official documents enlisted in Annexure 1 of the TP Rules); and (e) addition of Section 6(4) to limit the entitlement of 'change of

the first name in the birth certificate and all other official documents' to change of identity to 'transgender'. This clarifies that the 'change in gender' under Section 7 is not to be recognized in official documents and for all State purposes. No amendments to the TP Rules have, as on date, been made pursuant to the Amendment Act.

23. The mechanisms for change of recorded sex extend beyond Section 7 of the TP Act. Administrative mechanisms allow for alteration of documented sex notwithstanding biological sex *vide* the certificate issued under the TP Act and in certain cases without any certificate. This is in contravention of the TP Act itself, which mandates application for issuance of a Change of Gender Certificate under Section 7 of the TP Act and no further change of gender in official documents. An illustrative list is provided below:

- a. The Unique Identification Authority of India ("UIDAI") allows gender to be updated once without documents, and further gender updates can be processed with a certificate issued under Section 6 of the TP Act. The Standard Operation Procedure (SOP) of Name & Gender Update Request under Exception Handling Process dated 3 November 2021, issued by UIDAI provides that:

"Gender update is permitted without any documentary support. Considering the restrictions on number of Gender update, the resident have to submit a medical certificate having photograph issued by surgeon or

concerned Authority as POI document. In case of updation of gender to transgender, the resident will be required to submit a certificate issued by the Central/State Govt as POI document.”

A copy of the UIDAI Standard Operation Procedure (SOP) of Name & Gender Update Request under Exception Handling Process is annexed to the writ petition as **ANNEXURE P-9 [pp. 231 to 237]**.

- b. The Ministry of External Affairs (“**MEA**”) requires the applicant to submit a Certificate of Identity along with certificate issued under Section 6 of the TP Act for issuance of passports to transgender persons. The Guidelines relating to Issue of Passports in India/Abroad provides for change of sex, without any specific reference to the TP Act or TP Rules. It provides as under:

“There are rare cases of request for change in sex consequent to medical procedure changing sex of an individual. The applicant should give a sworn affidavit regarding the change in sex and furnish supporting certificate from the hospital where he/she underwent the medical treatment for the purpose. Since the change in sex will also normally require a change in name, the applicant in that eventuality, will also have to follow the procedure in para 3.2 above regarding change of name. Passport should be issued on such application only after fresh police verification. Change in sex from

male/female to Transgender does not require submission of any surgical reconstruction certificate. If an applicant's claims his sex as transgender, the applicant's claim may be accepted in good faith as it is a matter of self-identity."

An extract of the relevant portion of the Guidelines Relating to Issue of Passports in India / Abroad is annexed as **ANNEXURE P-10 [pp. 238 to 239]**.

24. These administrative mechanisms, taken together with Section 7 of the TP Act and the certificates issued under the TP Rules, create the Impugned Regulatory Regime through which a person's legal sex can be officially altered by way of declaration, notwithstanding that biological sex is, as a matter of scientific fact, immutable. This mechanism, which conflates and interchanges the distinct concepts of "sex" and "gender identity" by using the word "gender" to sometimes mean gender identity and sometimes mean sex, ensures that no document retains a separate record of biological sex: once the "gender" is changed, the holder's legal sex is altered. The consequence is that a biological male holding an Opposite Gender Certificate is thereafter treated as a "woman" across all domains of law and State administration and consequently eligible for women's reservations, women-only positions, entitled to access sex-segregated spaces designated for women, and any other special provisions made for women. Similarly, a biological female who obtains an Opposite Gender Certificate is treated as a "man" across all domains of

law and state administration and rendered ineligible for any special provisions made for women.

f. Adverse Impact of the Impugned Regulatory Regime on Biological Females

25. The Constitution and statutes enacted by the Parliament over decades recognise the distinct vulnerabilities of biological females and provide for their equality, protection, safety, and advancement. The Petitioner submits that each of these special provisions is predicated upon the biological reality of the persons they are intended to protect, whether by reason of physical vulnerability, the historical and continuing disadvantage suffered by biological females as a biological sex class regardless of gender identity, or considerations of bodily privacy and safety. The Impugned Regulatory Regime undermines the object and efficacy of these provisions in concrete and documented ways, of which the following are illustrative.

i) Elections and Reserved Political Seats

26. Article 15(3) of the Constitution expressly empowers the State to make special provisions for women. The Constitution (Seventy-Third Amendment) Act, 1992 and the Constitution (Seventy-Fourth Amendment) Act, 1992 reserve not less than one-third of seats in Panchayati Raj institutions and urban local bodies for women under Articles 243D and 243T respectively. The Constitution (One Hundred and Sixth

Amendment) Act, 2023 reserves not less than one-third of seats in the Lok Sabha and State Legislative Assemblies for women under Articles 330A and 332A and makes corresponding provision for the Legislative Assembly of the National Capital Territory of Delhi under Articles 239AA(2)(ba)–(bc). The Statement of Objects and Reasons of the Constitution (One Hundred and Twenty-Eighth Amendment) Act, 2023 records the inadequate representation of women in legislative bodies and the need for their greater participation in the law-making process. These are finite reservations. Each reserved seat occupied by a biological male with an Opposite Gender Certificate directly displaces a biological woman from the limited quota created to secure her political representation. This displacing effect defeats the very purpose of these constitutional provisions by perpetuating, rather than remedying, the under-representation of women in political institutions.

27. In *Anjali Guru Sanjana Jaan v. State of Maharashtra*, 2021 SCC OnLine Bom 11, the Bombay High Court held that a biological male who self-identifies as “female” is entitled to contest a Panchayat election from a ward reserved for women. The Kerala State Election Commission has, in November 2025, granted permission to two biological males self-identifying as “female” to contest Panchayat elections in women’s reserved constituencies. The Petitioner submits that the policy objective underlying women’s reservations, increasing the representation of biological females historically excluded from the legislative process, is defeated

when biological males are allowed to contest and directly displace biological females from the limited seats reserved to secure their political representation. A copy of a news article detailing the above incident is annexed as **ANNEXURE P-11 [pp. 240 to 241]**.

ii) *Women's Sport*

28. Separate categories for biological males and females exist in competitive sport because physiological differences arising from biological sex directly affect competitive performance, integrity, fairness and, in some sports, safety. The International Olympic Committee ("**IOC**") Policy on the Protection of the Female (Women's) Category in Olympic Sport (26 March 2026), applicable from the Los Angeles Summer Olympic Games 2028, records that male sex confers a performance advantage of approximately 10–12% in most running and swimming events, 20% or more in throwing and jumping events, and over 100% in events involving explosive power. The said policy limits eligibility for the female category to biological females and requires SRY-gene screening. The IOC has clarified in the Frequently Asked Questions: "*Transgender athletes are not excluded from IOC events, including the Olympic Games. Like all other athletes, they are eligible to compete in the category that aligns with their biological sex.*" Many other international sports federations, including World Athletics, World Aquatics, World Boxing, World Tennis, etc., restrict women's sports to biological females. A copy of the International Olympic

Committee Policy on the Protection of the Female (Women's) Category in Olympic Sport is annexed as **ANNEXURE P-12 [pp. 242 to 251]**. A copy of the World Aquatics Policy on Eligibility for the Men's and Women's Competition Categories is annexed as **ANNEXURE P-13 [pp. 252 to 262]**. A copy of the World Athletics Eligibility Rules is annexed as **ANNEXURE P-14 [pp. 263 to 276]**. A copy of the World Boxing Sex Eligibility Policy is annexed as **ANNEXURE P-15 [pp. 277 to 284]**. A copy of the World Tennis Association's Women's Eligibility Rules are annexed as **ANNEXURE P-16 [pp. 285 to 295]**.

29. In India, a biological male with an Opposite Gender Certificate may compete in the women's category domestically, even if ineligible under international rules. In *Anamika v. State of Kerala*, 2022 SCC OnLine Ker 3882, the Kerala High Court permitted a biological male who identified as "female" to compete in the women's category at a district-level judo championship, in the absence of a transgender category. The athlete subsequently won gold at the State level. In a contact sport such as judo, determining eligibility by gender identity disregards sex-based differences in strength and physiology that directly affect competitive fairness, safety, and equality of opportunity for women.

iii) Criminal Law Protections

30. The definitions of "man" and "woman" in Sections 2(19) and 2(35) of the Bharatiya Nyaya Sanhita, 2023 ("**BNS**") are, on

their plain terms, biological, and the operative language of the numerous women-centric offences in the penal code is also biological such as Chapter V which is specific to offences against women, including Sections 63 (rape), 68 (sexual intercourse by a person in authority), 69 (sexual intercourse by deploying deceitful means), 70 (gangrape), 77 (voyeurism), 78 (stalking), 80 (dowry death) of the BNS.

31. In *Vithal Manik Khatri v. Sagar Sanjay Kamble @ Sakshi Vithal Khatri*, 2023 SCC OnLine Bom 2749, the Bombay High Court held that a person who has exercised his right to self-identify as a woman is an aggrieved person within the meaning of Section 2(a) of the Protection of Women from Domestic Violence Act, 2005. Consequently, the Court upheld the award of interim maintenance to a biological male. The statutory category of an “aggrieved person” under Section 2(a) of the aforesaid Act is, by definition, confined to a woman in a domestic relationship. The extension of this category to biological males dilutes the very protection which the enactment was designed to secure for biological females.
32. The difficulty is further manifest in statutory safeguards governing arrest, bodily searches and the treatment of women within the criminal justice system, which distinguish between males and females to protect women’s bodily privacy and dignity. The proviso to Section 43(1) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (“BNSS”) restricts a male police officer from touching a woman while effecting her arrest, while Section 43(5) permits the arrest of a woman after sunset

and before sunrise only in exceptional circumstances by a woman police officer with prior permission from a Magistrate. Section 49(2) similarly requires the bodily search of a female to be conducted by another female with strict regard to her decency.

33. The proviso to Section 180(3) of the BNSS further requires that the statement of a woman alleging specified sexual offences to be recorded by a woman police officer or woman officer. The Model Prison Manual, 2016 also requires searches of female prisoners to be conducted by female staff and outside the presence of males.
34. If a biological male with an Opposite Gender Certificate performs these functions, a biological female will be restrained, bodily searched or required to recount sexual violence to a person of the opposite biological sex. This would defeat the very purpose of these sex-specific safeguards and deprive women of the bodily privacy and dignity they guarantee. Separately, a biological male with an Opposite Gender Certificate may create obstruction and refuse to be arrested in the absence of a female police officer.
35. The Ministry of Home Affairs' advisory dated 10 January 2022 on the "Treatment and Care of Transgender Persons in Prisons" directs that "*The search of a transgender person may be conducted by a person of their preferred gender or by a trained medical professional or a paramedic with necessary training on conducting the search.*" Thus, if a biologically

male transgender person seeks to have women officers search him, that would, in the absence of a medical professional, force biological female officers, as part of their jobs, perform searches on male bodied people.

iv) *Privacy, Bodily Safety and Sex-Segregated Spaces such as Women's Shelters, Hostels, Prisons, Toilets, Hospital Wards, etc.*

36. Similar considerations arise in relation to single-sex residential and intimate spaces, including women's hostels, toilets, changing facilities, shelters, hospital wards, and prisons. These spaces are segregated based on biological sex because their use may involve bodily exposure, shared living arrangements and circumstances of vulnerability, requiring the protection of the privacy, dignity and safety of biological females. In this context, concerns arise when a biological male who has acquired an Opposite Gender Certificate is permitted access to these spaces.
37. Sex-segregation and separate provision for transgender persons are not merely constitutionally permissible but recognised at the level of this Hon'ble Court. In *Rajeeb Kalita v. Union of India*, 2025 SCC OnLine SC 81, this Hon'ble Court directed the High Courts, State Governments and Union Territories to ensure the construction and availability of separate toilet facilities for males, females, persons with disabilities and transgender persons in court premises across the country, on the view that adequate public toilets protect

privacy and remove the threat to women and transgender persons. The Hon'ble Court had recognised that biological females and transgender persons are entitled to distinct sex-segregated spaces, and not to shared or converted spaces. However, the Guidelines on Gender issues in sanitation, dated 3 April 2017 issued by Ministry of Drinking Water and Sanitation require that transgender persons be allowed to use the restrooms of their choice in community or public toilets. A copy of the guidelines is annexed as **ANNEXURE P-17 [pp. 296 to 300]**.

38. The issue extends to sex-segregated training, employment, and accommodation. In *Hina Haneefa v. State of Kerala*, 2021 SCC OnLine Ker 4755, the Kerala High Court permitted a biological male recognised as “female” to be enrolled in the Girls Division of the National Cadet Corps (“NCC”), notwithstanding the NCC’s objections that male and female cadets undergo different training and share accommodation under field conditions, and that the presence of a biological male “*will be a violation of privacy and dignity of a girl cadet.*” This direction was affirmed by a division bench of the same court in *National Cadet Corps v. Hina Haneefa*, 2024 SCC OnLine Ker 931. Pertinently, the sex-specific rationale for such male-only enrolment stands accepted by the same High Court in *Janvin Cleetus v. Union of India*, 2025 SCC OnLine Ker 12244, which upheld sex-specific NCC enrolment as constitutionally justified on the ground that NCC training involved close contact, physical exercises, and camps where cadets stay in field conditions in confined

accommodation. This rationale applies with equal force to distinguish biological females from biological males with Opposite Gender Certificates.

39. In the case of prisons, the Ministry of Home Affairs' advisory dated 10 January 2022 on the "Treatment and Care of Transgender Persons in Prisons" directs that enclosures for transgender inmates "*should be separate from male and female wards*". The advisory further states that "*self-identity of transgender persons must be respected at all times in regard to admission procedures, medical examination, search, lodging, clothing, requisitioning of police escorts, treatment and care inside prisons.*" This results in contradictory instructions to prison officials which puts biological women, regardless of gender identity or expression, at disproportionate risk.

40. Separate prisons for each sex or at least separation within prisons are a human right as recognised by the UN Standard Minimum Rules for the Treatment of Prisoners adopted by the United Nations Congress on the Prevention of Crimes and the Treatment of Offenders, Geneva (1955). The same was incorporated in Section 27 of The Prisons Act, 1894, that states "*in a prison containing female as well as male prisoners, the females shall be imprisoned in separate buildings, or separate parts of the same building, in such manner as to prevent their seeing, or conversing or holding any inter-course with the male prisoners.*" The Model Prison Manual, 2016 requires that each state establish at least one women's jail, and that

separate enclosures/ prisons within district or central prisons are required to be established for housing female inmates where there are no exclusive jails for women. It requires that till separate prisons for women are established, the existing enclosures for women in common prisons are renovated to ensure that women inmates do not come into contact with male inmates.

41. The risks arising from placing male inmates in women's prisons have been demonstrated in documented instances. For brevity, the Petitioner provides the following illustrative examples:

- a) **United Kingdom (England and Wales):** In September 2017, Karen White, a biological male who was permitted to self-identify as a 'female', for the purpose of prison placements, with prior convictions for sexual violence, was remanded to HMP New Hall, a women's prison. During detention, White sexually assaulted two female prisoners and was subsequently convicted. A copy of a news article reporting on this incident is annexed as **ANNEXURE P-18 [pp. 301 to 308]**.

- b) **United States (California and New Jersey):** Tremaine Carroll, a biological male with a record including kidnapping women, was transferred in 2021 to a California women's prison based on self-identification. He then was charged with rape of a female cellmate. A copy of a news article reporting on this incident is

annexed as ANNEXURE P-19 [pp. 309 to 311]. Demi Minor in New Jersey in 2022 was transferred to a woman's prison on self-identification and impregnated two female inmates. A copy of a news article reporting on this incident is annexed as ANNEXURE P-20 [pp. 312 to 332].

42. In *State v. Sachu Samson*, Sessions Case No. 1325/2016, Fast Track Special Court ("POCSO") Thiruvananthapuram, 6 February 2023, the accused (a 28-year-old biological male) sexually assaulted a minor. By the time of trial, the accused had undergone an unspecified gender-affirmative medical intervention, obtained an identity card recording the accused's gender as "female", and was known as "Shefina". Following conviction, the Court directed that the accused be detained at Vanitha Jail, Attakulangara, a women's prison, pending transfer to the Special Jail for Transgender Persons at Malampuzha. Similar cases include *Shanthi v. State of Tamil Nadu*, 2025 SCC OnLine Mad 815, a person identifying as transgender had been placed in the Special Women's Prison, Puzhal.
43. According to the Prison Statistics India 2024 report published by the National Crime Records Bureau, as of 31 December 2024, 122 transgender convicts and undertrials were housed in Indian prisons, of whom at least 13 were acknowledged to be in women's jails.

44. The relevance of biological sex extends beyond access to single-sex spaces and arises equally in roles involving the intimate care or supervision of women and girls. Nursing assistants and other care providers may be required to assist patients with bathing, toileting, catheterisation, wound care and other intimate bodily functions. The issue also arises in personal-care services and in supervisory positions in girls' hostels, all-girls educational institutions and women's prison enclosures. In each case, the privacy, dignity and bodily autonomy of biological females and girls may depend upon care or supervision being provided by another biological female.
45. The potential difficulty in determining eligibility for such roles solely by gender identity is illustrated by *S. Mani v. The Additional Chief Secretary to Government*, WP(C) No 29354 of 2025, before the Hon'ble Madras High Court. In that case, the Court directed the State to appoint a biological male who had acquired an Opposite Gender Certificate and had previously served as a male nursing assistant to a vacant post of "female" nursing assistant at the Government Hospital, Cuddalore. However, the Court did not consider that the duties of the post involved intimate physical contact with female patients and that biological sex was material to their performance. The duties include bathing, toileting, catheterisation, or wound care, etc. and the Court did not consider that the appointment may permit a biological male to provide intimate care to vulnerable biological female patients without consideration of their privacy, dignity or informed

consent. Gender identity cannot, by itself, provide a rational basis for determining eligibility for roles where biological sex is directly relevant.

46. The same distinction is material to public-health measures directed at sex-specific biological needs. For instance, cervical-cancer screening necessarily depends upon the presence of the relevant anatomy, while maternal-health programmes depend upon pregnancy and reproductive capacity. Eligibility for such measures cannot coherently be determined by documented gender identity where the biological characteristic to which the measure is directed may not correspond with that designation.

v) *Employment, Education, and Corporate Governance*

47. The dilution of special provisions for women is illustrated at the level of recruitment policies. For example, The Tamil Nadu Uniformed Services Recruitment Board Policies permit a transgender candidate to declare their gender as male, female or third gender, and even where the candidate declares as third gender, expressly allow such candidate to be treated as a woman for the purposes of the 30% seats reserved for women. The Physical Measurement Test requires men to be a minimum of 163 centimetre tall, while women and transgender candidates including biological males with Opposite Gender Certificates are required to be only 152 to 154 centimetres tall. In *Manju v. State of Tamil Nadu*, 2018 SCC OnLine Mad 13273, biological males with Opposite

Gender Certificates were asked to compete with women in the physical examination test (a 100-metre race) and were evaluated by yardsticks set for female candidates and admitted to women's posts.

48. In *K. Prithika Yashini v. Chairman, TNUSRB*, 2015 SCC OnLine Mad 11830, a biological male who identified as "female" was permitted by the Madras High Court to compete under the female category and directed to be appointed as a Sub-Inspector of Police, notwithstanding that the candidate failed to meet the physical examination cut-off applicable to female candidates. A comparable concession in the physical examination test was denied to a transgender-identified female candidate in *K. Annapoornam v. Secretary to Government*, 2016 SCC OnLine Mad 15928.
49. In *Kerala Public Service Commission v. Aneera Kabeer*, 2023 SCC OnLine Ker 4241, a biological male with an Opposite Gender Certificate sought appointment as housekeeper of a women's hostel in a Government homeopathic medical college, notwithstanding that the duties of the post such as remaining in the hostel overnight to attend to the safety of women students could, by their nature, only be performed by a biological female, which was allowed by the Kerala High Court.
50. The Companies Act, 2013 and the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 require listed companies and prescribed classes of public companies

to appoint at least one woman-director. These requirements were introduced to address the under-representation of biological females in corporate leadership. If males holding Opposite Gender Certificates count towards these requirements, the objective of increasing the actual participation of biological females in boardrooms may be formally satisfied without any actual corresponding increase in the presence of biological females.

51. Women-only educational institutions seek to provide biological females with educational opportunities and, in many instances, a sex-segregated residential environment. In such cases, concerns may arise on whether biological males with Opposite Gender Certificates are entitled to admission to women-only institutions as of right and, if so, whether the institutional character of these spaces including residential facilities, changing areas and sanitation is altered. Similarly, women-specific scholarship schemes respond to historical and social disadvantages associated with being born as a biological female, including discriminatory investment in the education of daughters. Where the pool of places or scholarships is finite, the inclusion of a biological male with Opposite Gender Certificates solely based on gender identity may extend the benefit beyond the target class whose disadvantage supplied the reason for its creation in the first place and also exclude female persons with "man" identities who ought to be entitled to these benefits.

52. In *S. Tamil Selvi v. State*, 2022 SCC OnLine Mad 4879, and *S. Mithra v. Secretary to Government*, 2019 SCC OnLine Mad 8617, the Madras High Court directed biological males with Opposite Gender Certificates be accommodated within the Nursing College for Women. The Court held that such candidates were entitled to a separate reserved category within the institution by virtue of the directions in *NALSA*. The mandatory inclusion of biological males within women-only institutions undermines the purpose that justified their creation.
53. In *Yashika Alias Ashish Kumar v. Panjab University, Chandigarh & Ors.*, CWP No. 5782 of 2022, a biologically male transgender petitioner approached the Punjab & Haryana High Court complaining of the denial of suitable hostel accommodation by Panjab University. During the pendency of the proceedings, the male petitioner was accommodated in the Working Women's Hostel. The Court subsequently disposed of the writ petition as infructuous since the accommodation had already been granted. However, the Court did not adjudicate upon whether a transgender person was, as a matter of law, entitled to accommodation in a women-only hostel, nor did it examine the competing considerations concerning the privacy, dignity or safety of the female residents of such sex-segregated accommodation. A similar issue arises in *Dr. Trinetra Halder Gummaraju v. State of Karnataka & Ors.*, W.P. No. 19706/2021 (currently pending before the Karnataka High Court), in which directions have been sought for transgender students to be

allotted hostel accommodation in accordance with their self-identified gender, as well as for the provision of separate hostel facilities for transgender students.

vi) *Personal Laws*

54. Several personal laws dealing with marriage, matrimonial cruelty, maintenance, family pension and guardianship confer rights, safeguards and grounds of relief upon a “wife”, a “bride”, a “mother”, or an “unmarried daughter”. As highlighted below, the Impugned Regulatory Regime has considered inclusion of a biological male as a member of each of these statutory categories, thereby extending the rights and protections reserved by the legislature for biological females to biological males with Opposite Gender Certificates.

55. In *Arunkumar v. Inspector General of Registration*, 2019 SCC OnLine Mad 8779, the Madras High Court held that the expression “bride” in Section 5 of the Hindu Marriage Act, 1955 could not have a static meaning. As such, the High Court interpreted the term “bride” to mean not only a woman, but also a male with an Opposite Gender Certificate, with primacy being given to such person’s self-perception of their gender identity. This would lead to extension of the entire body of wife-specific rights flowing from the status of “bride” under the Hindu Marriage Act, 1955 and allied enactments including the wife-specific grounds of divorce under Section 13(2) of the Hindu Marriage Act, 1955 (bigamy of the husband; the husband’s conviction for rape, sodomy or bestiality; non-

resumption of cohabitation after a maintenance order; and repudiation of child marriage) and the independent statutory right of a Hindu wife to be maintained by her husband under Section 18 of the Hindu Adoptions and Maintenance Act, 1956, to biological males holding Opposite Gender Certificates.

56. In *Kantaro Kondagari @ Kajol v. State of Odisha*, W.P.(C) No. 4779 of 2022, decided 20 May 2022, the Orissa High Court held that a biological male with an Opposite Gender Certificate is an “unmarried daughter” for the purposes of Rule 56(5)(d) of the Odisha Civil Services (Pension) Rules, 1992, and directed the sanction of family pension. However, Rule 56(5)(d) confines the pension entitlement to the “unmarried daughter, widow or divorced daughter” of the deceased pensioner. These are beneficial legislations specially created for the upliftment of women, they ought not be similarly applicable to male persons with a transgender identification.
57. The consequences in matters of pregnancy and parentage are illustrated by *Zahhad v. State of Kerala*, 2025 SCC OnLine Ker 3510. In that case, a heterosexual married couple, in which the biological male held documents recording female gender and the biological female held documents recording male gender, had a biological child. The authorities issued a birth certificate identifying the biological female who gave birth as the “mother” and the biological male as the “father”.

The couple challenged this arrangement, seeking instead to be recorded as “parent” without reference to mother or father. The Kerala High Court directed the issuance of a customised birth certificate, while permitting the authorities to retain records identifying the biological mother for the purposes of maternal-health indicators and other statistical requirements. The decision thus recognises that, notwithstanding a person’s gender identity, biological sex remains material where the legal or administrative purpose is intrinsically connected with childbirth and maternal health. However, the child’s birth certificate was nonetheless altered, leaving him with no accurate record of his parentage.

g. The International Position

58. The question of the meaning of “sex” and “woman” in statutes enacted for the protection of women has arisen for consideration in other common law jurisdictions, with a clear trend towards the preservation of sex-based protections emerging in recent years. The international jurisprudence reflects judicial and legislative clarity that sex-based protections for women are, and must remain, limited to biological sex, regardless of gender identity or expression.
59. In *For Women Scotland Ltd v. The Scottish Ministers* [2025] UKSC 16 (“*For Women Scotland*”), the UK Supreme Court held unanimously that the terms “sex”, “man”, and “woman” in the Equality Act, 2010 refer to biological sex, and that persons who have obtained a gender recognition certificate

changing their legal sex do not become persons of the acquired sex for the purposes of the sex-based protections in the Equality Act, 2010. The Court held that males holding such certificates could not be counted as women for the Equality Act, while affirming that transgender persons remain fully protected against discrimination on the basis of gender reassignment.

60. In *West Virginia v. B.P.J.* and *Little v. Hecox*, 609 U.S. 2026, the Supreme Court of the United States upheld State laws reserving girls' and women's school sports for biological females, observing that these laws do not discriminate on gender identity, as all males are banned from the girls' team, regardless of their identity.
61. In an independent review commissioned by the Department for Science, Innovation and Technology, Government of United Kingdom (report published in March 2025) ("**Sullivan Review**"), data held across government and public bodies was examined. It was found that replacing sex records with records of self-professed gender identity had adversely affected multiple domains, including health data, crime statistics, and research, and strongly recommended that sex be recorded accurately. Relevant extracts of the background, executive summary and recommendations of the Sullivan Review report are annexed as **ANNEXURE P-21 [pp. 333 to 351]**.

h. Scope and Interpretation of *NALSA*

62. This Hon'ble Court held in *NALSA*, that transgender-identified persons have the right to profess and express a self-determined gender identity as a matter of freedom of speech and right to life with dignity; that no person may be compelled to undergo any medical procedure, and that transgender-identified persons have the rights of equality and freedom from discrimination.
63. However, this Hon'ble Court in *NALSA* did not consider or decide, whether a person having a self-perceived gender identity of a woman (which does not correspond to his male biological sex) becomes, for all legal purposes, a member of the class of biological females for whom special provisions were enacted. Further, *NALSA* was decided without specific consideration of the rights of biological females.
64. Further, this Hon'ble Court in *NALSA* (paragraph 74) recognised that legal recognition of gender identity is part of the right to dignity and freedom guaranteed under the Constitution. It also directed Centre and State Governments to grant such legal recognition of gender identity such as male, female or transgender (paragraph 135.2).
65. The Petitioner submits that the right to legal recognition of gender identity merits reconsideration. The constitutional right to legal recognition of self-determined gender identity prevents the balancing of the rights of transgender-identified

persons, women, and other parties. The general public, administrative and executive bodies, legislatures, courts, etc. have been unable to perceive or enforce the distinction between gender identity and sex. This Hon'ble Court has clarified the difference between sex and gender identity in *Supriyo*, however, the conflation continues.

66. As gender identity is a deeply felt, self-perceived, internal experience, it is not conclusively verifiable by the State. The State instead relies on self-declarations, for instance, the unamended TG Act provided welfare benefits based on self-identification. Anyone could claim a transgender gender identity, whether or not it was true, leaving the provisions of the act open to abuse. Even if gender identity is not confused with biological sex, any benefits linked to gender identity can still be abused due to the unverifiable nature of self-assertions. Moreover, gender identity by its very nature is mutable, a person's internal experience changes or can change from time to time, which is not a suitable basis for a permanent legal status.
67. The impact of legal recognition of gender identity can be seen in *Apsara Reddy v. Joe Micheal Praveen*, 2024 SCC OnLine Mad 1, a defamation case in which the Madras High Court passed an *ex-parte* order for damages of INR 50,00,000 against a YouTuber who had, among other things, referred to a transgender politician by the person's name prior to transition. The effect is to render the rights of biological females under Article 19(1)(a) of the Constitution, including

the right to advocate for, and to express concern about the erosion of, sex-based protections, conditional on the Impugned Regulatory Regime's own view of gender identity.

68. Further, Section 18(d) of the TP Act provides that whoever *"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 of six months to two years and fine. The provision groups together the endangerment of life and physical abuse on the one hand with mental, verbal and emotional harm on the other, and extends criminal sanction to the "tendency" to do such acts. On its plain terms, the provision brings within its ambit the everyday reference to a person's biological sex, and the failure to address a person by their self-professed gender identity, and thereby criminalises the very speech through which biological females may advocate for the retention of their sex-based rights.

69. Similarly, the effect is for all persons who do not believe in gender identities to be silenced or to proclaim belief to avoid criminal penalties. These provisions are backed by the constitutional right of legal recognition of gender identity, through which the State takes one side of a contested debate and turns the disputed existence of gender identities into a legal fact. The Petitioner respectfully submits that the right to

legal recognition of gender identity granted in *NALSA* requires reconsideration.

70. A harmonious reading of *NALSA* suggests that it did not redefine “sex” or “women” under the Constitution or any other legislation. A distinction must be made between the protective ambit of the Constitution as providing an anti-discrimination guarantee to transgender-identified persons on the one hand and allowing self-acquired membership on the other hand, of a new beneficiary class of transgender persons, or of the existing beneficiary class of biological females for whom special provisions are made.

GROUNDS

I. THE IMPUGNED REGULATORY REGIME CONFLATES “SEX” AND “GENDER IDENTITY” AND VIOLATES THE CONSTITUTIONAL REQUIREMENT OF LEGAL CERTAINTY AND THE RULE OF LAW

1. THAT the Impugned Regulatory Regime erroneously conflates “sex”, a fixed and immutable biological attribute that is protected in the Constitution, with “gender identity” which pertains to a self-perceived mutable belief, thus treating legal sex as amenable to alteration through declaration, documentation or certification. In doing so, it introduces ambiguity into the meaning and scope of “sex” as a protected ground in the Constitution and “sex” in relevant laws;

therefore, liable to be struck down to the extent that it purports to redefine or dilute or renders uncertainty to the term "sex".

2. THAT the Impugned Regulatory Regime violates the constitutional requirement of legal certainty and the rule of law by rendering "sex" indeterminate across the statutory and regulatory framework of India. The rule of law, which forms part of the basic structure of the Constitution, requires that laws be sufficiently clear, certain, and ascertainable so that persons subject to them are cognisance of the legal consequences of their conduct, and so that authorities entrusted with their administration may apply them consistently and without arbitrariness. Legal certainty is a constitutional imperative that flows from the guarantee of the rule of law. The Petitioner submits that the established canons of statutory and constitutional interpretation, properly applied, resolve the indeterminacy: "sex", as used in the Constitution and in legislation, refers to the immutable biological category of male or female.
3. THAT on the plain and ordinary meaning of the term, "sex" refers to the biological classification of human beings as male or female. The Constitution uses "sex" as a ground of non-discrimination under Articles 15(1) and 16(2) and as the basis for special provisions for women under Article 15(3). Parliament has legislated extensively on this classification, and Section 2(35) of the BNS defines "woman" as "a female human being of any age". Where the language of a statute is plain and unambiguous, it is a cardinal principle of

interpretation that it must be given its natural and ordinary meaning. The plain meaning of "sex" in constitutional and statutory usage corresponds with the biological characteristics that distinguish males from females, and does not admit of alteration by documentation, certification, surgery, or self-declaration.

4. THAT the mischief rule, as formulated by the Court of Exchequer in *Heydon's Case* (1584) 76 ER 637, requires the court, for the sure and true interpretation of a statute, to consider: (i) what was the common law before the making of the Act; (ii) what was the mischief and defect for which the common law did not provide; (iii) what remedy Parliament resolved and appointed to cure the disease of the commonwealth; and (iv) the true reason of the remedy, and then to make such construction "as shall suppress the mischief, and advance the remedy, ... according to the true intent of the makers of the Act, *pro bono publico*." This rule has been adopted and applied by this Hon'ble Court in a catena of judgments.
5. THAT applied to the present case, when the constitutional and statutory provisions employing "sex" were enacted, the term referred, without controversy, to the biological classification of male and female. The mischief that these provisions sought to address was the historical disadvantage, physical differences, vulnerability, and under-representation of biological females as a class, and the remedy was the creation of special provisions, protections, and reservations for

women; and the true reason of the remedy was to secure substantive equality, safety, privacy, and dignity for persons who, by reason of their biological sex, belong to that class. An interpretation that permits the legal meaning of "sex" to be determined by self-declared gender identity rather than biological fact defeats the very remedy that the Constitution and Parliament intended and perpetuates the mischief rather than suppressing it.

6. THAT purposive construction confirms the same result. Where a provision is enacted for a specific purpose, it must be construed so 'as to advance that purpose and suppress the mischief it was designed to address. The purpose of the sex-based provisions in the Constitution and in legislation, whether reservations, criminal-law safeguards, single-sex spaces, or affirmative measures, is to protect, advance, and secure the interests of biological females, regardless of gender identity or expression. That purpose is served only if "sex" is construed as referring to biological sex. If "sex" is construed as encompassing self-professed gender identity or document status, the provisions cease to serve the class for whose benefit they were enacted, and the legislative purpose is frustrated.
7. THAT the UK Supreme Court in *For Women Scotland*, in a materially analogous context, applied the same interpretive approach of plain meaning, mischief, and purpose, and held that the ordinary meaning of those plain and unambiguous words corresponds with the biological characteristics that make an individual a man or a woman. Relying on legislative

intention, the UK Supreme Court held that any other interpretation would offend against the principle of legal certainty and the need for a meaning which is constant and predictable.

8. THAT in a catena of judgments, this Hon'ble Court has struck down laws that were vague and incapable of consistent application. This Hon'ble Court has held that a law which fails to provide reasonably clear standards by which persons can regulate their conduct, and by which authorities can exercise their powers, offends due process and the rule of law.
9. THAT the constitutional requirement of intelligibility demands that the legislation which attaches legal consequences to a particular classification must define or use that classification with sufficient precision to permit its uniform and predictable application. Where a legally operative category is left so indeterminate that its content varies depending upon the instrument in which it appears, the authority applying it, or the administrative practice prevailing at a given time, the requirement of legal certainty is not met.
10. THAT the Impugned Regulatory Regime, and in particular Section 7 of the TP Act, suffer from the vice of being vague, overbroad and disproportionate. The term "*gender*" is not defined in the statute. In the absence of this definition, the provision providing for "*change in gender*" (Section 7) in an overbroad and vague manner, ends up disproportionately authorizing, in effect, a change in biological sex. This has

grossly discriminatory effects on biological females, as explained below, and must be struck down for being unconstitutionally vague, overbroad and disproportionate.

11. THAT the constitutional requirement of legal certainty applies with particular force to classifications that carry consequences across multiple areas of law and crucial census data and demographics determining statutory and administrative actions. Replacing sex records with records of self-professed gender identity adversely affects multiple domains, including health data, crime statistics, and research. Where a single term is used as the basis for the allocation of fundamental rights, statutory entitlements, criminal law protections, electoral reservations, and administrative eligibility, any uncertainty in the meaning of that term propagates through the entire legal system. The requirement of certainty in such a case is not satisfied by piecemeal clarity in isolated provisions; the term must bear a coherent and ascertainable meaning across the regime as a whole.

a. "Sex" is a distinct classification under law and cannot be conflated with "gender identity"

12. THAT "sex" is not a peripheral or incidental term in law. It is a foundational constitutional and statutory classification upon which a wide range of rights, duties, protections, eligibility criteria, and institutional arrangements depend. Articles 15(1) and 15(2) of the Constitution expressly prohibits discrimination only on the ground of "sex", and sex is the

constitutional basis for special provisions for women under Article 15(3). Article 16(1) prohibits discrimination in public employment on the ground of sex. Various Constitutional amendments provided for reservation of seats for women in Panchayati Raj institutions, urban local bodies, the Lok Sabha, and State Legislative Assemblies, with entitlement determined by reference to the sex of the candidate.

13. THAT Section 2(35) of the BNS defines a woman to mean “*a female human being of any age*”. “Sex” or cognate sex-based classifications operate across a wide range of statutory and regulatory provisions, including, without limitation: (a) Section 149(1) of the Companies Act, 2013, read with the SEBI Listing Obligations and Disclosure Requirements Regulations, 2015, which require the appointment of women directors on certain company boards; (b) the BNSS, Section 43(1) Proviso (protections upon arrest of women), Section 49(2) (bodily search of females to be conducted by females only), and Section 180(3) Proviso (recording of statements of female victims of sexual offences by a woman officer); (c) the Model Prison Manual, 2016 (searches of female prisoners by female staff only); (d) scholarship schemes specifically designed for girl children, including the CBSE Merit Scholarship Scheme for Single Girl Child and the PG Indira Gandhi Scholarship for Single Girl Child; (e) statutory bodies and institutions such as the National Commission for Women (NCW) responsible for ensuring safeguards women's rights, addresses grievances, and advises the Government on policy affecting women; (f) Sexual Harassment of Women at

Workplace (Prevention, Prohibition and Redressal) Act, 2013 and (g) women-only educational institutions, women's hostels, women's shelters, and women's crisis services.

14. THAT each of these provisions depends, for its operation, upon the capacity of the State and its officers to identify who falls within the category of "female" or "woman." If the meaning of "sex" is uncertain, the beneficiaries of these provisions are uncertain, the duties of the authorities administering them are uncertain, and the rights of persons affected by them are uncertain. The legal efficacy of the entire architecture of sex-based provisions depends upon "sex" bearing a determinate and legally ascertainable meaning.
15. THAT it is a well-established principle of statutory interpretation that Parliament does not legislate in vain. When the Constitutional Assembly and the Parliament have enacted provisions attaching specific legal consequences to "sex", they are presumed to have intended that category to be operative, effective, and capable of consistent application. A regulatory regime that renders the category uncertain thereby frustrates the legislative intent and undermines the presumption against futility. The classification by reference to "sex" in constitutional and statutory provisions is not incidental; it is purposive. Each sex-based provision was enacted to address a specific mischief or to serve a specific object, and the classification must bear a rational nexus to that object if it is to satisfy the requirements of Article 14.

16. THAT this Hon'ble Court has consistently recognised sex as a constitutionally sound and reasonable basis of classification for special provisions for women and children. This Hon'ble Court has affirmed that Articles 15(1) and 16(2) prohibit discrimination "only and only on the ground of sex", and that a classification based on sex coupled with other relevant considerations is constitutionally permissible.
17. THAT sex is biological and sex-based classification is constitutionally permissible precisely because it serves the distinct purposes for which such provisions were enacted, namely, the protection of women from historical disadvantage, the advancement of their representation in public life, the safeguarding of their bodily privacy and safety, and the recognition of physiological differences material to specific statutory contexts. The classification derives its constitutional validity from the nexus between the biological category of sex and these legislative objects. If "sex" is construed to mean self-declared or documented gender identity, the classification ceases to bear any rational nexus to the object of the legislation. A biological male holding an Opposite Gender Certificate does not share the historical disadvantage, the physiological characteristics, or the specific vulnerabilities that supplied the reason for the classification in the first instance. The purposive foundation of the classification is thereby destroyed, and the provision is rendered incapable of achieving the object for which it was enacted.

b. The Impugned Regulatory Regime lacks coherence and renders “sex” legally indeterminate

18. THAT the Impugned Regulatory Regime creates legal indeterminacy in the meaning of “sex” through a combination of conflation, inconsistency, and structural ambiguity. The TP Act, as amended by the 2026 Amendments, uses the term “gender” with different meanings in different sections without defining “gender” and “sex”. The 2020 Rules use “gender” in Form 1 to record both biological sex and gender identity. Consequently, when a person obtains documentation regarding a newly professed gender identity, the record of biological sex is altered across all official documents, including Aadhaar, voter identity card, passport, and birth certificate. Pertinently, such official documents do not maintain a consistent reference to “gender” and “sex”; for example, while Aadhar card, PAN card, voter identity card, driving licence refer to “gender”, passport refers to “sex”.
19. THAT even within the ambit of the Impugned Regulatory Regime, the process for acquiring Opposite Gender Certificates is not coherent. Section 7 of the TP Act contemplates issuance of Opposite Gender Certificates by the Medical Superintendent or Chief Medical Officer, and District Magistrate upon surgery by a transgender person, which is inconsistent with the process for obtaining Opposite Gender Certificates under the circulars applicable to “change of gender” in Aadhar card or “change of sex” in passport.

20. THAT the difficulty arises because the Impugned Regulatory Regime simultaneously: (a) uses “sex” as an operative legal classification in constitutional provisions, statutes, and regulations across the legal system; (b) frequently uses “gender” and “sex” interchangeably in instruments; (c) permits self-professed gender identity to override biological sex in official documentation; and (d) ignores the plain meaning of “sex” which refers to the biological classification of human beings as male or female. The effect is that “sex”, as a legal classification, no longer bears a single, coherent, or predictable meaning across the regulatory and statutory framework, which in turn frustrates the purpose of special provisions created for women.
21. THAT the 2026 Amendments acknowledge the problem of indeterminacy. The Statement of Objects and Reasons of the 2026 Amendment Bill expressly stated that “*the existing vague definition*” of “*transgender person*” under the unamended TP Act made “*the operation and enforcement of several provisions under penal, civil and personal laws unworkable.*” It is respectfully submitted that if the executive and legislature recognise that vagueness in one part of the regime renders other provisions unworkable, this constitutes a legislative acknowledgement that legal certainty has been compromised.
22. The Statement of Objects and Reasons of the 2026 Amendment Bill expressly stated that “*any enactment conferring rights, privileges and protections cannot have a*

definition clause whereby the status entitling such rights, privileges and protections can be acquired". However, Section 7 of the TP Act continues to enable biological males to acquire the legal status of women and the rights, privileges and protections which are specifically meant for women.

c. The vagueness and indeterminacy of "sex" produces adverse consequences for statutory rights and protections

23. THAT the indeterminacy of "sex" within the Impugned Regulatory Regime produces concrete and identifiable consequences for the operation of constitutional statutory rights and protections. Where "sex" is uncertain, the class of beneficiaries of sex-based provisions is uncertain. For instance, the distribution of property under succession laws is subject to the sex of the person dying intestate. The constitutional reservations for women under the 73rd, 74th, and 106th Amendments are based on sex-classification and are finite entitlements. Each seat occupied by a biological male with "woman" documents is a seat unavailable to a biological woman.
24. THAT the indeterminacy equally affects the operation of criminal law protections for women. The BNSS provisions requiring that bodily searches of females be conducted by females only, that women not be arrested at night except by a woman police officer, and that statements of female victims of sexual offences be recorded by a woman officer, all depend

on the capacity of the administering authority to determine whether a person is female. If “female” can mean either a biological female or a biological male with “woman” documentation, the authority administering these provisions cannot determine with certainty who is qualified to conduct the search, make the arrest, or record the statement.

25. THAT the indeterminacy extends to the administration of single-sex spaces, services, and institutions. Women’s hostels, women’s shelters, women-only educational institutions, women’s prison wards, and women’s sports categories, all depend on a determinate understanding of who is a woman. The Model Prison Manual, 2016 requires that searches of female prisoners be conducted by female staff only and that female prisoners not be searched in front of males. If the meaning of “female” is uncertain, the administration of these provisions is necessarily discretionary, inconsistent, and dependent upon the interpretation adopted by the individual officer or institution.
26. THAT the indeterminacy further affects the State’s ability to collect and rely upon sex-disaggregated data for the formulation of policy. If “sex” in official records does not consistently refer to biological sex, then data concerning women’s representation, women’s health, women’s safety, and women’s economic participation is rendered unreliable. The State’s capacity to discharge its positive obligations towards women, including through affirmative action under Article 15(3), depends upon the accuracy and integrity of sex-

based data and demographics. The indeterminacy of “sex” within the Impugned Regulatory Regime compromises the evidential foundation upon which such obligations are discharged.

27. THAT the consequence of indeterminacy is not merely theoretical. It produces an environment in which the application of sex-based provisions is inconsistent across States, across institutions, and across administrative authorities. One authority may treat “female” as referring to biological sex while another may treat it as referring to documented gender identity. The same provision may be applied differently depending on the administrative practice of the particular institution, district or State. This inconsistency is itself a violation of the rule of law, which requires that legal provisions be applied uniformly and predictably.
28. THAT in *Anjali Guru Sanjana Jaan v. State of Maharashtra* 2021 SCC OnLine Bom 11, the Bombay High Court permitted a biological man who chose to contest a women’s reserved seat in the Panchayat elections. The Bombay High Court held “...*the petitioner has opted for the female gender as her self-perceived gender identity and makes a solemn statement, which is recorded as the statement made to the Court, that henceforth in her lifetime she would not switch over to the male gender driven by opportunism and would continue to opt for the female gender, in future...*” which

clearly suggests the possibility of mutability of gender identity and consequent legal entitlements and rights.

d. Interpretation of the meaning of “sex” cannot be left to administrative discretion

29. THAT where a legally operative classification is left indeterminate by the legislature, the practical consequence is that substantive policy choices and fundamental rights are transferred to administrative authorities. The Impugned Regulatory Regime has left the meaning of “woman” uncertain. Therefore, administrative authorities must decide, in each individual case and in each context, whether “woman” refers to biological sex or to documented gender identity. This transfer of essential legislative choices to administrative discretion is constitutionally impermissible. It is settled law that the legislature cannot abdicate its essential legislative functions by leaving the content of legally operative categories to be determined by executive discretion.
30. THAT administrative authorities cannot be the arbiter of vesting or divesting fundamental rights, which are inherent in persons.
31. THAT the transfer of this determination to administrative discretion is particularly objectionable where the rights of third parties are affected. When an administrator decides that a biological male with “woman” documentation qualifies as “female” for the purpose of a women-reserved seat or a

women's hostel, the administrator's decision directly affects the rights of biological females who are entitled to those spaces and protections.

e. Harmonisation and coherent interpretation require a precise and determinate meaning of "gender identity" which is distinct from sex

32. THAT the principle of harmonious construction, which is a well-established principle of constitutional interpretation, requires that where different constitutional and statutory provisions appear to conflict, they must be read together to give effect to each. The application of this principle to the present case requires that provisions of the Impugned Regulatory Regime that provide legal recognition of gender identity must be harmoniously interpreted as distinct from sex. The provisions reserving seats for women, protecting women in the criminal justice system, and establishing single-sex spaces must be read with the coherent meaning of "sex" and "woman" across the constitutional and statutory framework
33. THAT harmonious construction further requires that the legal recognition of gender identity directed in *NALSA* must be given effect in a manner that does not undermine the integrity of sex-based classifications in Articles 15 and 16 and in the statutory provisions that depend upon them.

f. The Petitioner's position that "sex" and gender identity" are distinct and that "sex" must be certainly defined is recognised internationally

34. THAT the United Kingdom Supreme Court in *For Women Scotland* held that "woman" and "sex" in the Equality Act 2010 refer to biological sex and not to certificated sex. Particularly, the Court held as follows:

"175. It is significant, however, that there is only one definition of sex. The concept of sex is of foundational importance in the EA 2010. The words sex and woman appear across different parts of the Act and in many sections. It would be surprising if the words sex and woman were intended to have different meanings in different sections or parts of the EA 2010, as the Inner House concluded, especially given the definitions of "man" and "woman" in section 212(1) of the EA 2010. Indeed, it would offend against the principle of legal certainty and the need for a meaning which is constant and predictable, especially in the context of an Act with the purposes we have identified, and which has such practical everyday consequences for so many individuals and organisations in society."

"171. The definition of sex in the EA 2010 makes clear that the concept of sex is binary, a person is either a woman or a man. Persons who share that protected

characteristic for the purposes of the group-based rights and protections are persons of the same sex and provisions that refer to protection for women necessarily exclude men. Although the word "biological" does not appear in this definition, the ordinary meaning of those plain and unambiguous words corresponds with the biological characteristics that make an individual a man or a woman. These are assumed to be self-explanatory and to require no further explanation. Men and women are on the face of the definition only differentiated as a grouping by the biology they share with their group."

35. THAT in *For Women Scotland*, the United Kingdom Supreme Court identified, in a materially analogous context, the same structural problem that arises under the Impugned Regulatory Regime. The Court observed that a "*certificated sex interpretation would cut across the definition of the protected characteristic of sex in an incoherent way.*" Further, the Court observed that provisions relating to pregnancy and maternity only make sense if "woman" means a biological woman. While the legal frameworks differ in their particulars, the underlying constitutional principle is the same. Where legislation uses "sex" as a foundational classification, legal certainty requires that the term bear a meaning that is constant, predictable, and ascertainable, and that meaning is biological sex.

36. THAT this comparative authority is of particular relevance because the United Kingdom, like India, operates a system in which gender recognition certificates are available under statute, and in which the relationship between gender reassignment and sex-based legal provisions had to be resolved. The United Kingdom Supreme Court resolved that question by holding that sex-based provisions refer to biological sex, thereby preserving the determinacy of sex as a legal classification without disturbing the separate system of protection on the ground of gender reassignment in the Equality Act 2010. The Petitioner respectfully submits that a similar approach is both constitutionally required and practically achievable in the Indian context.

II. THE IMPUGNED REGULATORY REGIME IS ARBITRARY, DISCRIMINATORY AND VIOLATIVE OF THE GUARANTEE OF EQUALITY AND EQUAL PROTECTION OF THE LAWS UNDER ARTICLE 14 OF THE CONSTITUTION

37. THAT Article 14 of the Constitution guarantees equality before the law and equal protection of the laws. It proceeds on the principle that the State shall treat persons similarly situated alike and may classify persons who are differently situated in material respects for differential treatment.
38. THAT any classification by the State is constitutionally permissible only if: (i) the persons grouped together share an intelligible differentia, founded upon real and discernible

characteristics, which distinguishes them from those excluded from the class; and (ii) the characteristics constituting that differentia bear a rational relationship to the object sought to be achieved by the legislation.

39. THAT in a catena of judgments, this Hon'ble Court has held that a classification which is arbitrary, artificial or evasive, or rests upon a palpably unreasonable basis, cannot be sustained under Article 14.
40. THAT the Impugned Regulatory Regime violates Article 14 insofar as it permits biological males holding Opposite Gender Certificates, or biological males self-professing a mutable, non-verifiable "woman" gender identity, to be treated as belonging to the same class as biological females for the purposes of sex-specific rights, protections and entitlements for women. Such equal treatment of materially differently situated persons is antithetical to the guarantee of equality under Article 14 and unconstitutional.
 - a. **The common classification of biological females and biological males holding Opposite Gender Certificates under the Impugned Regulatory Regime is arbitrary and fails the test of intelligible differentia under Article 14.**
41. THAT the Impugned Regulatory Regime places within a single class of "women" two materially distinct groups, *i.e.*,

biological females and biological males holding Opposite Gender Certificates, and excludes biological females holding Opposite Gender Certificates from the class of “women”. *Ex facie*, the common classification does not rest on any shared quality or characteristic and creates a false equivalence between the two materially distinct groups.

42. THAT the common classification is manifestly arbitrary, as the recognition of a biological male as ‘female’ under the Impugned Regulatory Regime does not alter either of the two material circumstances distinguishing the two groups: *first*, it does not alter biological sex, considering that sex is determined at conception and immutable; *second*, it does not place a biological male within the circumstances arising from the sex-based disadvantage historically experienced by biological females.
43. THAT Indian law has long recognised biological females as a distinct class in response to circumstances arising from their sex, including historical exclusion, under-representation and disadvantage, as well as considerations of bodily privacy, safety, physiological differences and reproductive function. The subsequent identification of a biological male as ‘female’ cannot place him within those circumstances or erase the sex-based basis on which biological females have been treated distinctly under law. The two groups, therefore, remain materially differently situated notwithstanding their inclusion within the same legal class of “female”. Similarly, biological

females legally classified as “male” continue to share the circumstances of other females.

44. THAT the materiality of the differences between biological females and biological males is evident from the rights, protections and entitlements accorded specifically to biological females under law, several of which are founded upon the very sex-based circumstances identified above. By placing these two groups within the same class of “women”, the Impugned Regulatory Regime collapses a distinction material to the object and operation of such measures and, in consequence, impairs the protection or benefit specifically secured to biological females.

45. THAT the constitutional infirmity in the common classification cannot be justified by relying upon the right to legal recognition of ‘gender identity’ recognised in *NALSA*, which warrants reconsideration. Even otherwise, legal recognition of identity does not place a biological male holding an Opposite Gender Certificate within the same legal class as biological females for sex-specific rights, protections and entitlements. The recognition of ‘gender identity’ in *NALSA* cannot, therefore, be construed as displacing the independent legal significance of biological sex.

b. The classification of biological males holding Opposite Gender Certificates along with biological females bears no rational nexus to the distinct objects, underlying

rights, protections and entitlements specifically conferred upon biological females under law.

46. THAT women-specific and sex-based laws, policies and institutional arrangements are directed towards specific objects, including, *inter alia*, remedying the historical underrepresentation and disadvantage of biological females through affirmative action, accounting for relevant physiological differences, safeguarding the privacy, dignity and safety of biological females, and providing protections in connection with pregnancy and maternity.
47. THAT, notwithstanding these distinct objects, an Opposite Gender Certificate conferred upon a biological male under the Impugned Regulatory Regime determines, by itself, eligibility for every right, protection or entitlement specifically accorded to biological females. In effect, it makes biological males eligible for measures founded upon the distinct circumstances, interests or disadvantages of biological females, irrespective of the object for which those particular measures were enacted. Such indiscriminate treatment bears no rational nexus to the objects of those measures and falls foul of the requirements of reasonable classification under Article 14.
48. THAT the inherent infirmity in placing biological males holding Opposite Gender Certificates within the same beneficiary class as biological females across diverse contexts, including the resulting disadvantage to biological

females and dilution of the protections and benefits secured to them, such as in case of political reservations and corporate representation. Such affirmative measures are directed towards addressing the historical under-representation of biological females in elective bodies, corporate leadership and increasing their participation in decision-making. If a biological male with an Opposite gender Certificate is treated as satisfying these requirements solely based on gender identity, formal compliance may be achieved without increasing the representation of biological females in such roles. Similar adverse consequences would also be seen in case of employment quotas, educational institutions and scholarships, competitive sports, public employment.

49. THAT the classification of biological males as females does not even bear a rational nexus to the stated object of the TP Act itself which is “*to provide for protection of rights of transgender persons and their welfare and for matters connected therewith and incidental thereto*” (emphasis supplied). The operative effect of the Impugned Regulatory Regime disproportionately extends beyond this object by authorizing Opposite Gender Certificates (and thus their cascading negative effects) which have no nexus to the protection, welfare or any such connected object for transgender persons – rather it impinges upon the protections and welfare statutorily granted to biological females.

c. The Impugned Regulatory Regime is manifestly arbitrary, as it lacks an adequate determining principle and operates in a capricious, excessive and disproportionate manner.

50. THAT in this Hon'ble Court has held in a catena of judgments that a legislation may be struck down under Article 14 for manifest arbitrariness, if it is capricious, irrational, without an adequate determining principle, or excessive and disproportionate.
51. THAT the Impugned Regulatory Regime is capricious and irrational in its operation and lacks an adequate determining principle for distinguishing the circumstances in which gender identity, as opposed to biological sex, governs the application of rights, protections and entitlements conferred specifically upon biological females. By conflating biological sex with gender identity, the Impugned Regulatory Regime permits a biological male holding an Opposite Gender Certificate to be treated at par with a biological female under laws specifically referring to 'women' or 'female', even if the object of the particular law is founded upon biological sex or considerations specific to biological females. It also removes biological females with Opposite Gender Certificates from the protection of such legislation.
52. THAT the Impugned Regulatory Regime is also excessive and disproportionate in its operation. The legal recognition of a biological male as 'female' upon grant of an Opposite

Gender Certificate impacts the eligibility across the entire spectrum of sex-based classification and women-specific rights, protections and entitlements, including political and employment reservations, criminal-law protections, women's sporting categories, women-only educational institutions and placement in women's prisons. The imposition of these far-reaching legal consequences is disproportionate to the purpose of recognising a biological male's gender identity as 'female' and is, therefore, manifestly arbitrary and *ultra vires* Article 14.

d. The Impugned Regulatory Regime, in its operation and effect, discriminates against biological females and perpetuates their existing disadvantage.

53. THAT the Impugned Regulatory Regime operates to the particular disadvantage of biological females as a class and must, therefore, be examined in accordance with the framework for indirect discrimination laid down by this Hon'ble Court in *Lt. Col. Nitisha v. Union of India*, (2021) 15 SCC 125 ("*Nitisha*").
54. THAT, in *Nitisha*, this Hon'ble Court held that indirect discrimination may arise from "*facially neutral criteria*" which fail to take into account "*the underlying effects of a provision, practice or a criterion*", and that "*in order to achieve substantive equality prescribed under the Constitution, indirect discrimination, even sans discriminatory intent, must be prohibited*". This Hon'ble

Court adopted a two-step test for identifying indirect discrimination: *first*, whether the impugned provision, rule or criterion disproportionately impacts a particular group; and *second*, whether such impact reinforces, perpetuates or exacerbates the disadvantage suffered by that group, having regard to any systemic or historical disadvantage faced by it. The enquiry, therefore, turns upon the actual discriminatory effect on the concerned group, irrespective of its form or underlying intent.

55. THAT the Impugned Regulatory Regime, in its operation and effect, satisfies both limbs of the test for indirect discrimination laid down in *Nitisha* and constitute indirect discrimination against biological females.

(a) As regards the first limb, the Impugned Regulatory Regime disproportionately and adversely impacts biological females because the extension of women-specific rights, protections, entitlements and spaces to biological males with Opposite Gender Certificates affects the interests of biological females for whose benefit or protection those measures exist. Where the benefit is finite, such as a reserved seat, scholarship place or quota position, the inclusion of a biological male who identifies as 'female' directly reduces what is available to biological females. Where the protection is bodily, such as a sex-segregated prison, bodily search or crisis shelter, such inclusion alters the nature and

efficacy of the protection afforded to biological females.

- (b) Regarding the second limb, women-specific constitutional and statutory measures exist precisely because of the historical exclusion of biological females from political institutions, educational opportunities, economic participation and positions of authority, as well as their vulnerability in contexts involving bodily privacy and safety. By extending such measures to biological males with Opposite Gender Certificates, the Impugned Regulatory Regime dilutes their remedial and protective effect for biological females and thereby perpetuates the very disadvantage they seek to address.

- 56. THAT the Impugned Regulatory Regime also excludes biological females who obtain an Opposite Gender Certificate recognising them as 'male' from women-specific rights, protections and entitlements. Such exclusion occurs even though the sex-based disadvantage for which those measures were created may continue to apply to them. The Impugned Regulatory Regime, therefore, operates in both its inclusionary and exclusionary effects to perpetuate the disadvantage suffered by biological females as a class.

**e. Upholding the right to equality under Article 14
requires comparison between similarly placed classes**

57. THAT for the purposes of Article 14, the appropriate comparator should be identified by reference to the ground of the alleged discrimination. To evaluate discrimination on the ground of gender identity, the correct comparison is between a biological male who identifies as “female”, including pursuant to an Opposite Gender Certificate, and a biological male who does not identify as “female”. This is because the biological sex of both remains the same. The same principle applies to a biological female who identifies as “male”, where the appropriate comparator would be to a biological female who does not profess transgender / cross-sex identification. A biological female is not the comparator for a biological male who identifies as a “female”, due to the differences between these two classes in physiology, social position, historical discrimination.
58. THAT in *For Women Scotland*, the UK Supreme Court, while interpreting the Equality Act 2010 which separately protects both sex and gender reassignment, held that “*where gender reassignment is the protected characteristic, in the case of a male person proposing to or undergoing gender reassignment to the opposite sex, the correct comparator is likely to be a man without the protected characteristic of gender reassignment and similarly for a woman*”.

59. THAT the Petitioner submits that the prohibition against discrimination on the ground of gender identity, as recognised by this Hon'ble Court in *NALSA*, must operate alongside the prohibition against discrimination on the ground of sex. To evaluate whether a male who professes a "woman" gender identity is discriminated against, the comparator is a male who does not profess such an identity. The constitutional commitment to non-discrimination protects a person from being subjected to adverse treatment merely because that person identifies as transgender or does not conform to sex-role stereotypes. It does not entitle that person to be treated as a member of a sex class he does not belong to. Preserving sex-based classification does not constitute discrimination against a transgender-identified person on the ground of gender identity.

III. THE IMPUGNED REGULATORY REGIME IS DISCRIMINATORY AGAINST BIOLOGICAL FEMALES AND VIOLATIVE OF THEIR RIGHT TO SUBSTANTIVE EQUALITY UNDER ARTICLE 15(3) OF THE CONSTITUTION.

60. THAT Article 15(3) is an integral component of the constitutional guarantee of equality and equal protection of the laws under Article 14, which expressly empowers the State to make special provisions for women and children. It operates as a proviso to Article 15(1) by carving out from the general prohibition against discrimination on the ground of

sex, a limited constitutional permission for special provisions in favour of women.

61. THAT the constitutional premise underlying Article 15(3) is that substantive equality cannot always be achieved by treating biological males and females alike and may, therefore, require differential treatment to address the historical and social disadvantage of biological females and protect interests particular to them by reason of their distinct biological circumstances.
62. THAT the scope of Article 15(3) extends across the range of State activity, including affirmative action and measures directed towards the educational, economic, political and social advancement of women, as well as sex-specific measures founded upon considerations of privacy, protection or other interests particular to biological females.
63. THAT this Hon'ble Court has recognised that women of this country have been socially and economically handicapped for centuries and that, for this reason, Article 15(3) seeks to bring about effective equality between men and women and strengthen and improve the status of women.
64. THAT this Hon'ble Court has reaffirmed the remedial character of Article 15(3), holding that it contemplates affirmative action to the advantage of women with a view to integrate them into society and to take them out of patriarchal control, and that legislation intended for such affirmative

action must not only be liberally construed and interpreted but also must override any other legislation that seeks to restrict the benefit made available thereunder.

65. THAT the constitutional mandate of Article 15(3) clearly recognises that women-specific measures are not ends in themselves, but instruments for securing substantive equality for women. Their operation must, therefore, remain consistent with the disadvantage, interests or vulnerabilities which justified their adoption, and neither such measures nor any other legislation can operate in a manner that diminishes the benefit or protection secured to women as a class.
66. THAT the Impugned Regulatory Regime violates Article 15(3) inasmuch as it operates to the disproportionate detriment of biological females and perpetuates their existing sex-based disadvantage by extending women-specific rights, protections and opportunities to biological males with Opposite Gender Certificates. This is evident both in finite women-specific measures and in sex-specific protections and spaces:
 - (a) In the context of finite women-specific measures, extending eligibility to biological males with Opposite Gender Certificates, necessarily reduces the opportunities available to biological females. For instance, in women-specific posts, scholarships, institutional places and other finite opportunities. Thus,

even though the particular reservation or benefit remains formally unchanged, its availability to biological females, and its capacity to remedy their historical exclusion and under-representation, are significantly diminished.

- (b) Women-specific protections and spaces also serve the distinct purpose of safeguarding the privacy, dignity and safety of biological females. By treating biological males holding Opposite Gender Certificates as women for the purposes of such measures, the Impugned Regulatory Regime alters their operation and diminishes the substantive protection they afford to biological females. This consequence arises in, *inter alia*, safeguards concerning arrest, bodily searches, recording of statements and custodial arrangements, as well as in women's shelters, hostels, prison wards and other sex-segregated spaces and circumstances involving intimate care or supervision.
67. THAT the foregoing effects of the Impugned Regulatory Regime, viewed cumulatively, impose a disproportionate burden upon biological females and perpetuate their existing sex-based disadvantage. It consequently defeats the substantive equality sought to be secured to women and is, therefore, *ultra vires* Article 15(3) of the Constitution.

**IV. THE IMPUGNED REGULATORY REGIME
VIOLATES ARTICLE 19(1)(a) AND 25(1) OF THE
CONSTITUTION BY COMPELLING ALL CITIZENS
TO AFFIRM PROPOSITIONS CONCERNING SEX
AND GENDER IDENTITY**

68. THAT Article 19(1)(a) of the Constitution guarantees to all citizens the freedom of speech and expression. This Hon'ble Court has consistently held that the freedom of speech and expression is not merely a positive right to speak but also encompasses a negative right to not be compelled to speak, and the right not to be required to affirm a proposition which one does not accept. Article 25(1) of the Constitution guarantees freedom of conscience for all persons.
69. THAT it has been settled by this Hon'ble Court that the State cannot compel a citizen to communicate, affirm, or express a proposition which she does not accept, unless such compulsion is authorised by law and satisfies the requirements of reasonable restrictions under Article 19(2) of the Constitution.
70. THAT it is also settled law that Article 19 imposes a negative restraint on the State not to interfere with the freedoms of all citizens, and a duty on the State to ensure that conditions for the free and unrestrained exercise of those freedoms are created.

71. THAT under the Impugned Regulatory Regime, a biological male who has obtained an Opposite Gender Certificate, or who has otherwise been documented as “female”, is treated as a “woman” for all State purposes. Individuals may be placed in circumstances where they are required, by operation of law or institutional practice deriving from the Impugned Regulatory Regime, to address or describe a biological male as a “woman”, to use terminology which treats that person’s professed “woman” gender identity as overriding his male sex, to refrain from acknowledging or describing that person’s biological sex, or to communicate in a manner that necessarily affirms the proposition that the person is “female”. This amounts to compelled speech and expression within the meaning of Article 19(1)(a).
72. THAT where the law requires any person to describe or acknowledge a male as a “woman” solely because he possesses an Opposite Gender Certificate or self-professes a gender identity, the State requires the individual to express, communicate, or affirm a proposition which she does not accept. The distinction between a person’s right to identify or describe themselves in accordance with their gender identity, and the State compelling another citizen to affirm that identity or endorse that identity as a factual proposition, is constitutionally significant. An individual has the right to hold and profess a gender identity, this cannot, however, automatically be transformed into a constitutional power to compel another person’s speech and expression.

73. THAT *NALSA*'s right to legal recognition of gender identity, as implemented in the Impugned Regulatory Regime, has created legal consequences for refusal to affirm a person's documented or declared gender identity. In *Jane Kaushik v. Union of India*, 2026 1 SCC 336, biologically female staff who voiced that a biological male colleague placed in the women's hostel was biologically male were characterised as engaging in "body shaming", which the employer was expected to prevent. Thus, the Impugned Regulatory Regime requires affirmative communication where biological females are required to affirm the "woman" gender identity of a biological male and may face institutional or legal consequences for accurately describing his male biological sex. Where the State mandatorily prescribes a citizen's description of another person's sex and attaches adverse consequences in case of deviation based on conscientious beliefs, the State violates the right to remain silent and the right against compelled speech and expression under Article 19(1)(a) and Article 25(1).

74. THAT this Hon'ble Court in *Union of India v. Motion Picture Association*, (1999) 6 SCC 150, recognised the concept of "must carry" provisions, reaffirmed recently in *Kaushal Kishore v. State of Uttar Pradesh* (2023) 4 SCC 1. This Hon'ble Court held as follows:

"15. It is contended that just as a restraint on free speech is a violation of Article 19(1) [except as permitted under Article 19(2)] compelled speech,

often known as a “must carry” provision in a statute, rule or regulation, is equally an infringement of the right to free speech, except to the extent permitted under Article 19(2). However, whether compelled speech will or will not amount to a violation of the freedom of speech and expression, will depend on the nature of a “must carry” provision. If a “must carry” provision furthers informed decision-making which is the essence of the right to free speech and expression, it will not amount to any violation of the fundamental freedom of speech and expression. If, however, such a provision compels a person to carry out propaganda or project a partisan or distorted point of view, contrary to his wish, it may amount to a restraint on his freedom of speech and expression [...]”

75. THAT NALSA’s right to legal recognition of gender identity, as implemented in the Impugned Regulatory Regime, operates as a compelled affirmation of one conception that gender identities exist and determine who is a “man” or a “woman”, while suppressing or penalising an alternative viewpoint that gender identities do not exist and biological sex determines who is a “man” or a “woman”. A woman who describes a biological male as male is not expressing an opinion but stating a fact which the State, through the Impugned Regulatory Regime, requires her to contradict. This is compelled affirmation of a factual proposition that fails the “must carry” provision test.

76. THAT any restriction upon the right guaranteed by Article 19(1)(a) must satisfy the constitutional requirements of Article 19(2). Article 19(2) permits the State to impose reasonable restrictions upon the freedom of speech and expression, but only "by law" and only on the grounds therein enumerated, namely: sovereignty and integrity of India, security of the State, friendly relations with foreign States, public order, decency or morality, contempt of court, defamation, or incitement to an offence. The compelled affirmation imposed by the Impugned Regulatory Regime does not fall within any enumerated ground under Article 19(2).
77. THAT a person's self-identification, or an administrative certificate recording that self-identification, cannot itself constitute a "law" for the purposes of Article 19(2). The constitutional requirement is that the restriction must trace back to valid legislation and must satisfy a recognised ground under Article 19(2). A restriction upon another citizen's rights under Article 19(1)(a) cannot arise merely from self-identification or from the administrative act of issuing a certificate.
78. THAT the recognition of biological sex is a legitimate exercise of the freedom of speech and expression, and that the Impugned Regulatory Regime, by attaching adverse legal consequences to such acknowledgment, imposes an impermissible restriction on Article 19(1)(a) of the

Constitution. In *Maya Forstater v. CGD Europe*, [2021] UKEAT/0105/20/JOJ, the Employment Appellate Tribunal in the UK held that the belief that sex is immutable and that it is not possible for a person to change their sex, while capable of being offensive to transgender persons in some circumstances, constitutes a philosophical belief protected under Article 9(1) of the European Convention on Human Rights and under the Section 10 of the Equality Act, 2010. They have held that such a belief, including the practice of referring to a person by their biological sex, falls within the scope of protected beliefs, notwithstanding its potential to cause offence.

79. THAT similarly, several courts in the United States upheld the proposition that compelling people to use preferred pronouns in reference to transgender-identified people violated the First Amendment of the United States Constitution.
80. THAT the principle that the State cannot compel citizens to affirm a proposition they do not accept is well-established. This principle applies with equal force to the present case: if the Impugned Regulatory Regime compels citizens to describe a biological male as a woman or vice versa, or compels citizens to describe gender identities as a fact rather than a belief, or subjects them to the penal consequences of Section 18(d) of the TP Act for failing to do so, the State is not merely failing in its negative duty but affirmatively

restricting rights under Article 25(1) as well as rights under Article 19(1)(a) without authorisation under Article 19(2).

81. THAT the Petitioner respectfully acknowledges and affirms that transgender-identified persons are entitled to the full protection of their constitutional dignity and equality as equal citizens under the law. What conflicts with Articles 19(1)(a) and 25(1) is the specific compulsion that the legal right to recognition, as implemented by the Impugned Regulatory Regime, places upon others' expression, to affirm that gender identities exist, or to describe a biological male as a "woman" due to gender identity, or to describe a biological female as a "man" due to gender identity, or to refrain from acknowledging biological sex, on the fear of legal sanction. This compulsion is not authorised by law, does not fall within the reasonable restrictions enshrined under Article 19(2), and is, therefore, constitutionally impermissible.

V. THE IMPUGNED REGULATORY REGIME VIOLATES ARTICLE 21 OF THE CONSTITUTION BY IMPINGING ON WOMEN'S RIGHTS TO LIFE, PERSONAL LIBERTY, DIGNITY, BODILY INTEGRITY, PRIVACY AND PERSONAL SECURITY

82. THAT Article 21 of the Constitution provides that no person shall be deprived of life or personal liberty except according to procedure established by law. This Hon'ble Court has, through a long and consistent line of authorities, interpreted Article 21 to encompass not merely the bare right to physical

existence but the right to livelihood, the right to live with dignity, the right to bodily integrity, the right to privacy, the right to personal security, and the right to conditions that enable meaningful participation in public and private life. The right to dignity is not merely aspirational but is an enforceable fundamental right that imposes obligations upon the State.

83. THAT in *Vishaka v. State of Rajasthan*, (1997) 6 SCC 241 (“*Vishakha*”), this Hon’ble Court held that the State has a positive obligation under Article 21 to protect women’s dignity and safety in institutional settings. This Hon’ble Court laid down binding guidelines to ensure that women could participate in employment free from sexual harassment, recognising that the absence of State-established protective frameworks itself constitutes a violation of Articles 21.
84. THAT in *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1 (“*Puttaswamy*”), a nine-judge Constitution Bench of this Hon’ble Court unanimously held that the right to privacy is a fundamental right protected under Article 21. This Hon’ble Court has identified three dimensions of privacy: (a) privacy of the person, which includes bodily integrity; (b) informational privacy, which includes the right to control the dissemination of personal information; and (c) privacy of choice, which includes decisional autonomy in intimate and personal matters. Each of these dimensions is directly engaged by the Impugned Regulatory Regime.

85. THAT Article 21 imposes both negative and positive obligations upon the State. The State must not only refrain from infringing the rights to life, personal liberty, dignity, bodily integrity, privacy, and personal security of women, but must affirmatively establish and maintain legal frameworks that protect women's safety, privacy, dignity, and bodily integrity. In failing to maintain a legal distinction between sex and self-professed gender identity, thereby permitting the erosion of sex-based protections for women, the Impugned Regulatory Regime fails to discharge these positive obligations.

a. Violation of women's rights under Article 21 of the Constitution

86. **Dignity:** THAT women's constitutional dignity under Article 21 includes the ability to maintain bodily, psychological, and social boundaries. When the State treats self-professed gender identity as capable of altering legal sex, women may be compelled to share intimate spaces with biological males and may be prohibited from acknowledging biological sex, which constitutes a direct infringement of dignitary interests of women protected under Article 21.
87. THAT in *Jane Kaushik v. Union of India*, (2026) 1 SCC 336, this Hon'ble Court considered the case of a biological male teacher who was placed in the women's hostel of a private school. The school argued that it had "*treated her as a biological woman in all manners possible*". Biologically

female staff members who voiced that the teacher was biologically male were characterised as engaging in “body shaming”. The case illustrates the dignitary consequences of the impugned framework. Women are required not merely to share intimate residential spaces with a biological male, but to affirm that person’s “female identity”, on pain of institutional sanction. This constitutes a direct violation of a woman’s dignitary autonomy under Article 21.

88. **Bodily Integrity and Bodily Autonomy:** THAT Article 21 protects bodily integrity as a core component of the right to life, as affirmed in *Puttaswamy*. Women may be required to share accommodation, bathing, sleeping, and toileting facilities with biological males who hold “woman” documentation. The compelled sharing of intimate bodily spaces with persons of the opposite biological sex constitutes an infringement of bodily integrity and bodily autonomy.
89. THAT in *Hina Haneefa v. State of Kerala*, 2021 SCC OnLine Ker 4755, it was submitted by National Cadet Corps that admitting a biological male with “woman” documents into the Girls Division would violate the privacy and dignity of girl cadets, since the Armed Forces require “*close physical contact, confined stay under field conditions, sharing of basic facilities like accommodation, toilets, bathing, sleeping facilities*”. The NCC’s submission acknowledged that biological sex remains pertinent to bodily integrity and privacy in shared intimate spaces, irrespective of documented gender identity. On appeal the Division Bench of the Kerala

High Court in *National Cadet Corps v. Hina Haneefa*, 2024 SCC OnLine Ker 931, upheld the admission of the male into the Girls Division, demonstrating the inadequacy of the current framework to protect women's bodily integrity.

90. **Privacy:** THAT the three-part privacy framework established in *Puttaswamy* is directly engaged by the impugned provisions.
91. THAT as regards physical privacy (privacy of the person), women's right to bodily privacy in sex-segregated spaces, including washrooms, hostels, sleeping quarters, changing rooms, hospital wards, and prison enclosures, is a fundamental right under Article 21. Sex-segregated spaces exist precisely because women have a constitutionally protected interest in not being observed or touched by biological males in a state of undress or vulnerability. When biological males with "woman" documentation access these spaces, the physical privacy of every woman in that space is infringed.
92. THAT as regards decisional privacy (privacy of choice), women have a constitutionally protected right to choose same-sex care, same-sex supervision, and same-sex companionship in intimate or vulnerable settings. The Impugned Regulatory Regime, by treating documented gender identity as more important than biological sex, deprives women of the ability to exercise this choice, such as

seeking a female nursing assistant, a female police officer to conduct a bodily search, or a female warden in a hostel.

93. THAT as regards informational privacy: the Impugned Regulatory Regime may compel women to disclose discomfort, articulate reasons for their expectation of sex-based boundaries or justify their preference for same-sex care. Women should not be required to explain why they prefer that intimate bodily care be provided by a biological female, or why they feel unsafe sharing a hostel room with a biological male. The obligation to articulate and justify such preferences is itself an infringement of informational privacy.
94. THAT while persons with Opposite Gender Certificates acquired through the Impugned Regulatory Regime may consider their sex to be private information, it is well established that informational privacy, while a facet of the fundamental right to privacy, is not absolute. Sex is not ordinarily private information. It is readily observable in daily life and is recorded on all official identifying documents. While acquiring State documentation that misrecords sex enables an individual to conceal their sex, it does not follow that the right to conceal sex falls under the constitutional right to informational privacy.
95. THAT this Hon'ble Court, in the concurring opinion in *Puttaswamy*, observed in paragraph 583 that an individual's right to control dissemination of personal information is

subject to the interests of the community, the State, and of others. It was further observed in paragraphs 639 and 640 that the right to privacy "*is not an absolute right*" and that restrictions may be justified, subject to the principle of proportionality, on the grounds of, *inter alia*, other fundamental rights, legitimate national security interests, public interest, and the prevention, investigation and prosecution of criminal offences including safeguards against threats to public security.

96. THAT it was specifically held that the right to privacy "*must be considered in relation to its function in society and be balanced against other fundamental rights*". Applied to the present case, even if the biological sex of a person who has acquired an Opposite Gender Certificate that misrecords sex is characterised as personal information attracting informational privacy, that claim must be balanced against the fundamental rights of biological females under Article 21, including their rights to bodily privacy, safety, dignity and personal security in sex-segregated spaces, intimate care settings, criminal-law safeguards and institutional arrangements where biological sex is material. The informational privacy of the certificate holder cannot prevail where knowledge of biological sex is necessary for the protection of other persons' fundamental rights or State interest.
97. THAT the limits of informational privacy are further illustrated by the treatment of the right to be forgotten in

Puttaswamy. While recognising that an individual should be able to exercise control over personal data that is no longer necessary, relevant, or serves no legitimate interest, the concurring view in paragraph 636 expressly held that such a right cannot be exercised “*where the information/data is necessary, for exercising the right of freedom of expression and information, for compliance with legal obligations, for the performance of a task carried out in public interest, on the grounds of public interest in the area of public health, for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes, or for the establishment, exercise or defence of legal claims*”.

98. THAT it was further observed in paragraph 635 that this right “*should not amount to a right of total eraser of history*” and that it must be “*balanced against other fundamental rights like the freedom of expression, or freedom of media, fundamental to a democratic society*”. The Petitioner submits that the biological sex of a person is information that is necessary for compliance with legal obligations (including the sex-specific provisions of the BNSS, the BNS, and the special provisions created for women in various statutes), for the performance of tasks carried out in the public interest (including the administration of sex-segregated spaces, electoral reservations, and sex-disaggregated data collection), and for the protection of the fundamental rights of biological females. No claim to informational privacy or a right to be forgotten can operate to suppress biological sex data where

that data is necessary for these constitutionally mandated purposes.

99. **Personal Security:** THAT Article 21 imposes an obligation upon the State to protect women from reasonably foreseeable risks to physical safety. In *Anamika v. State of Kerala*, 2022 SCC OnLine Ker 3882, the Kerala High Court directed the Kerala State Sports Council to admit a biological male into the women's category of judo, a full-contact combat sport involving throwing, pinning, and choking. The biological male person subsequently won gold at the state-level women's judo championship in December 2025 and had earlier also won a gold medal at a district-level competition in Kerala. Male physical advantages in skeletal structure, cardiac capacity, muscle mass, bone density, and strength persist regardless of surgery or hormonal intervention. The safety of female athletes in contact sports is directly affected.
100. THAT the IOC's Policy on the Protection of the Female (Women's) Category in Olympic Sport and Guiding Considerations for International Federations and Sports Governing Bodies dated 26 March 2026 recognises that male sex confers a performance advantage of 10 to 12 percent in running and swimming, over 20 percent in throwing and jumping, and exceeding 100 percent in events that involve explosive power, such as collision, lifting and punching sports, and that testosterone suppression does not eliminate this advantage. The IOC accordingly restricts the women's category to biological females, even after hormonal or

surgical interventions. The Impugned Regulatory Regime, which permits biological males to compete in women's sports categories based on documented gender identity, fails to discharge the State's positive obligation to protect women's physical safety under Article 21.

101. THAT a key purpose of women-only spaces including hostels, hospital wards, prisons, shelters, rape crisis centres, etc., is to ensure the personal security of women and minimise their risks of physical or sexual violence. The Impugned Regulatory Regime erodes the rights to personal security of every woman in such a space by allowing access to biological males.
102. **Positive Obligations:** THAT Article 21 imposes affirmative obligations upon the State, not merely negative duties of non-interference. In *Vishaka* (supra), this Hon'ble Court held that the State has a positive duty to create conditions for women's safe and dignified participation in employment. The BNSS provisions requiring women to be arrested only by women police officers (Section 43(5) of the BNSS), requiring bodily searches of women to be conducted by women only, with "*strict regard to decency*" (Section 49(2) of the BNSS), and requiring statements of sexual offence female victims to be recorded by women officers (*proviso* to Section 180(3) of the BNSS) reflect the State's positive obligations to protect women's dignity and safety.

103. THAT the State has a positive obligation to establish and maintain a legal framework in which women's sex-based rights, privacy, dignity, and safety are protected. A framework that permits sex to be replaced by self-professed gender identity in official documentation, thereby enabling biological males to access women's spaces, women's protections, and women's entitlements, fails to discharge this positive obligation. The failure is not incidental or remote; it is a direct consequence of the Impugned Regulatory Regime.

104. THAT the burden imposed on women by the impugned framework is grossly disproportionate to any benefit achieved. Women suffer the loss of single-sex spaces, competitive fairness in sport, personal safety in intimate settings, privacy in states of vulnerability, sex-specific criminal law protections, political representation in reserved seats, and the dignity of being able to name biological reality. Rather than mere marginal or hypothetical harms, these are systemic, structural, and ongoing threats to the rights of women.

**VI. NALSA DID NOT HOLD GENDER IDENTITY OR
"CHANGE OF GENDER" AS CHANGE OF
BIOLOGICAL SEX, WHICH WOULD ENTITLE A
BIOLOGICAL MALE TO ALL RIGHTS,
PROTECTIONS AND BENEFITS SPECIFICALLY
GRANTED TO A BIOLOGICAL FEMALE**

105. THAT a two-judge bench of this Hon'ble Court in *NALSA*, *inter alia*: (a) recognised dignity, equality, and anti-

discrimination protection of transgender-identified persons; (b) recognised a third gender category, along with welfare schemes for transgender-identified persons; (c) recognised rights of transgender-identified persons; to profess their gender identity; (d) held that insistence for SRS for declaring one's gender identity is illegal. However, it did not consider the impact of treating a biological male, who identifies as 'female', as a 'woman' or 'female' for the purposes of women-specific statutory categories across various laws.

106. THAT the present Petition concerns the legal consequences arising from the constitutional right to legal recognition of gender identity recognised in *NALSA*, as given effect to under the Impugned Regulatory Regime. As law stands today, a biological male who identifies as 'female' pursuant to an Opposite Gender Certificate, is treated as a biological "female" for all legal purposes, including for the purposes of laws, policies, protections and entitlements specifically applicable to women. Such treatment impermissibly grants self-declared gender identity primacy over biological sex.
107. THAT the Impugned Regulatory Regime travels beyond the scope of what was considered and decided in *NALSA* and cannot derive constitutional validity from that judgment insofar as it treats a biological male, who identifies as a 'female', as belonging to the opposite biological sex or, by itself, conferring upon biological males all rights, protections and benefits specifically granted to biological females under law.

- a. **The *lis* in *NALSA* did not contemplate or adjudicate upon the consequences of a biological male, identifying as a 'female', for the purposes of women-specific laws and protections**

108. THAT *NALSA* did not consider, much less decide, the consequences of a biological male identifying as a 'female' (post-surgery or otherwise) or granting an Opposite Gender Certificate to a biological male, for the purposes of statutes, policies or protections enacted specifically for the benefit of biological females. In particular, the judgment did not examine the operation of laws employing the terms 'woman' or 'female', especially in contexts where eligibility depends upon sex-specific circumstances, including bodily privacy, safety, reproductive function, historical disadvantage or competitive fairness.

109. THAT this is also evident from the fact that the rights and interests of biological females in such contexts were not even placed in issue, argued or considered in *NALSA*. There was no representation of the interests of biological females, no submissions were advanced on the effect that recognition of a biological male's gender identity as 'female' may have upon women-specific laws, policies, spaces or entitlements, and no such issue formed part of the record before this Hon'ble Court. Thus, *NALSA* does not lay down any finding on the legal consequences of a biological male identifying as

‘female’, particularly where such identification intersects with the rights and interests of biological females.

110. THAT it is settled law that a judgment is an authority only for what it decides and not for every observation contained therein or in propositions that may logically follow from such observations. Thus, *NALSA* cannot be read as deciding a question which neither arose for consideration nor formed part of the *ratio decidendi* necessary for disposal of the *lis* before it.

b. The holding in *NALSA* that discrimination on the ground of ‘sex’ under Articles 15 and 16 includes discrimination on the ground of gender identity concerns the protective reach of the anti-discrimination guarantee and does not determine membership of women-specific beneficiary classes.

111. THAT in paragraphs 66 to 68 of *NALSA*, this Hon’ble Court expressly recognised that “*The discrimination on the ground of ‘sex’ under Articles 15 and 16, therefore, includes discrimination on the ground of gender identity. The expression ‘sex’ used in Articles 15 and 16 is not just limited to biological sex of male or female, but intended to include people who consider themselves to be neither male or female.*” It did not, however, hold that gender identity replaces biological sex or renders the two interchangeable under Articles 15 or 16.

112. THAT the inclusion of gender identity within the protection afforded by Articles 15 and 16 in *NALSA* did not, by itself, place a biological male who professes a gender identity as 'female' within the class of women for every constitutional or statutory purpose. *NALSA*, therefore, cannot be read as authority for the proposition that a biological male, who identifies as a 'female', is entitled to all rights, protections and benefits specifically conferred upon women under law. Nor did *NALSA* hold that a biological female who professes a male or transgender identity is disentitled to all the rights, protections, and benefits specifically conferred upon women.
113. THAT this distinction is particularly significant under Article 15(3), which expressly permits the State to make special provisions for women. *NALSA* did not hold that a biological male who identifies as a 'female' should be placed within the beneficiary class of women under Article 15(3), nor did it hold that such identification, by itself, confers an entitlement to special provisions made specifically for women. To read *NALSA* otherwise would extend its holding beyond the issues considered and decided in that case.
114. THAT Article 16(2) proceeds on a similar footing, insofar as it prohibits discrimination in public employment on the ground of, *inter alia*, sex. *NALSA* nowhere held that a biological male, who identifies as a 'female', will be included within the class of women for the purpose of preferential measures in public employment. *NALSA* cannot, therefore, be read as enlarging the beneficiary class for women-specific

measures in public employment to include biological males, including measures intended to remedy their historical disadvantage and improve their representation and economic participation.

115. THAT significantly, *NALSA* itself contemplates a distinct constitutional basis for affirmative measures in favour of transgender persons. At paragraph 68 of the judgment, the Hon'ble Court relied upon Articles 15(2) to 15(4) and Article 16(4) under Part III, along with the Directive Principles under Part IV of the Constitution and held that transgender persons are entitled and eligible to the benefits available to socially and educationally backward classes and require affirmative action by the State for their advancement.

116. THAT, in its operative directions at paragraph 135.3 of this judgment, this Hon'ble Court further directed the Centre and State Governments to treat transgender persons as socially and educationally backward classes of citizens and extend reservation to them in educational institutions and public appointments. Thus, *NALSA* secured affirmative measures for transgender persons through their recognition as a distinct backward class; it did not do so by subsuming biological males who identify as 'female' within the beneficiary class of women.

c. A harmonious reading of *NALSA* preserves the distinction between gender identity and biological sex

and does not support any redefinition of 'sex' or 'women' under Part III of the Constitution.

117. THAT *NALSA* itself defines 'transgender' as an umbrella term for persons whose gender identity, gender expression or behaviour does not conform to their biological sex. Thus, *NALSA* preserves, a distinction between biological sex and gender identity. It does not treat recognition of gender identity as interchangeable with, or as altering, biological sex.
118. THAT the expressions 'sex' and 'women' operate across Part III of the Constitution and carry consequences extending far beyond the question of gender identity which arose in *NALSA*. The judgment cannot, therefore, be read as having redefined those constitutional categories by implication, particularly when no such question arose for determination. To attribute such a consequence to *NALSA* would transform a judgment concerning gender identity into one altering the meaning and operation of constitutional provisions governing biological sex and women-specific protections.
119. THAT this Hon'ble Court's discussion on SRS in *NALSA* also does not support the proposition that any surgical intervention results in a change of biological sex. This is evident from Paragraph 112 of the judgment, which states that "*a person has a constitutional right to get the recognition as male or female after SRS, which was not only his/her gender characteristic but has become his/her physical form as well.*" In this observation, the reference to a person's gender

characteristic having “*become his/her physical form as well*” is clearly confined to the physical or anatomical changes brought about by SRS. It does not state that SRS alters the chromosomal, gonadal or other biological characteristics of sex. Thus, *NALSA* does not treat a change in physical form following SRS as a change in biological sex.

VII. THE POSITIVE RIGHT TO LEGAL RECOGNITION OF SELF-DETERMINED GENDER IDENTITY IN *NALSA* REQUIRES RECONSIDERATION

120. THAT this Hon’ble Court in *NALSA* recognised, *inter alia*, the dignity, equality and freedom of transgender-identified persons and their right to profess and express a self-determined gender identity. Additionally, *NALSA* (paragraph 74) recognised that persons have a positive right to legal recognition of their gender identity. This Hon’ble Court in *NALSA* (paragraph 135.2) further directed the Centre and State Governments to grant legal recognition of the gender identity of transgender persons such as male, female or as third gender.
121. THAT *NALSA* however, does not provide any reasoning or basis for a positive right or entitlement to having the State legally recognise self-professed gender identity. A positive right to legal recognition of self-professed gender identity is neither necessary nor sufficient to ensure to transgender-

identified persons any of the universal rights guaranteed under Part III of the Constitution.

122. THAT this Hon'ble Court's directions in *NALSA* found place in various administrative practices, State Policies as well as the TP Act and TP Rules. However, they did not consider the multitude of downstream consequences of legal recognition of gender identity as male, female or third gender.
123. THAT gender identity being an inner experience that is invisible and non-verifiable, it is impossible for the State to legally recognise it. As a result, in the Impugned Regulatory Regime, the State legally recognises a mere assertion of gender identity, with no safeguarding and no ability to prevent abuse.
124. THAT constitutional or statutory legal status ought not be based only on self-declaration. Particulars such as age, place of birth, caste, marital status are subject to scrutiny and verification. While persons can convert religion on self-assertion, whenever any benefit or legal status is attached to religion then such assertions are subject to scrutiny.
125. THAT there is a constitutionally significant distinction between, on the one hand, protecting a person against discrimination on the ground of gender nonconformity or gender expression or professed gender identity and, on the other, recognising a constitutional entitlement to a new legal status based on a self-professed gender identity. The former

protects the liberty, dignity and equality of the individual. The latter creates a positive entitlement of a new legal category of a “transgender person” *via* self-declaration with effects on other legislation, other persons, other establishments, and the State itself, without due consideration of the many complex effects of such a legal status.

126. THAT the fundamental rights under Part III of the Constitution are, as a matter of constitutional design, prescribed as negative rights. This Hon’ble Court has held that fundamental rights are prescribed as a negative list, so that no person could be denied such right until the Constitution itself prescribes such limitations, and that the only exception to this formulation is Article 21A, which is a positive right requiring active effort by the State.
127. THAT the implication for the present case is that while transgender-identified persons are entitled to express their gender identity freely without interference from the State under Article 19(1)(a), and are free to hold a gender identity under Article 21 as part of the right to a life with dignity and personal autonomy, this does not impose a positive obligation on the State to legally recognise this self-professed gender identity or to confer benefits upon people who profess such an identity.
128. THAT the positive right to legal recognition of gender identity requires the State to legally recognise and record as fact a contested philosophical belief that many persons do not share

or which contradicts their own beliefs. Other persons and establishments are compelled to treat gender identities as real based on this State recognition, in violation of Article 19(1)(a) and the freedom of conscience guaranteed under Article 25(1). This directly impacts the rights of persons under Articles 19(1)(a) and 25(1) who hold a sincere abiding conviction that males cannot factually be “women”, yet they are forced to state otherwise due to the constitutional right to legal recognition.

129. THAT this Hon’ble Court in its majority decision in *Supriyo* observed that while the language of the Constitution is abstract and permits a wide reading, positive obligations arising from fundamental rights are limited, and that the State’s role in enabling or facilitating the exercise of a freedom is circumscribed in the absence of any overt or inert threat. The Court declined to hold that the fundamental rights to dignity, freedom of expression, and freedom of association imposed a positive obligation on the State to recognise the marriage of queer persons. A similar principle applies in the present context: the right to profess and express a gender identity, and the right to be free of discrimination, which the Petitioner does not dispute, does not impose a correlative positive obligation on the State to legally recognize and affirm this self-professed identity as a factual statement creating a new legal status.
130. THAT in *R (Elan-Cane) v. Secretary of State for the Home Department* [2021] UKSC 56 (“*Elan Cane*”), the UK

Supreme Court unanimously dismissed a challenge to the UK passport policy requiring applicants to select either “M” or “F” as their gender marker. The appellant, who was born female but identified as non-gendered, contended that Article 8 of the European Convention of Human Rights (“**ECHR**”), alone or with Article 14, required the State to issue passports with an “X” marker. The Court held that Article 8 fully protects the privacy rights of the appellant to identify as non-gendered but imposes no positive obligation on the State to legally record such an identity. The appeal was accordingly dismissed, emphasising that UK law and administration proceed on a binary classification of sex/gender, and that recognition of a non-gendered category would have wide implications across law and public administration.

131. THAT the reliance in *NALSA* on international instruments and principles concerning the rights of transgender-identified persons does not establish that international law requires States to legally recognise self-professed gender identity. Legal recognition of gender identity is not required by any international conventions that India is a signatory to. *NALSA* references the International Covenant on Civil and Political Rights 1966 and the Universal Declaration of Human Rights 1954, both of which India is a signatory to and has ratified, and neither of which requires legal recognition of gender identity. The Yogyakarta Principles, which indicate a right to legal recognition of gender identity, are not an international convention India has signed or ratified. They have not been

adopted as law by India, and are thus not binding on Indian courts.

132. THAT the Petitioner has pleaded that the right to legal recognition must be reconsidered, however, in the alternative, if it is found that *NALSA* correctly recognised a positive constitutional right to legal recognition of self-professed gender identity, the Petitioner respectfully submits that legal consequences of such a right must be clarified, and that the right to legal recognition cannot be wielded to compel the speech or actions of other persons, which is in violation of Articles 19(1)(a) and 25(1) of the Constitution.

VIII. THE TP RULES PROVIDING FOR RECORDING OF “CHANGE IN GENDER” IN ALL OFFICIAL DOCUMENTS, PURSUANT TO SECTION 7 OF THE TP ACT, ARE *ULTRA VIRES* THE TP ACT

- a. The TP Act, both pre-amendment and post-amendment, does not grant legal or statutory recognition to change in gender identity to either male or female under Section 7 in official documents.

133. THAT the Petitioner has challenged the constitutional validity of Section 7 of the TP Act and the right to legal recognition of gender identity, as implemented by the Impugned Regulatory Regime. Strictly without prejudice to this and in any event, the Petitioner submits that the TP Rules are *ultra vires* Section 7 of the parent TP Act, both pre-amendment and

post amendment, insofar as they provide for “change in gender” under Section 7 to be recorded in all official documents.

134. THAT the TP Act provides for two stages of “change in gender” of a person from the biological sex that is recorded in the birth certificate. The first stage is Section 6 of the TP Act, which provides for issuance of a ‘certificate of identity’ for recognition of a person’s gender identity as a ‘transgender person’ (*i.e.*, biological ‘male’ obtaining recognition as ‘transgender’). Section 6(2) of the TP Act expressly provides that, following the issuance of a ‘certificate of identity’ under Section 6(1) of the TP Act, the gender of such transgender person “*shall be recorded in all official documents*”. Therefore, Section 6 of the TP Acts expressly contemplates and provisions for: (i) issuance of a certificate recognising that a person is ‘transgender’; and (ii) translating such recognition of the transgender person into all official documents.

135. THAT the second stage is Section 7 of the TP Act (*i.e.*, biological male ‘transgender’ changing his gender identity to ‘female’). Section 7(1) of the TP Act provides that, after the issuance of the certificate under Section 6(1), if a transgender person undergoes surgery to ‘change gender either as male or female’, such person shall make an application to the District Magistrate for issuance of a revised certificate, along with a certificate issued by the Medical Superintendent or Chief Medical Officer verifying that the applicant has undergone such surgery. Section 7(1-A) further provides that the medical

institution in which the person has undergone surgery shall furnish details of such person to the District Magistrate. Following compliance with Sections 7(1) and 7(1-A) of the TP Act, Section 7(2) of the TP Act provides that the District Magistrate shall, on an application made by such person and on being satisfied with the correctness of the certificate issued by the Medical Superintendent or Chief Medical Officer in terms of Section 7(1), issue a certificate indicating “change in gender” of such transgender person as either male or female.

136. THAT the scheme of the two stages envisaged under Section 6 and Section 7 of the TP Act can best be described by way of the following illustration. A biological ‘male’ person may apply for a certificate to change his gender identity to ‘transgender’ under Section 6 of the TP Act. Such person, having obtained a certificate of identity as ‘transgender’ under Section 6, may then seek a change in gender identity to ‘female’ in terms of Section 7 of the TP Act. Therefore, the two-stage process provides for change of a person’s “gender” from the biological sex recorded at birth to transgender under Section 6 and then change to either male or female under Section 7.

137. THAT Section 6(2) of the TP Act expressly provides that a gender identity changed to ‘transgender’ under Section 6, *i.e.*, the first stage, shall be recorded in all official documents. However, such provision is not mirrored under Section 7, *i.e.*, the second stage (“change of gender” from transgender to either male or female). Therefore, without prejudice to the

Petitioner's position that Section 7 of the TP Act is unconstitutional, Section 7, even on its own terms, does not grant legal recognition to a change in gender to either male or female (*i.e.*, the second stage) for the purposes of State actions and all official documents. Even by the plain wording of the existing provisions of the TP Act, a person can, at best, be legally and statutorily recognised as a transgender in all official documents, and cannot be legitimized, recognised or identified as the 'opposite gender' for State purposes. Here, 'opposite gender' means the gender identity that is opposite to the person's biological sex. For instance, the 'opposite gender' of a biological male will be 'female' and *vice-versa*.

138. THAT even in the pre-amendment TP Act, such legal recognition of a person as the 'opposite gender' in official documents and for State purposes was absent. Pertinently, the unamended Section 7(3) of the TP Act provided that the person who has been issued a revised certificate under the unamended Section 7(3), *i.e.*, for change in gender identity to the 'opposite gender', shall be entitled to "*change the first name in the birth certificate and all other official documents relating to the identity of such person*". Evidently, the unamended Section 7(3) only provided for change in the name of the person who has obtained a revised certificate of the 'opposite gender' in all official documents. The unamended Section 7(3) did not provide for the gender of such person to be changed to the 'opposite gender' in all official documents. Notably, even this provision, for change in the first name, has now been repealed from Section 7 and added to Section 6.

This clearly evinces the legislative intent to limit the statutory and legal recognition of changed gender identities in official documents to 'transgender' and not to the 'opposite gender' under Section 7.

139. THAT further, the *proviso* to the unamended Section 7(3) of the TP Act provided that any change in gender to the 'opposite gender' shall not affect the rights and entitlements of such persons under the TP Act. Simply put, the legislature envisaged that, regardless of a person's gender identity being changed to the 'opposite gender' under Section 7, such person shall continue to be legally treated as transgender for the purposes of law and cannot be entitled to receive the benefits guaranteed to the 'opposite gender' under law. This reaffirms that the legal and statutory recognition of changed gender identity stops at the first stage under Section 6, *i.e.*, 'transgender', and does not extend to those identifying as the 'opposite gender' in terms of Section 7.
140. THAT the settled canon of statutory interpretation, *expressio unius est exclusio alterius*, means the explicit mention of one thing implies the exclusion of others. An express mention under Section 6 to record the change in gender identity to 'transgender' in all official documents, and the lack thereof under Section 7, further demonstrates the clear intention of the legislature to not recognise a change in gender identity to the 'opposite gender' in law for all official and State purposes.

141. THAT therefore, the scheme of the TP Act, both pre-amendment and post-amendment, limits the recognition of change in gender identity of a person to 'transgender' for the purposes of all official documents and State acts. The TP Act does not provide for a biological male to be recognised as 'female' (or *vice-versa*) in official documents.

b. The Rule 7 of the TP Rules are *ultra vires* the TP Act insofar as they provide for recognition of "change in gender" under Section 7 of the TP Act in all official documents and are liable to be repealed/ struck down.

142. THAT the Central Government issued the TP Rules pursuant to the powers conferred by Section 22 of the TP Act, as evident from the statement of object and reasons/ preamble of the TP Rules. It is trite law that a subordinate legislation must operate strictly within the contours of the power derived from the parent legislation. Where a rule is directly inconsistent with a mandatory provision of the statute, such subordinate legislation is *ultra vires* and liable to be repealed.

143. THAT in the context of delegation legislation and rule-making, this Hon'ble Court has held that (i) the doctrine of *ultra vires* envisages that a rule-making body must function within the purview conferred on it by the parent Act. As the rule-making body derives such power only from the parent statute, it must necessarily function within the purview of the statute. Delegated legislation should not travel beyond the purview of the parent Act; (ii) *ultra vires* may arise if the

delegated legislation is inconsistent with the provisions of the parent Act; (iii) if a rule is challenged as being *ultra vires*, on the ground that it exceeds the power conferred by the parent Act, the Court must, *firstly*, determine and consider the source of power which is relatable to the rule. *Secondly*, it must determine the meaning of the subordinate legislation itself. *Finally*, it must decide whether the subordinate legislation is consistent with and within the scope of the power delegated; (iv) such power delegated by an enactment does not enable the authority, by rules/regulations, to extend the scope or general operation of the enactment but is strictly ancillary. A general power to enact rules cannot be so exercised as to bring into existence substantive rights or obligations or disabilities not contemplated by the provisions of the parent Act itself.

144. THAT Rule 7 of the TP Rules, read with Form 4, is *ultra vires* Section 7 of the TP Act insofar as they exceed the powers conferred by Section 22 of the TP Act. Section 22 of the TP Act enables the appropriate Government to make rules for carrying out the provisions of the TP Act. Particularly, Section 22(1)(c) and Section 22(1)(d) provide that the appropriate Government may make rules providing for the form and manner of issuance of certificates under Section 7(1) and Section 7(2) of the TP Act. Therefore, any rules made pursuant to the power conferred by Section 22(1)(c) and Section 22(1)(d) of the TP Act, which are enumerated powers, must strictly be within the contours of Section 7(1) and Section 7(2) of the TP Act. Further, even a general power cannot bring into existence substantive rights or obligations

or disabilities not contemplated under Section 7(1) and Section 7(2) of the TP Act.

145. THAT Rule 7(3), Rule 7(5) and Rule 7(6) of the TP Rules are *ultra vires* Section 7 of the TP Act insofar as they provide for a change in gender of a person to be recorded in all official documents, including those set out in Annexure 1 of the TP Rules. Unlike Section 6 of the TP Act, Section 7 does not provide for legal recognition of a change in gender identity to the ‘opposite gender’ to be recorded in all official documents. Here, ‘opposite gender’ means the gender that is opposite to that correlating with the sex assigned at conception.
146. THAT further, the provision in the unamended Section 7(3) of the TP Act, *i.e.*, for change of the first name in all official documents, has been repealed by way of the amended TP Act. In the absence of such legal force under Section 7 of the TP Act: (i) Rule 7(3) brings into existence substantive rights of persons who have obtained a certificate under Section 7 to have their official documents record such change to the ‘opposite gender’; and Rule 7(5) and Rule 7(6) bring into a substantive obligation on the authority that issued the official document to mandatorily change “*the name or gender or photograph or any of this information of the applicant in the official documents within fifteen days of making of such application*” and include the same serial or reference number as in the original official document of such transgender person, respectively.

147. THAT Further, Rule 7(1) of the TP Rules provides that the District Magistrate shall issue a revised certificate of identity in Form 4 to such person seeking change in gender identity to the 'opposite gender'. Form 4 (paragraph 5) of the TP Rules further provides that such certificate, upon issuance, "*entitles the holder to change name and gender in all official documents of the holder*".
148. THAT Section 22(1)(c) and Section 22(1)(d) of the TP Act are specifically enumerated areas of delegation provided by the TP Act to the appropriate Government to make the TP Rules. As has been held by this Hon'ble Court in a catena of judgments, if the rule-making power is specifically enumerated in the parent Act, then the subordinate rules must be subservient to and operate within the strict contours and limits prescribed by the parent Act. As is evident, Rule 7(3), Rule 7(5) and Rule 7(6) read with Form 4 of the TP Rules travel far beyond the express provisions of Section 7(1) and 7(2) of the TP Act and, therefore, are *ultra vires*. Without prejudice and in any event, even the generality of the power granted under Section 22(1) of the TP Act does not permit the TP Rules to bring into existence substantive rights or obligations not contemplated by the TP Act. Therefore, even as per the generality of the power delegated to the Government, Rule 7(3), Rule 7(5) and Rule 7(6) read with Form 4 of the TP Rules are *ultra vires* the TP Act and are liable to be repealed/ struck down.

c. The TP Rules are *ultra vires* Section 7 of the TP Act insofar as they remove and/or dilute the requirement for ‘surgery’ for change in gender.

149. THAT Section 7 of the TP Act provides that, after issuance of a certificate under Section 6(1), if a transgender person undergoes ‘surgery’ to change gender as a male or female, such person shall make an application to the District Magistrate in the prescribed form.
150. THAT notably, the TP act only uses the term ‘surgery’ as a necessary prerequisite for attaining change in gender under Section 7. To the contrary, Rule 6 of the TP Act provides that if a transgender person undergoes ‘medical intervention’ towards gender affirming procedure, either as male or female, such person may apply for a certificate affirming the ‘medical intervention’. This ‘medical intervention’ certificate, in turn, forms the basis of Rule 7 of the TP Rules, for issue of certificate of identity under Section 7 of the TP Act.
151. THAT Rule 2(i) of the TP Rules define ‘medical intervention’ to include “*any gender affirming medical intervention undertaken by an individual to facilitate the transition to their self-identified gender, including but not limited to counselling, hormonal therapy, and surgical intervention, if any*”.
152. THAT Rule 6 and Rule 7 of the TP Rules are *ultra vires* Section 7 of the TP Act on at least two counts: (i) first, the TP

Rules provide for a liberally defined 'medical intervention' as a substitute to the requirement of 'surgery' under Section 7 of the TP Act. This is a substantive provision added by the TP Rules that is not provided for in the parent TP Act. Further, this liberal definition entitles a transgender person to change the gender in terms of Section 7 by merely seeking counselling or hormonal therapy, and the strict requirement of 'surgery' under Section 7 has been made one of the options, *i.e.*, 'surgical intervention', under the broad definition of 'medical intervention'. Notably, the TP Act nowhere uses the expression 'medical intervention' and yet, the TP Rules unilaterally provide for it without express sanction from the TP Act; and (ii) second, the definition of 'medical intervention' ends with the words, "if any", making the necessary pre-requisite of 'surgery' under Section 7 of the TP Act as optional under the TP Rules. This removes a substantive obligation provided for under Section 7 of the TP Act, thereby derogating from the express provisions of the parent Act.

153. THAT therefore, Rule 6 and Rule 7 of the TP Rules, read with the definition of 'medical intervention' therein, completely remove and/or dilute and water down the strict and necessary requirement of 'surgery' under the TP Act for change in gender in terms of Section 7. Therefore, Rule 6 and Rule 7 of the TP Rules, read with the definition of 'medical intervention', are *ultra vires* the TP Act and are liable to be repealed/ struck down.

154. This Hon'ble Court has the necessary jurisdiction to entertain the present writ petition because the Respondents are located within the territorial jurisdiction of this Hon'ble Court.
155. The present writ petition is filed bona-fide and in public interest and it is prayed that the same may be allowed by this Hon'ble Court.
156. The Petitioner has not preferred any other petition(s) before this Hon'ble Court any other court(s) on the subject matter of the present writ petition.

PRAYERS

Wherefore, in the aforesaid premises and in the interest of justice, it is most respectfully prayed that this Hon'ble Court may be pleased to:

- a. Issue an appropriate writ, order or direction in the nature of a declaration that "sex" and "gender identity" are distinct and non-interchangeable characteristics in law; that legal recognition of gender identity does not alter, extinguish or override the biological sex of that person for any purpose, including the application of any constitutional provision, statute, rule, regulation, scheme, policy, right, protection or entitlement;
- b. Issue an appropriate writ, order or direction in the nature of a declaration that Section 7 of the TP Act is *ultra vires* Articles 14,

15, 16, 19(1)(a), 21 and 25(1) of the Constitution, consequently, unconstitutional and void under Article 13(2) of the Constitution;

- c. In the alternative to prayer (b), issue an appropriate writ, order or direction in the nature of a declaration that Rule 2(i), 6 (1), Rule 7(3), Rule 7(5) and Rule 7(6) read with Form 4 of the TP Rules are *ultra vires* Section 7 read with Section 22(1)(c) and Section 22(1)(d) of the TP Act;
- d. Issue an appropriate writ, order or direction in the nature of a declaration that Section 18(d) of the TP Act insofar as it criminalises “*verbal and emotional abuse*” is *ultra vires* Articles 19(1)(a) and 25(1) of the Constitution, consequently, unconstitutional and void under Article 13(2) of the Constitution;
- e. Issue an appropriate writ, order or direction in the nature of a declaration that administrative practices such as UIDAI’s Standard Operation Procedure of Name & Gender Update Request under Exception Handling Process dated 3 November 2021 which contemplate change of gender in official documents are *ultra vires* Articles 14, 15, 16, 19(1)(a), 21 and 25(1) of the Constitution, consequently, unconstitutional and void under Article 13(2) of the Constitution;
- f. Issue an appropriate writ, order or direction in the nature of a declaration that the Impugned Regulatory Regime which enables persons to acquire benefits and protections of the opposite sex based on certificates/documents, is *ultra vires* Articles 14, 15, 16,

19(1)(a), 21 and 25(1) of the Constitution, consequently, unconstitutional and void under Article 13(2) of the Constitution;

- g. Issue a writ of mandamus or any other appropriate writ, order or direction directing the Respondents, to cease giving effect to the Opposite Gender Certificates/documents issued under Impugned Regulatory Regime for availing rights, entitlements, protections specifically granted to women, to the extent declared unconstitutional by this Hon'ble Court;
- h. Issue a writ of mandamus or any other appropriate writ, order, or direction directing that eligibility for, and access to, all rights, protections, reservations, benefits, facilities and spaces that are available exclusively or specifically to women shall be determined solely by reference to biological sex, and not by reference to gender identity or any certificate/document issued pursuant to the Impugned Regulatory Regime;
- i. Issue an appropriate writ, order or direction in the nature of a declaration that the judgment in *National Legal Services Authority v. Union of India*, (2014) 5 SCC 438, insofar as it holds that legal recognition of gender identity is part of the right to dignity and freedom guaranteed under the Constitution and directs the Centre and State Governments to grant legal recognition to self-identified gender identity, is overruled;
- j. Issue an appropriate writ, order or direction in the nature of a declaration that the judgment in *National Legal Services Authority v. Union of India*, (2014) 5 SCC 438, recognised the

rights of transgender-identified persons to non-discrimination, but did not provide for the extension of women-specific laws/policies to biological males regardless of professed gender identity or medical interventions or transgenders with Opposite Gender Certificates;

- k. Pending the hearing and final disposal of the present Writ Petition, pass an order staying the operation and implementation of the Impugned Regulatory Regime in terms of prayers (a)-(j) above; and
- l. Pass such other and further writ(s), order(s) or direction(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case and in the interests of justice.

FOR THIS ACT OF KINDNESS, THE PETITIONER AS IS DUTY BOUND SHALL EVERY PRAY.

FILED BY

Shardul
Suresh Shroff

Digitally signed by
Shardul Suresh Shroff
Date: 2026.10.08
19:57:02 +05'30'

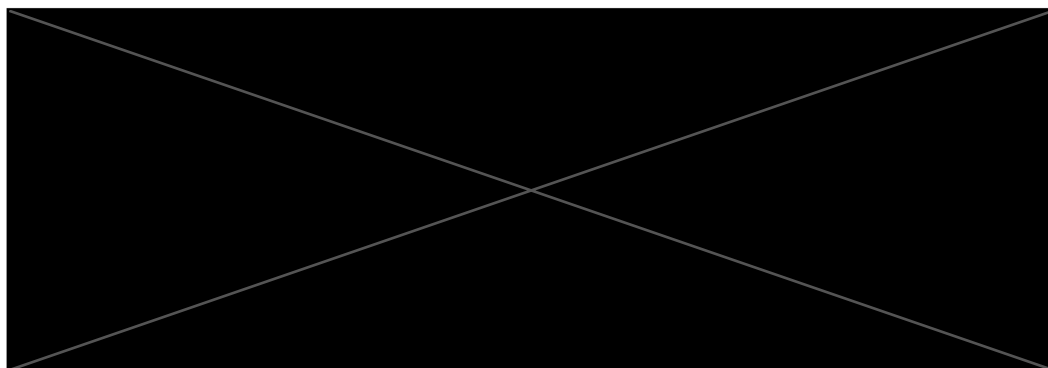
MR. SHARDUL S. SHROFF
ADVOCATE FOR THE PETITIONER

PLACE: NEW DELHI
DATE: 08.10.2026

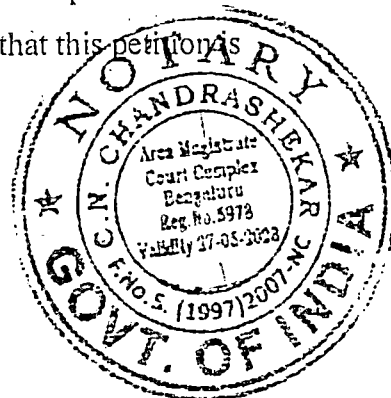
IN THE MATTER OF:

WOMEN'S DECLARATION INTERNATIONAL INDIA
THROUGH POWER OF ATTORNEY HOLDER PETITIONER
VERSUS
UNION OF INDIA AND OTHERS RESPONDENTS

AFFIDAVIT



1. That I am the Authorised Signatory of Women's Declaration International India and am well conversant with the facts of the case, hence competent to swear this Affidavit.
2. That there is no personal gain, private motive, or oblique reason in filing the present public interest litigation. I affirm that this petition is only motivated by public interest.

No. of Corrections. *Am*

3. That I have read and understood that the contents of the Synopsis and List of Dates consisting of 11 Pages (B to L) and the Writ Petition consisting of 118 Pages (1 to 118) and paragraphs 1 to 156 of the Writ Petition and say that the facts stated therein are true and correct to the best of my knowledge and belief as derived from the record of the case and that the last paragraph is my prayer before this Hon'ble Court.
4. That I also state that the copies of the documents / annexures annexed to the present Writ Petition are true copies of their respective originals.

VERIFICATION

I, the above-named deponent, do hereby verify that the contents stated in the above affidavit are true and correct to the best of my knowledge and belief and nothing material has been concealed therefrom.

Verified at Bengaluru on this 5th day of October 2026.



08 OCT 2026

No. of Corrections MIL

ANNEXURE P1

AS INTRODUCED IN LOK SABHA

Bill No. 79 of 2026THE TRANSGENDER PERSONS (PROTECTION OF RIGHTS)
AMENDMENT BILL, 2026

A

BILL

to amend the Transgender Persons (Protection of Rights) Act, 2019.

BE it enacted by Parliament in the Seventy-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Transgender Persons (Protection of Rights) Amendment Act, 2026.

Short title and
commencement.

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

40 of 2019.

2. In section 2 of the Transgender Persons (Protection of Rights) Act, 2019 (hereinafter referred to as the principal Act),—

Amendment of
section 2.

(i) for clause (a), the following clause shall be substituted, namely:—

Birey Susan
TRUE COPY

‘(a) “appropriate Government” means—

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

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

(iii) in relation to a Union territory or any establishment wholly or substantially financed by the Central Government in that Union territory, the Administrator thereof appointed under article 239 of the Constitution or such authority as may be specified by the Central Government;’;

(ii) after clause (a), the following clause shall be inserted, namely:—

‘(aa) “authority” means a medical board, headed by a Chief Medical Officer or a Deputy Chief Medical Officer, as may be appointed by the Central Government, State Government or Union territory Administration;’;

(iii) clause (i) shall be omitted;

(iv) for clause (k), the following clause shall be substituted, namely:—

‘(k) “transgender person” means—

(i) a person having such socio-cultural identities as *kinner*, *hijra*, *aravani* and *jogta*, or eunuch, or a person with intersex variations specified below or a person who, at birth, has a congenital variation in one or more of the following sex characteristics as compared to male or female development:—

(a) primary sexual characteristics;

(b) external genitalia;

(c) chromosomal patterns;

(d) gonadal development;

(e) endogenous hormone production or response, or such other medical conditions; or

(ii) any person or child who has been, by force, allurement, inducement, deceit or undue influence, either with or without consent, compelled to assume, adopt, or outwardly present a transgender identity, by mutilation, emasculation, castration, amputation, or any surgical, chemical, or hormonal procedure or otherwise:

Provided that it shall not include, nor shall ever have been so included, persons with different sexual orientations and self-perceived sexual identities.’.

3. In section 4 of the principal Act, sub-section (2) shall be omitted.

4. In section 6 of the principal Act,—

(a) in sub-section (1), for the words “District Magistrate”, the words “District Magistrate, after examining the recommendation of the authority and, if he considers either necessary or desirable, after taking the assistance of other medical experts” shall be substituted;

(b) after sub-section (3), the following sub-section shall be inserted, namely:—

5 “(4) The person who has been issued a certificate of identity under sub-section (1) and is so declared as a transgender person within the definition under this Act shall be entitled to change the first name in the birth certificate and all other official documents relating to the identity of such person.”.

5. In section 7 of the principal Act,—

Amendment of section 7.

10 (a) in sub-section (1), for the words “such person may”, the words “such person shall” shall be substituted;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

15 “(1A) The medical institution in which the person who has undergone surgery to change gender, either as male or female, shall furnish the details of such person to the concerned District Magistrate and the authority in such form and manner as may be prescribed.”;

(c) for sub-section (2), the following sub-section shall be substituted, namely:—

20 “(2) A person referred to in sub-section (1) shall also make an application to the District Magistrate who 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.”;

25 (d) sub-section (3) and the proviso shall be omitted.

6. In section 16 of the principal Act, in sub-section (2), for clause (f), the following clause shall be substituted, namely:—

Amendment of section 16.

30 “(f) representatives of the State Governments and Union territories Administration, by rotation, one each from North, South, East, West and North-East regions, not below the rank of Director in the concerned Ministry or Department, to be nominated by the Central Government, Members, *ex officio*.”.

7. For section 18 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 18.

35 “18. Whoever,—

Offences and penalties.

(a) 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, 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;

(b) 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, 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;

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

(d) 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; 5

(e) kidnaps or abducts any adult person and causes—

(i) grievous hurt to such person, whether by mutilation, emasculation, castration, amputation, or any surgical, chemical, or hormonal procedure; or 10

(ii) permanent or severe injury to the body or bodily functions of such person,

with the intent of, or in the course of, compelling such person to assume, adopt, or outwardly present a transgender identity against the will or consent of such person, whether by force, allurement, deceit, undue influence or otherwise, shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life, and shall also be liable to fine which shall not be less than two lakh rupees; 15

(f) kidnaps or abducts any child and causes— 20

(i) grievous hurt to such child, whether by mutilation, emasculation, castration, amputation, or any surgical, chemical, or hormonal procedure; or

(ii) permanent or severe injury to the body or bodily functions of such child, 25

with the intent of, or in the course of, compelling such child to assume, adopt, or outwardly present a transgender identity, whether by force, allurement, deceit, undue influence or otherwise, shall be punishable with rigorous imprisonment for life, and shall also be liable to fine which shall not be less than five lakh rupees;

(g) by force, threat, coercion, allurement, deception, inducement, or undue influence— 30

(i) compels any person, whether or not such person is a transgender person, to dress, present, or conduct themselves outwardly as a transgender person against the will of such person; and

(ii) employs, uses, or causes such person to engage in begging, solicitation, servitude, or any other form of forced or bonded labour while so presenting, 35

shall be punishable with rigorous imprisonment for a term which shall not be less than five years but which may extend to ten years, and shall also be liable to fine which shall not be less than one lakh rupees; and 40

(h) by force, threat, coercion, allurement, deception, inducement, undue influence or otherwise—

(i) compels any child, whether or not such child is a transgender person, to dress, present, or conduct themselves outwardly as a transgender person; and 45

(ii) employs, uses, or causes such child to engage in begging, solicitation, servitude, or any other form of forced or bonded labour while so presenting,

shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to fourteen years, and shall also be liable to fine which shall not be less than three lakh rupees.”.

8. In section 22 of the principal Act, in sub-section (2),—

Ameindment of
section 22.

5 (a) in clause (c), after the word, brackets and figure “sub-section (1)”, the words, brackets, figure and letter “and the form and manner of details to be furnished by the medical institution under sub-section (1A),” shall be inserted;

(b) in clause (d), the word “revised” shall be omitted.

STATEMENT OF OBJECTS AND REASONS

It is the legislative policy to recognise a specific class of transgender persons, who face social issues and to create a regime for their protection. The legislative policy was and is intended to protect only those who face severe social exclusion due to biological reasons for no fault of their own and no choice of their own.

2. Over the course of time, during the implementation of this enactment, certain doubts and difficulties have arisen and are likely to arise with regard to the expanse of the definition of transgender persons and how the identification of such persons is to be done under the existing definition. This is critical to the implementation of the Act, as it is of prime importance that the enactment is utilised and works towards only those who are in actual need of such protection.

3. The intent, object and purpose of the Act is and was to protect a specified class of persons socially and culturally known as transgender people who face societal discrimination of an extreme and oppressive nature. The purpose was and is not to protect each and every class of persons with various gender identities, self-perceived sex/gender identities or gender fluidities.

4. The existing vague definition of the expression "transgender person" not only makes it impossible to identify the genuine oppressed persons to whom the benefits of the Act are intended to reach, but also makes the operation and enforcement of several provisions under penal, civil and personal laws unworkable. Such a vague and broad definition of the expression "transgender person" is found to have created complex issues in the working of statutory enactments, as this vague definition is not compatible with several statutory provisions of several enactments enacted both by the Parliament and the State Legislatures. Any enactment conferring rights, privileges and protections cannot have a definition clause whereby the status entitling such rights, privileges and protections can be acquired.

5. It is therefore imperative to give a precise definition for proper and definitive identification and protection of transgender persons to whom the benefits of the Act must reach. The protection and benefits that are provided under the Act are vast in nature, and therefore, care has to be taken that such identification cannot be extended on the basis of any acquirable characteristics or personal choice or claimed self-perceived identity of an individual.

6. The Bill also contains provisions for designation of an authority and provisions providing the relevant authorities the option to seek expert advice if required. The Bill also seek to empower the transgender persons to make consequential changes in official documents. The Bill further provides for a change in the constitution of the National Council ensuring that persons, not below the rank of Director, form a part of the same as representatives of the State Governments and Union territories administration, by rotation, one each from North, South, East, West and North-East regions.

7. The Transgender Persons (Protection of Rights) Act, 2019 prohibits discrimination and abuse against transgender persons but its penal provision under section 18, as presently enacted, addresses only general wrongs and criminal offences and prescribes a maximum of two years' imprisonment. It does not adequately address offences of exceptional gravity that have been documented in practice. The abduction of adults and children, the infliction of reversible or irreversible bodily harm upon them through mutilation, emasculation, castration, hormone therapies / other similar therapies or chemical alteration, and their forced assumption of a transgender identity, frequently as a prelude to economic and other forms of exploitation including but not limited to begging or servitude has been observed. While scattered provisions of the Bharatiya Nyaya Sanhita, 2023 and the Juvenile Justice (Care and Protection of Children) Act, 2015 address individual

elements of these wrongs, no existing provision treats this conjunction of abduction, permanent bodily harm, and forced identity as a unified penal approach.

8. The Bill, therefore, also proposes to substitute section 18 of the principal Act, creating specific offences with graded punishments that reflect the gravity of the harm, the irreversibility of the injury, and the particular vulnerability of child victims. The proposed provisions operate cumulatively with the general criminal law and give legislative expression to the constitutional guarantees that every person's bodily integrity is inviolable, that no person may be subjected to forced labour or traffic in human beings.

9. The Bill seeks to achieve the above objectives.

NEW DELHI;

The 12th March, 2026.

DR. VIRENDRA KUMAR.

FINANCIAL MEMORANDUM

The Transgender Persons (Protection of Rights) Amendment Bill, 2026, if enacted, is not likely to involve any expenditure of recurring or non-recurring nature from and out of the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill seeks to insert sub-section (1A) in section 7 of the Transgender Persons (Protection of Rights) Act, 2019. The aforesaid sub-section of the said section empowers the appropriate Government to make rules to provide for the form and manner of details of a person who has undergone surgery to change gender, either male or female, to be furnished by the medical institutions.

The matters in respect of which rules may be made and notification issued are matters of procedure and administrative detail, and it is not practicable to provide for them in the proposed legislation itself. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACTS FROM THE TRANSGENDER PERSONS (PROTECTION OF RIGHTS) ACT, 2019
(40 OF 2019)

* * * * *

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means,—

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

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

* * * * *

(i) “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;

* * * * *

(k) “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*.

* * * * *

CHAPTER III

RECOGNITION OF IDENTITY OF TRANSGENDER PERSONS

Recognition of
identity of
transgender
person.

4. (1) * * * * *

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

* * * * *

Issue of
certificate of
identity.

6. (1) The District Magistrate shall issue to the applicant under section 5, a certificate of identity as 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.

* * * * *

Change in
gender.

7. (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.

* * * * *

CHAPTER VII

NATIONAL COUNCIL FOR TRANSGENDER PERSONS

16. (1) * * * *

National Council
for Transgender
Persons.

(2) The National Council shall consist of—

* * * *

(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*;

* * * *

CHAPTER VIII

OFFENCES AND PENALTIES

18. Whoever,—

Offences and
penalties.

(a) 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;

(b) 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;

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

(d) 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.

* * * *

22. (1) * * * *

Power of
appropriate
Government to
make rules.

(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:—

* * * *

(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;

* * * *

LOK SABHA

A

BILL

to amend the Transgender Persons (Protection of Rights) Act, 2019.

(Dr. Virendra Kumar, Minister of Social Justice and Empowerment)

Birendra Kumar
TRUE COPY

**The
Transgender Persons (Protection of
Rights) Act, 2019¹**
(Transgender Persons (Protection of Rights) Act, 2019)

[Act 40 of 2019 as amended up to Act 3 of 2026]

[5th December, 2019]

CONTENTS

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement
2. Definitions

CHAPTER II

PROHIBITION AGAINST DISCRIMINATION

3. Prohibition against discrimination

CHAPTER III

RECOGNITION OF IDENTITY OF TRANSGENDER PERSONS

4. Recognition of identity of transgender person
5. Application for certificate of identity
6. Issue of certificate of identity
7. Change in gender

CHAPTER IV

WELFARE MEASURES BY GOVERNMENT

8. Obligation of appropriate Government

CHAPTER V

OBLIGATION OF ESTABLISHMENTS AND OTHER PERSONS

9. Non-discrimination in employment

Binity Sanyal
TRUE COPY

- 10. Obligations of establishments
- 11. Grievance redressal mechanism
- 12. Right of residence

CHAPTER VI

EDUCATION, SOCIAL SECURITY AND HEALTH OF TRANSGENDER PERSONS

- 13. Obligation of educational institutions to provide inclusive education to transgender persons
- 14. Vocational training and self-employment
- 15. Healthcare facilities

CHAPTER VII

NATIONAL COUNCIL FOR TRANSGENDER PERSONS

- 16. National Council for Transgender Persons
- 17. Functions of Council

CHAPTER VIII

OFFENCES AND PENALTIES

- 18. Offences and penalties

CHAPTER IX

MISCELLANEOUS

- 19. Grants by Central Government
- 20. Act not in derogation of any other law
- 21. Protection of action taken in good faith
- 22. Power of appropriate Government to make rules
- 23. Power to remove difficulties

Transgender Persons (Protection of Rights) Act, 2019

[Act 40 of 2019]

[5th December,
2019]

*An Act to provide for protection of rights of transgender persons and
their welfare and for matters connected therewith and incidental
thereto*

Be it enacted by Parliament in the Seventieth Year of the Republic of
India as follows—

Statement of Objects and Reasons.—Transgender community is
one of the most marginalised communities in the country because they
do not fit into the general categories of gender of male or female.
Consequently, they face problems ranging from social exclusion to
discrimination, lack of education facilities, unemployment, lack of
medical facilities and so on.

2. Though Article 14 of the Constitution guarantees to all persons
equality before law, clauses (1) and (2) of Article 15 and clause (2) of
Article 16, inter alia, prohibit in express terms, discrimination on the
ground only of sex and sub-clause (a) of clause (1) of Article 19
ensures freedom of speech and expression to all citizens, yet the
discrimination and atrocities against the transgender persons continue
to take place.

3. The Hon'ble Supreme Court, vide its order dated 15th April, 2014,
passed in the case of *National Legal Services Authority v. Union of
India*, inter alia, directed the Central Government and State
Governments to take various steps for the welfare of transgender
community and to treat them as a third gender for the purpose of
safeguarding their rights under Part III of the Constitution and other
laws made by Parliament and the State Legislature.

4. The Transgender Persons (Protection of Rights) Bill, 2019 seeks
to—

- (a) define the expression "transgender person";
- (b) prohibit discrimination against transgender persons;
- (c) confer right upon transgender persons to be recognised as such,
and a right to self-perceived gender identity;
- (d) make provisions for issue of certificate of identity to transgender
persons;
- (e) provide that no establishment shall discriminate against
transgender persons in matters relating to employment,
recruitment, promotion and other related issues;
- (f) provide for grievance redressal mechanism in each
establishment;
- (g) establish a National Council for Transgender Persons;
- (h) provide punishment for contraventions of the provisions of the
proposed legislation.

5. The Transgender Persons (Protection of Rights) Bill, 2016, for the aforementioned purpose, which was passed by the Lok Sabha and pending consideration and passing in the Rajya Sabha, lapsed on dissolution of the Sixteenth Lok Sabha. Hence, the Transgender Persons (Protection of Rights) Bill, 2019.

6. The Bill seeks to achieve the above objects.

Chapter I

PRELIMINARY

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 date² as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.—In this Act, unless the context otherwise requires,—

³[(a) “appropriate Government” means—

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

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

(iii) in relation to a Union territory or any establishment wholly or substantially financed by the Central Government in that Union territory, the Administrator thereof appointed under Article 239 of the Constitution or such authority as may be specified by the Central Government;]

⁴[(aa) “authority” means a medical board, headed by a Chief Medical Officer or a Deputy Chief Medical Officer, as may be appointed by the Central Government, State Government or Union territory Administration;]

(b) “establishment” means—

(i) 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

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

(c) “family” means a group of people related by blood or marriage

- or by adoption made in accordance with law;
- (d) "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;
- (e) "institution" means an institution, whether public or private, for the reception, care, protection, education, training or any other service of transgender persons;
- (f) "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;
- (g) "National Council" means the National Council for Transgender Persons established under Section 16;
- (h) "notification" means a notification published in the Official Gazette;
- (i) ⁵[* * *]
- (j) "prescribed" means prescribed by rules made by the appropriate Government under this Act; and
- ⁵[(k) "transgender person" means—
- (i) a person having such socio-cultural identities as kinner, hijra, aravani and jogta, or eunuch, or a person with intersex variations specified below or a person who, at birth, has a congenital variation in one or more of the following sex characteristics as compared to male or female development—
- (a) primary sexual characteristics;
- (b) external genitalia;
- (c) chromosomal patterns;
- (d) gonadal development;
- (e) endogenous hormone production or response, or such other medical conditions; or
- (ii) any person or child who has been, by force, allurement, inducement, deceit or undue influence, either with or without consent, compelled to assume, adopt, or outwardly present a transgender identity, by mutilation, emasculation, castration, amputation, or any surgical, chemical, or hormonal procedure or otherwise:

Provided that it shall not include, nor shall ever have been so included, persons with different sexual orientations and

self-perceived sexual identities.]

► **Transgender.**—Transgender is an umbrella term for persons whose gender identity, gender expression or behaviour does not conform to their biological sex. It may also take in persons who do not identify with their sex assigned at birth, which include hijras/eunuchs, *National Legal Services Authority v. Union of India*, (2014) 5 SCC 438.

Chapter II

PROHIBITION AGAINST DISCRIMINATION

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; and
- (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.

► **Prohibition of discrimination based on “sex”.**—Non-recognition of gender identity and equality of Transgender Communities (TGs) violates Arts. 14, 15, 16, 19 and 21 of the Constitution. These articles are not restricted to males or females and also, cover hijras/TGs. In the absence of any Indian law on TGs, in view of Arts. 253 and 51 of the Constitution, municipal courts in India must respect international law in respect of TGs. Right to gender identity also flows from India being a democracy. Right of Transgenders (TGs) (hijras/eunuchs) who are neither male nor females to be identified and categorised as third gender with legal and constitutional protection, upheld, *National Legal Services Authority v. Union of India*, (2014) 5 SCC 438.

► **Constitutionality.**—Telangana Eunuchs Act was violative of the human rights of the third gender community besides being an intrusion into their private sphere as well as an assault on their dignity. It was thus offensive of both right to privacy and right to dignity of transgender persons. Moreover, it was not only violative of Article 14 but also clearly violated Article 21 of the Constitution, *V. Vasanta Mogli v. State of Telangana*, 2023 SCC OnLine TS 1688.

Chapter III

RECOGNITION OF IDENTITY OF TRANSGENDER PERSONS

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) ²[* * *]

► **Contest in election.**—Section 4(2) of Act, 2019 permitted transgender person to have right to self-perceived gender identity. A transgender allowed to contest election from a seat reserved for women candidate, *Anjali Guru Sanjana Jaan v. State of Maharashtra*, 2021 SCC OnLine Bom 11.

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.

6. Issue of certificate of identity.—(1) The ⁸[District Magistrate, after examining the recommendation of the authority and, if he considers either necessary or desirable, after taking the assistance of other medical experts] shall issue to the applicant under Section 5, a certificate of identity as 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 transgender person shall be recorded in all official documents in accordance with 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.

²[(4) The person who has been issued a certificate of identity under sub-section (1) and is so declared as a transgender person within the definition under this Act shall be entitled to change the first name in the birth certificate and all other official documents relating to the identity of such person.]

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, ¹⁰[such person shall] 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.

¹¹[(1-A) The medical institution in which the person who has undergone surgery to change gender, either as male or female, shall furnish the details of such person to the concerned District Magistrate and the authority in such form and manner as may be prescribed.]

¹²[(2) A person referred to in sub-section (1) shall also make an application to the District Magistrate who 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) ¹³[* * *]

► **Change in gender.**—A person has a constitutionally recognised right to change his/her gender through surgical intervention. To choose a his/her sex or gender identity is integral to a human's personality, while identifying the same as one of the most basic aspects of self-determination, dignity and freedom, *X v. Government of Rajasthan*, 2023 SCC OnLine Raj 907, See also *Christina Lobo v. State of Karnataka*, 2020 SCC OnLine Kar 1634.

Impact on rights of transsexuals after undergoing sex reassignment surgery (SRS) historically considered on the issue of marriage of TGs. Regard to the psyche and psychological factor/aspect and right of transsexuals to personal development and to physical and moral security in the full sense, discussed, *National Legal Services Authority v. Union of India*, (2014) 5 SCC 438.

Chapter IV

WELFARE MEASURES BY GOVERNMENT

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.

Chapter V

OBLIGATION OF ESTABLISHMENTS AND OTHER PERSONS

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.

► **Prohibition of discrimination in employment based on “sex”.—**

Expression “sex” not limited to biological sex of male or female and covers hijras/ Transgender Communities (TGs) who consider themselves neither male nor female. Thus Arts. 15 and 16 prohibit discrimination based on gender identity. TGs have been denied rights under Arts. 15(2) and 15(4) as also Art. 16(2) and Art. 16(4). They are legally entitled and eligible to get benefits available to socially and educationally backward classes (SEBCs) for admission in educational institutions and in public employment, *National Legal Services Authority v. Union of India*, (2014) 5 SCC 438.

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.

► **Reasonable accommodation.—**Gender diverse persons continue to face

barriers in accessing equal employment opportunities, especially in the formal sector, due to the operation of gender stereotypes. The need for a policy providing reasonable accommodation for transgender persons seeking employment in establishments is covered by the Transgender Persons (Protection of Rights) Act, 2019, *Shanavi Ponnusamy v. Ministry of Civil Aviation*, 2022 SCC OnLine SC 1581.

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.

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; and
- (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 rehabilitation centre.

Chapter VI

EDUCATION, SOCIAL SECURITY AND HEALTH OF TRANSGENDER PERSONS

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.

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.

15. Healthcare facilities.—The appropriate Government shall take the following measures in relation to transgender persons, namely—

- (a) to set up separate human immunodeficiency virus Sero-surveillance Centres to conduct sero-surveillance for such persons in accordance with the guidelines issued by the National AIDS Control Organisation in this behalf;
- (b) to provide for medical care facility including sex reassignment surgery and hormonal therapy;
- (c) before and after sex reassignment surgery and hormonal therapy counselling;
- (d) bring out a Health Manual related to sex reassignment surgery in accordance with the World Profession Association for Transgender Health guidelines;
- (e) review of medical curriculum and research for doctors to address their specific health issues;
- (f) to facilitate access to transgender persons in hospitals and other healthcare institutions and centres;
- (g) 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.

Chapter VII

NATIONAL COUNCIL FOR TRANSGENDER PERSONS

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;
- ¹⁴[(f) representatives of the State Governments and Union territories Administration, by rotation, one each from North, South, East, West and North-East regions, not below the rank of Director in the concerned Ministry or Department, 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.

17. Functions of Council.—The National Council shall perform the following functions, namely—

- (a) to advise the Central Government on the formulation of policies, programmes, legislation and projects with respect to

- transgender persons;
- (b) to monitor and evaluate the impact of policies and programmes designed for achieving equality and full participation of transgender persons;
- (c) 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;
- (d) to redress the grievances of transgender persons; and
- (e) to perform such other functions as may be prescribed by the Central Government.

Chapter VIII OFFENCES AND PENALTIES

¹⁵[18. Offences and penalties.—Whoever,—

- (a) 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, 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;
- (b) 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, 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;
- (c) forces or causes a transgender person to leave household, village or other place of residence, 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;
- (d) 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;
- (e) kidnaps or abducts any adult person and causes—
 - (i) grievous hurt to such person, whether by mutilation, emasculation, castration, amputation, or any surgical, chemical, or hormonal procedure; or
 - (ii) permanent or severe injury to the body or bodily functions

of such person,
with the intent of, or in the course of, compelling such person to assume, adopt, or outwardly present a transgender identity against the will or consent of such person, whether by force, allurement, deceit, undue influence or otherwise, shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life, and shall also be liable to fine which shall not be less than two lakh rupees;

(f) kidnaps or abducts any child and causes—

(i) grievous hurt to such child, whether by mutilation, emasculation, castration, amputation, or any surgical, chemical, or hormonal procedure; or

(ii) permanent or severe injury to the body or bodily functions of such child,

with the intent of, or in the course of, compelling such child to assume, adopt, or outwardly present a transgender identity, whether by force, allurement, deceit, undue influence or otherwise, shall be punishable with rigorous imprisonment for life, and shall also be liable to fine which shall not be less than five lakh rupees;

(g) by force, threat, coercion, allurement, deception, inducement, or undue influence—

(i) compels any person, whether or not such person is a transgender person, to dress, present, or conduct themselves outwardly as a transgender person against the will of such person; and

(ii) employs, uses, or causes such person to engage in begging, solicitation, servitude, or any other form of forced or bonded labour while so presenting,

shall be punishable with rigorous imprisonment for a term which shall not be less than five years but which may extend to ten years, and shall also be liable to fine which shall not be less than one lakh rupees; and

(h) by force, threat, coercion, allurement, deception, inducement, undue influence or otherwise—

(i) compels any child, whether or not such child is a transgender person, to dress, present, or conduct themselves outwardly as a transgender person; and

(ii) employs, uses, or causes such child to engage in begging, solicitation, servitude, or any other form of forced or bonded labour while so presenting,

shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to fourteen years, and shall also be liable to fine which shall not be less than three lakh

rupees.]

Chapter IX MISCELLANEOUS

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.

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.

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 thereunder.

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) ¹⁶[and the form and manner of details to be furnished by the medical institution under sub-section (1-A),] of Section 7;
- (d) the form, period and manner for issuing ¹⁷[* * *] 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.

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.

1. Received the assent of the President on December 5, 2019 and published in the Gazette of India, Extra., Part II, Section 1, dated 5th December, 2019, pp. 1-8, No. 64.

2. 10-1-2020 [Vide Noti. No. S.O. 135(E), dated 10-1-2020].

3. Subs. by Act 3 of 2026, S. 2(i) (w.e.f. 25-5-2026, vide Noti. No. S.O. 2620(E), dt. 22-5-2026). Prior to substitution it read as:

“(a) “appropriate Government” means,—

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

(ii) in relation to a State Government or any establishment, wholly or substantially financed by that Government, or any local authority, the State Government;”.

4. Ins. by Act 3 of 2026, S. 2(ii) (w.e.f. 25-5-2026, vide Noti. No. S.O. 2620(E), dt. 22-5-2026).

5. Omitted by Act 3 of 2026, S. 2(iii) (w.e.f. 25-5-2026, vide Noti. No. S.O. 2620(E), dt. 22-5-2026). Prior to omission it read as:

“(i) “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;”.

6. *Subs.* by Act 3 of 2026, S. 2(iv) (w.e.f. 25-5-2026, *vide* Noti. No. S.O. 2620(E), dt. 22-5-2026). Prior to substitution it read as:

“(k) “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.”.

7. *Omitted* by Act 3 of 2026, S. 3 (w.e.f. 25-5-2026, *vide* Noti. No. S.O. 2620(E), dt. 22-5-2026). Prior to omission it read as:

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

8. *Subs.* for “District Magistrate” by Act 3 of 2026, S. 4(a) (w.e.f. 25-5-2026, *vide* Noti. No. S.O. 2620(E), dt. 22-5-2026).

9. *Ins.* by Act 3 of 2026, S. 4(b) (w.e.f. 25-5-2026, *vide* Noti. No. S.O. 2620(E), dt. 22-5-2026).

10. *Subs.* for “such person may” by Act 3 of 2026, S. 5(a) (w.e.f. 25-5-2026, *vide* Noti. No. S.O. 2620(E), dt. 22-5-2026).

11. *Ins.* by Act 3 of 2026, S. 5(b) (w.e.f. 25-5-2026, *vide* Noti. No. S.O. 2620(E), dt. 22-5-2026).

12. *Subs.* by Act 3 of 2026, S. 5(c) (w.e.f. 25-5-2026, *vide* Noti. No. S.O. 2620(E), dt. 22-5-2026). Prior to substitution it read as:

“(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.”.

13. *Omitted* by Act 3 of 2026, S. 5(d) (w.e.f. 25-5-2026, *vide* Noti. No. S.O. 2620(E), dt. 22-5-2026). Prior to omission it read as:

“(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.”.

¹⁴. *Subs.* by Act 3 of 2026, S. 6 (w.e.f. 25-5-2026, *vide* Noti. No. S.O. 2620(E), dt. 22-5-2026). Prior to substitution it read as:

"(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*;"

¹⁵. *Subs.* by Act 3 of 2026, S. 7 (w.e.f. 25-5-2026, *vide* Noti. No. S.O. 2620(E), dt. 22-5-2026). Prior to substitution it read as:

"18. Offences and penalties.—Whoever,—

(a) 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;

(b) 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;

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

(d) 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."

¹⁶. *Ins.* by Act 3 of 2026, S. 8(a) (w.e.f. 25-5-2026, *vide* Noti. No. S.O. 2620(E), dt. 22-5-2026).

¹⁷. The word "revised" *omitted* by Act 3 of 2026, S. 8(b) (w.e.f. 25-5-2026, *vide* Noti. No. S.O. 2620(E), dt. 22-5-2026).

Disclaimer: While every effort is made to avoid any mistake or omission, this casenote/ headnote/ judgment/ act/ rule/ regulation/ circular/ notification is being circulated on the condition and understanding that the publisher would not be liable in any manner by reason of any mistake or omission or for any action taken or omitted to be taken or advice rendered or accepted on the basis of this casenote/ headnote/ judgment/ act/ rule/ regulation/ circular/ notification. All disputes will be subject exclusively to jurisdiction of courts, tribunals and forums at Lucknow only. The authenticity of this text must be verified from the original source.

Birey Suman
TRUE COPY

MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT

NOTIFICATION

New Delhi, the 25th September, 2020

G.S.R.592(E).— Whereas the draft rules in exercise of the powers conferred by section 22 of the Transgender Persons (Protection of Rights) Act, 2019 (40 of 2019) were published, as required by sub-section (1) of the said section vide notification of the Government of India in the Ministry of Social Justice and Empowerment, number G. S. R. 441(E), dated the 13th July, 2020 in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) inviting objections and suggestions from the persons likely to be affected thereby, before the expiry of the period of thirty days from the date on which copies of the Gazette containing the said notification were made available to the public;

And whereas, the copies of the said Gazetted notification were made available to the public on the 13th July, 2020;

And whereas, the objections and suggestion received from the public in respect of the said draft rules have been considered by the Central Government;

Now, therefore, in exercise of the powers conferred by section 22 of the Transgender Persons (Protection of Rights) Act, 2019 (40 of 2019), the Central Government hereby makes the following rules namely:-

Birendra Kumar

TRUE COPY

1. **Short title and commencement.** - (1) These rules may be called the Transgender Persons (Protection of Rights) Rules, 2020.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. **Definition.**- In these rules, unless the context otherwise requires,-

- (a) "Act" means the Transgender Persons (Protection of Rights) Act, 2019 (40 of 2019);
- (b) "applicant" means a transgender person who submits an application under rule 3;
- (c) "application" means the application form as provided in Form -1;
- (d) "any official documents" include all documents listed in Annexure 1, which the appropriate Government may revise, by notification in the Official Gazette;
- (e) "certificate of identity" means a certificate issued by the District Magistrate under section 6 or section 7 of the Act as in Form - 3 or Form - 4 respectively;
- (f) "form" means a form prescribed to these rules;
- (g) "identity card" means a photo identity card issued in Form - 5 to a transgender person under section 6 or issued in Form - 6 to a transgender person on change of gender under section 7 on the basis of "certificate of identity" issued by the District Magistrate or an identity card to a transgender person issued by a State authority prior to the coming into force of these rules;
- (h) "medical institution" means any medical institution whether hospital or clinic, private or public, in rural areas or urban or overseas;
- (i) "medical intervention" includes any gender affirming medical intervention undertaken by an individual to facilitate the transition to their self-identified gender, including but not limited to counseling, hormonal therapy, and surgical intervention, if any.
- (j) "section" means a section of the Act;
- (k) all other words and expressions used herein but not defined and defined in the Act shall have the same meaning assigned to them in the Act.

3. **Application for issue of certificate of identity under section 6 or section 7:**

- (1) A transgender person desirous of obtaining a certificate of identity shall make an application as prescribed in Form -1.
- (2) The application shall be submitted to the District Magistrate in person or by post till online facilities are developed by the State Government concerned and thereafter the application shall be made by online only:

Provided that the appropriate Government may undertake measures, as it deems appropriate, to facilitate the submission of applications for certificate of identity by transgender persons living in remote areas or disadvantaged conditions:

Provided further that in case of a minor child, such application shall be made by a parent or guardian of such minor child and in the case of a child in need of care and protection, by the competent authority under the Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016).

- (3) Transgender persons who have officially recorded their change in gender, whether as male, female or transgender, prior to the coming into force of the Act shall not be required to submit an application for certificate of identity under these rules:

Provided that such persons shall enjoy all rights and entitlements conferred on transgender persons under the Act.

4. **Procedure for issue of certificate of identity:-**(1) The District Magistrate shall, subject to the correctness of the applicant's particulars, get the application processed based on the affidavit submitted declaring the gender identity of any person in Form- 2, without any medical or physical examination, and thereafter issue an identification number to the applicant, which may be quoted as proof of application.

(2) For the purpose of determination of the place of residence, the applicant shall have to reside in the area under the jurisdiction of District Magistrate as on the date of application and an affidavit to this effect shall be submitted in Form-2.

5. Issue of certificate of identity for a transgender person under section 6.- (1) The District Magistrate shall issue to the applicant, a certificate of identity in Form-3 following the procedure provided in rules 4 indicating the gender of such person.

(2) The said certificate of identity shall be issued within thirty days of receipt of duly filled in application along with the affidavit.

(3) The certificate of identity issued under sub-rule(1) shall be the basis to change the gender as well as the name and the photograph, if so necessitated, of the transgender person in all such official documents as provided in Annexure-1, in accordance with the gender specified in the said certificate of identity.

(4) The District Magistrate shall, at the time of issuance of the certificate of identity under sub-rule(1), issue a transgender identity card in Form – 5 to the applicant.

(5) The appropriate Governments shall maintain a register for the issuance of certificate of identity card and the transgender identity card.

(6) The authority that issued the official document, on an application made by an applicant under rule 3, shall change the name or gender or photograph or any of this information of the applicant in the official documents within fifteen days of making of such application.

(7) Any official document wherein gender, name and the photograph of transgender are revised based on the said certificate of identity, shall bear the same serial or reference number as in the original official document of such transgender person who seeks change in the name or gender or both in the official documents:

Provided that all benefits that a transgender person was entitled to based on an identity card, if any, issued by a State authority shall continue to be enjoyed by that transgender person based on the certificate of identity issued under these rules.

6. Procedure for issue of a certificate of identity for change of gender.-

(1) If a transgender person undergoes medical intervention towards a gender affirming procedure, either as a male or female, such person may apply in the Form – 1, 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 the said medical intervention, to the District Magistrate for the issue of a revised certificate of identity.

(2) The District Magistrate shall, on receipt of an application referred to in sub-rule (1) shall verify the genuineness of the said medical certificate, which shall not include any physical examination.

(3) The applicant shall be a currently residing in the area under the jurisdiction of the District Magistrate as on the date of application and an affidavit to this effect shall be submitted along with the application in Form-1 and no additional evidence shall be called for.

7. Issue of certificate of identity under section 7- (1) The District Magistrate shall issue a revised certificate of identity in Form – 4 to the applicant seeking change in gender indicating the gender of such a person as male or female, as the case may be.

(2) The District Magistrate shall issue the revised certificate under sub-rule (1) within fifteen days of its receipt of the application.

(3) The certificate of identity issued under sub-rule (1) shall entitle the applicant to record or change the gender, as well as photograph and name, if so necessitated of transgender person in all such official documents provided in Annexure – 1, in accordance with the gender specified in the said certificate of identity as male or female, as the case may be.

(4) The District Magistrate while issuing the certificate of identity for change of gender shall simultaneously issue an identity card in Form – 6 to the applicant.

(5) The authority that issued the official document, on an application made by an applicant under sub-rule (3), shall change the name or gender or photograph or any of this information of the applicant in the official documents within fifteen days of making of such application.

(6) Any official document wherein gender, name or photograph of transgender person is revised based on the said certificate of identity shall bear the same serial or reference number as in the original official document of such transgender person who seeks change in the name or gender or both in the official documents.

8. Communication of rejection of application- (1) In case of rejection of application made under rule 3, the District Magistrate shall inform the applicant the reason or reasons for such rejection within thirty days from the date of receipt of such application.

(2) The District Magistrate may review the decision of rejection of the application based on the reply submitted by the applicant regarding the reason for rejection communicated in sub-rule (1) of rule 8 within sixty days from the date of such rejection.

9. Right to appeal- The applicant shall have a right to appeal, within ninety days from the date of intimation of the rejection of the application, to the appellate authority as designated by the appropriate Government by notification for a final order.

10. Welfare measures, education, social security and health of transgender persons by appropriate Government-

(1) The appropriate Government shall constitute a welfare board for the transgender persons for the purpose of protecting their rights and interests of, and facilitating access to schemes and welfare measures framed by the Government.

(2) The appropriate Government shall review all existing educational, social security, health schemes, welfare measures, vocational training and self-employment schemes to include transgender persons to protect their rights and interests and facilitate their access to such schemes and welfare measures framed by that Government

(3) The appropriate Government shall formulate educational, social security, health schemes and welfare schemes and programmes as specified in Annexure-II in a manner to be transgender sensitive, non-stigmatising and non-discriminatory to transgender persons.

(4) The appropriate Government shall take adequate steps to prohibit discrimination in any Government or private organisation, or private and public educational institution under their purview, and ensure equitable access to social and public spaces, including burial grounds

(5) The appropriate Government shall create institutional and infrastructure facilities, including but not limited to, rehabilitation centre referred to in sub-section (3) of section 12 of the Act, separate human immunodeficiency virus sero-surveillance centres, separate wards in hospitals and washrooms in the establishment, within two years from the date of coming into force of these rules to protect the rights of transgender persons.

(6) The appropriate Government shall carry out an awareness campaign to educate, communicate and train transgender persons to avail themselves of the benefits of welfare schemes, educate and train transgender persons on their rights; eradicate stigma and discrimination against transgender persons and mitigate its effects.

(7) The appropriate Government shall also provide for sensitisation of institutions and establishments under their purview, including:-

- (a) sensitization of teachers and faculty in schools and colleges, changes in the educational curriculum to foster respect for equality and gender diversity;
- (b) sensitization of healthcare professionals;
- (c) sensitization programmes in workplaces;
- (d) sensitization programmes for complaints officers.

(8) All educational institutions shall have a committee which shall be accessible for transgender persons in case of any harassment or discrimination, with powers to ensure that transgender students do not have to be affected by the presence of the persons bullying them, including teachers.

(9) The appropriate Government shall create institutional and infrastructure facilities, including but not limited to, temporary shelters, short-stay homes and accommodation, choice of male, female or separate wards in hospitals and washrooms in the establishment within two years from the date of coming into force of these rules to protect the rights of transgender persons.

11. Provisions for non-discrimination.- (1) The appropriate Government shall take adequate steps to prohibit discrimination in any Government or private organisation or establishment including in the areas of education, employment, healthcare, public transportation, participation in public life, sports, leisure and recreation and opportunity to hold public or private office.

(2) The appropriate Government shall within two years from the date of coming into force of these rules, formulate a comprehensive policy on the measures and procedures necessary to protect transgender persons in accordance with the provisions of the Act.

(3) The policy formulated under sub-section (2) shall include preventative administrative and police measures to protect vulnerable transgender communities.

(4) The appropriate Government shall be responsible for the supervision of timely prosecution of individuals charged under section 18 of the Act, or under any other Law for similar offences committed against the transgender persons.

(5) Every State Government shall set up a Transgender Protection Cell under the charge of the District Magistrate in each District and under Director General of Police in the State to monitor cases of offences against transgender persons and to ensure timely registration, investigation and prosecution of such offences.

12. Equal opportunities in employment.- (1) Every establishment shall implement all measures for providing a safe working environment and to ensure that no transgender person is discriminated in any matter relating to employment including, but not limited to, infrastructure adjustments, recruitment, employment benefits, promotion and other related issues

(2) Every establishment shall publish an equal opportunity policy for transgender persons.

(3) The establishment shall display the equal opportunity policy, including the details of the complaints officer, preferably on their website, failing which, at conspicuous places in their premises.

(4) The equal opportunity policy of an establishment shall, inter alias, contain details of-

(a) infrastructural facilities (such as unisex toilets), measures put in for safety and security (transportation and guards) and amenities (such as hygiene products) to be provided to the transgender persons so as to enable them to effectively discharge their duties in the establishment.

(b) applicability of all rules and regulations of the company regarding service conditions of employees;

(c) confidentiality of the gender identity of the employees;

(d) complaint of the officers.

13. Grievance redressal.- The appropriate Government shall ensure that every establishment designates a complaint officer in accordance with section 11 within thirty days from the date of coming into force notification of these rules.

(2) The complaint officer shall enquire into the complaints received within fifteen days from the date of receipt of such complaints.

(3) The head of the establishment shall take action on the enquiry report submitted by the complaints officer within fifteen days from the date of submission of the report.

(4) The head of the establishment shall take action forthwith in all cases where action has not been taken in

accordance with the above time limits.

(5) The appropriate Government shall also set up within one year a grievance redressal mechanism, operating through a helpline and outreach centres, for ensuring proper implementation of the provisions of Chapter V of the Act with special reference to sub-sections (1) and (2) of section 12.

(6) The grievance redressal system shall ensure resolution of grievances within thirty days from the date of bringing of such grievance to the helpline, and imposing of penalties as laid down in section 18.

(7) The appropriate Government shall put in place a monitoring system for tracking the number of complaints filed, enquired and action taken of all the establishments in their jurisdiction.

14. National Council – (1) The National Council shall perform the functions as per Section 17 of the Act.

(2) National Institute of Social Defence shall give secretarial assistance to the National Council in conduct of its meetings and facilitate in the discharge of the functions of the National Council.

[F.No. 17-2/2019-DP-II]

RADHIKA CHAKRAVARTHY, Jt. Secy.

Form – 1

[See rules 2(d), 3(1) and 6(1)]

Application form for issue of transgender certificate of identity under Rule Transgender Persons (Protection of Rights) Rules, 2020 read with Section 6* / 7* of the Transgender Persons (Protection of Rights) Act, 2019

* Strike out whichever is not applicable

<p style="text-align: center;">State Emblem</p> <p style="text-align: center;">State Government of (name of the State)</p> <p style="text-align: center;">Office of the District Magistrate</p>		
<p style="text-align: center;">Application form for issue of a transgender certificate of identity under Rule Transgender Persons (Protection of Rights) Rules, 2020</p> <p style="text-align: center;">(read with Section 6* / 7* of the Transgender Persons (Protection of Rights) Act, 2019)</p> <p style="text-align: center;">* Strike out whichever is not applicable)</p>		
1	Name	
(i)	Given name (in capital letters)	
(ii)	Changed/Chosen name (in capital letters)	
(iii)	Out of (i) and (ii), name to be printed in the certificate of identity and in the identity card	
2	Gender	
(i)	Assigned at birth	
(ii)	Requested in the application	
3	Date of birth	dd/mm/yyyy
4	Educational qualification	
5	Present address	
6	Permanent address	
7	If there is a source of income, the annual income:	
(i)	Under Rs 1,00,000	YES / NO

(ii)	Between Rs 1,00,001 and 3,00,000	YES / NO
(iii)	Above Rs 3,00,000	Please specify the amount:
8	Do you have any of the following documents? If so, please submit self- attested photocopies of the certificates stated below.	
(i)	Date of birth certificate	YES / NO
(ii)	Aadhaar card	YES / NO
(iii)	PAN card	YES / NO
(iv)	Election Voter Identity Card	YES / NO
(v)	Ration card	YES / NO
(vii)	Passport	YES / NO
(viii)	Bank passbook	YES / NO
(ix)	MNREGA Card	YES / NO
(x)	Caste certificate (SC/ST/OBC/Others)	YES / NO
9	Medical history (for those applying under section 7 of the Transgender Persons (Protection of Rights) Act, 2019	
(i)	Have you undergone any medical intervention in the context of transgender transition?	YES / NO
(ii)	Please give details	
(iii)	Name and complete address of the Hospital or medical institute	
(iv)	Name of the issuing authority along with the date	
(v)	Any other medical status you would like to share	
(vi)	Have you been issued any certificate of identity under Section 6 and Section 7 under the Act, or any other ID Card issued by the State Authority before the commencement of these Rules? If so, enclosed the same.	
10	Any other information you would like to give	
11	Have you attached affidavit prescribed in Form -- 2 of the Transgender Persons (Protection of Rights) Act, 2019 under Rule--Transgender Persons Protection of Rights) Rules, 2020	
12	Have you attached the passport size photographs?	Yes/No

Enclosed: _____ documents as mentioned in the application

Declaration

1. I declare that the particulars furnished by me are true and correct.
2. Information provided in this application will be treated as confidential and shall not be shared with any person or organisation save the Central and / or State security agencies, any other agency as provided by Law; and for statistical and policy framing purposes.

Place:	Signature or left hand thumb impression of the applicant given name of the applicant
Date:	

Form – 2

[See rules 2(b) and 4(1)]

Format of affidavit to be submitted by a person applying for certificate of identity for transgender persons under Rule 4 of the Transgender Persons (Protection of Rights) Rules, 2020 read with Section 6 of the Transgender Persons (Protection of Rights) Act, 2019

(Affidavit should be on Non-judicial stamp paper of Rs.10/-) Competent Notary
Civil, District (Name of the District), (Name of the State)

I, (Name), son/daughter/ward/spouse of (name of the parent/guardian/husband), aged (in completed years), residing at (address), (Tehsil), (District), (State) (Pin code) do hereby solemnly affirm and declare as under:

1. I am currently residing in the above address.
2. I perceive myself as a transgender person whose gender does not match with the gender assigned at birth.
3. I declare myself as transgender.
4. I am executing this affidavit to be submitted to the District Magistrate for issue of certificate of identity as transgender person under Section 6 of the Transgender Persons (Protection of Rights) Act, 2019 under Rule Transgender Persons (Protection of Rights) Rules, 2020.

* strike out whichever is not applicable.

Deponent

(Signature of the Applicant)

Verification

I, (Name), hereby state that whatever is stated here in above serial Nos. 1 to 4 are true to the best of my knowledge.

Deponent

(Signature of the Applicant)

Tehsil

Date

Identified by me

Advocate

Public

Before Me

Notary

Form—3

[See rules 2(e) and 5(1)]

Form of certificate of identity to be issued by District Magistrate under Rule 5 Transgender Persons (Protection of Rights) Rules, 2020 read with section 6 of the Transgender Persons (Protection of Rights) Act, 2019

Photograph of the
certificate holder
District
Magistrate to attest
the photograph

- 1 On the basis of the application dated dd/mm/yyyy to the undersigned it is certified that Shri / Smt./ Km/ Ms (name) son / daughter / ward of Shri/ Smt. (name of the parent or Guardian) of (complete residential address of the applicant) is a transgender person.
- 2 His / her birth name is _____.
- 3 This certificate is issued in terms of the provisions contained under Rule 5 Transgender Persons (Protection of Rights) Rules, 2020 read with section 6 of the Transgender Persons (Protection of Rights) Act, 2019.
- 4 It is also certified that Shri/Smt/Km/Ms. _____ is ordinarily a resident at the address given above.
- 5 This certificate entitles the holder to change name and gender in all official documents of the holder.

Date

Signature of the District Magistrate

Place

Seal

Form – 4

[See rules 2(e) and 7(1)]

Form of certificate of identity for change of gender to be issued by District Magistrate under Rule 6 of the Transgender Persons (Protection of Rights) Rules, 2020 read with section 7 of the Transgender Persons (Protection of Rights) Act, 2019

Photograph of
the certificate
holder District
Magistrate to
attest the
photograph

1. On the basis of the application submitted to the undersigned along with a medical certificate from the Medical Superintendent or Chief Medical Officer (name of the Hospital and complete address), it is to certify that Shri / Smt./ Km/ Ms. (name) son/ daughter / ward of Shri/ Smt. (name of the parent or Guardian) of (complete residential address of the applicant) has undergone medical intervention to change gender.
2. His/ Her birth name is _____.
3. This certificate is issued in terms of the provisions contained under Rule 6 of the Transgender Persons (Protection of Rights) Rules, 2020 read with section 7 of the Transgender Persons (Protection of Rights) Act, 2019.
4. It is also certified that Shri / Smt/ Km/ Ms. is ordinarily a resident at the address given above.
5. This certificate entitles the holder to change name and gender in all official documents of the holder.
6. Such change in name and gender and the issue of this certificate shall not adversely affect the rights and entitlements of the holder of this certificate.

Date

Signature of the District Magistrate:

Place

Seal

Form – 5

[See rules 2(g) and 5(4)] Form of Identity Card Front side of identity card

State Emblem

State Government of (name of the State) Office of the District Magistrate

Transgender Identity Card

Identity
card
number

Photograph of the Card holder

Name

Mother's name@

Father's or Guardian's name @

Gender

Transgender

Date of birth or

dd/mm/yyyy

Age as on the date of application for issue of

____years

Identity card

Reference number of certificate of
authority on the basis of which this
card is issued

Back side of the identity card

Present address

Card issue date

Signature of the issuing
authority Designation

Seal of the issuing authority

Issued under Section 6*/ 7* of the Transgender Persons (Protection of Rights) Act, 2019 and
under Rule _____ of Transgender Persons (Protection of Rights) Rules,
2020

* Strike out whichever is not applicable

@ only in case the applicant is a minor child

Form - 6

[See rules 2(g) and 7(4)] Form of Identity Card Front side of identity card

State Emblem

State Government of (name of the State) Office of the District Magistrate

Identity Card

Identity card number

Photograph of
the Card
holder

Name

Mother's name@

Father's / Guardian's name@

Gender

Male /Female

Date of birth or

dd/mm/yyyy

Age as on the date of application for issue of

____years identity card

Reference number of certificate of
authority on the basis of which this
card is issued

Back side of the identity card

Present address

Permanent address

Card issue date

Signature of the
issuing authority

Designation

seal of the issuing authority

@ only in case of a minor child

Annexure- 1

Illustrative list of official documents referred to in _____

S No	Name of the official document
(1)	Birth certificate
(2)	Caste/ Tribe certificate
(3)	Any education certificate issued by a school, board, college, university or any such academic institution
(4)	Election Photo Identity Card
(5)	Aadhaar Card
(6)	Permanent Account Number (PAN)
(7)	Driving Licence
(8)	BPL ration card
(9)	Post Office bank/ Bank Pass book with photo
(10)	Pass port
(11)	Kisan Pass book
(12)	Marriage certificate
(13)	Electricity / water/ gas connection paper
(14)	property papers,
(15)	vehicle registration
(16)	service book, employment papers
(17)	identity card related to bar,
(18)	policy papers

Annexure - II

Suggested list of welfare schemes to be considered:

1. Access to health

- At least 1 government hospital in every State shall be equipped to offer safe and free gender affirming surgery, counseling and hormone replacement therapy to the transgender community, including all Male to Female (MTF) and Female to Male (FTM) procedures.
- State medical insurance shall cover procedures of SRS, hormonal therapy, laser therapy, counselling and other health issues of transgender persons at private hospitals
- medical insurance/arogyashri cards,
- All healthcare facilities should ensure that there are separate wards for transgender persons

2. Access to education

- Scholarship for transgender students
- Inclusive and equitable quality education in schools that fosters respect for equality and gender diversity
- Protection against ragging in the educational institutions with provisions for grievance redressal
- Facilitation of accommodation and schooling for transgender, gender non conforming and intersex children in residential government schools and universities

3. Access to housing:

- a) Affordable housing
- b) Shelters and community centres for at risk transgender youth that provide nutritious food and counselling.
- c) Access to sanitation facilities and safe drinking water

4. Welfare measures

- a) Universal access to Food security schemes and provision of ration cards,
- b) Pension for aged, disabled or other vulnerable transgender persons
- c) Old age and retirement homes for transgender persons facing housing exclusion
- d) Public transport to have harassment-free zones for transgender persons

5. Economic support

- (1) Universal coverage of Life Insurance
- (2) Access to banking and financial services including loans
- (3) Explicit inclusion of transgender persons in employment guarantee schemes such as Mahatma Gandhi National Rural Employment Guarantee Act (MNREGA) and all social security schemes,
- (4) Formation into self help groups for livelihood activities
- (5) Provisions of zero-interest and other micro-finance schemes

Binita Suman
TRUE COPY



हरियाणा

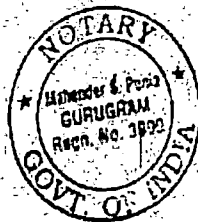


51AA 082261

AFFIDAVIT

I, [Redacted], daughter of [Redacted] Sharma, aged 28, residing at [Redacted] Road, Gurugram, Haryana-122001, Sukhrail, Mata Maudir Wali Gali, Near Mehrauli Gurgaon Road, Gurugram, Haryana-122001, do hereby solemnly affirm and declare as under:

1. I am currently residing in the above address.
2. I perceive myself as a transgender person whose gender does not match with the gender assigned at birth.
3. I declare myself as transgender.
4. I am executing this affidavit to be submitted to the District Magistrate for issue of certificate of identity as transgender person under Section 6 of the Transgender Persons (Protection of Rights) Act, 2019 under Rules 3 and 4 of the Transgender Persons (Protection of Rights) Rules, 2020.



[Redacted Signature]

Deponent
(Signature of the Applicant)

4762
S No.
Amount
Purpose
06 JUL 2021
ARHISHEK GAUR
STAMP VENDOR
PANCHAYAT BHAYAN, GURUGRAM

[Redacted Signature]

[Redacted Signature]

Binay Gaur
TRUE COPY

ANNEXURE P5



Government of Karnataka

Karnataka State Policy on Transgenders - 2017

Preamble

The Constitution of India recognizes and guarantees to all citizens the fundamental right to equality before law,¹ non-discrimination on the basis of sex,² equality in public employment,³ and right to freedom of expression and movement.⁴ In reality gender non-confirming persons face severe forms of structural opposition, violence and intolerance in private and public spaces.

The Supreme Court of India vide judgment dated 15th April, 2014 has recognized transgenders as the third gender apart from the existing binary genders. It recognized that fundamental rights are available to the third gender in the same manner as they are to males and females. Further, non-recognition of third gender in both criminal and civil statutes such as those relating to marriage, adoption, divorce, etc is discriminatory to the third gender. The Court maintained that discrimination on the basis of sexual orientation and gender identity is violation of fundamental rights.

It is therefore necessary for the Government of Karnataka to frame a policy for the transgenders covering the areas of health, education, employment, housing, protection from harassment and abuse. The solution to their problems requires

¹ **Article 14. Equality before law:** The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

² **Article 15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth:** 1. The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, and place of birth or any of them. 2. No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to (a) access to shops, public restaurants, hotels and places of public entertainment (b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.

³ **Article 16. Equality of opportunity in matters of public employment:** 1. There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State. 2. No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

⁴ **Right to Freedom 19. Protection of certain rights regarding freedom of speech, etc:** 1. All citizens shall have the right— (a) to freedom of speech and expression; (b) to assemble peaceably and without arms; (c) to form associations or unions; (d) to move freely throughout the territory of India.

Binita Suman
TRUE COPY

concerted efforts to mainstream them by adopting an inclusive approach in all spheres of life. All departments of the Government of Karnataka should include development of transgender community in their policies, programmes, schemes. Though there have been some sensitive initiatives,⁵ much more needs to be done in a focused, systematic manner – for supporting the transgender individuals and community, for attitudinal change in society and for sensitive, responsive and responsible state institutions and mechanisms.

Transgenders face many problems such as fear, shame, gender dysphoria, social discrimination, depression, suicidal tendencies, social stigma, and insistence for Sex Reassignment Surgery (SRS). These problems should be taken up seriously. Proper measures should be implemented to include ('invite and welcome') transgenders into public spaces. These include appropriate infrastructure to provide medical care to transgenders in the hospitals, appropriate basic services to attitudinal change through positive portrayal in text books and mass media. Various social welfare schemes should be framed for their development and mainstreaming them into society. Steps to create public awareness should be taken so that transgenders experience acceptance, respect and security of being a part of their birth families, neighbourhoods, schools and society at large.

Rather than calling them as third gender, the nomenclature 'transgenders' should be used. The policy will cover all categories of transgenders, i.e. Jogappas, Jogtas, Hijras, Kothis, Shivshakthis, and Aravanis, intersex people, female to male and male to female transgenders. The categories will be defined in the subsequent Government Orders.

The last 20 years has increased visibility and involvement of members from the transgender population in government and civil society initiatives. This has led to some amount of breaking down of traditional barriers and increased their use of state facilities. Globally too there is more recognition and acceptance of gender diversity and human rights violations of transgender people. With this recognition and acceptance comes the need to address issues of inclusion of transgenders by state and non-state actors.

5)The Mythri Pension Scheme for transgenders below the poverty line of the Government of Karnataka (G.O. No. RD95DSP Dated : 01.08.2013) has been sensitive to the needs of the community. The age of eligibility has been decreased from 50 to 18 years.

1. Approach and objectives of the policy

The policy is to provide guidelines for ensuring the constitutional guarantees of transgenders individually and collectively and directions for implementing the Supreme Court Judgement (2014) for the inclusion of transgenders as full citizens.

The approach is incremental, with clear timeframe and measurable outputs.

The objectives of the policy are to

- Enforce the constitutional guarantees of dignity, non-discrimination, equal access and redress.
- Identify the responsible state institutions and departments for implementation.
- Define accountability mechanisms.

These require the measures for empowerment, remedy and sustainability and mechanisms for implementation and accountability.

1.1 Empowerment measures

- Provide a mechanism for self-identification of gender (as man, woman or transgender).
- Empower the transgenders to enjoy their constitutional rights and freedom especially the right to not be discriminated based on gender, access to public spaces and resources and freedom of expression.
- Direct all Government Departments and public authorities to ensure non-discriminatory treatment to the transgenders in legal aspects and provide barrier free access to public transport, parks and other public places.
- Listen to and address the aspirations of dignity and inclusion of the transgender population across age groups and locations within the state of Karnataka.

1.2 Enabling measures

- Estimate the resources required for the implementation of the policy and ensure it is budgeted and allocated in a timely manner and harmonized with the financial and administrative planning schedule of the state government.
- Include transgenders in society with proper social, legal and institutional protection, educational(including anganwadis and schools) and health facilities, basic amenities such as water supply, sanitation, housing and employment.
- Frame guidelines for implementation and a mechanism to ensure that these guidelines are followed.

- Monitor all Government Departments and public authorities to ensure non-discriminatory treatment to the transgenders in legal aspects and provide barrier free access to public transport, parks and other public places.
- Instruct state run and private financial institutions, insurance and housing companies to make transgender inclusion part of their priority sector, plan their objectives with measurable indicators for inclusion within an agreed time frame.
- Effective implementation and monitoring of the schemes being proposed especially for the transgenders for their socio-economic improvement and livelihoods.
- Sensitise the parents, teachers, students, doctors, police and other sections of society so that they are treated with dignity and can live with self-respect and dignity without discrimination.

1.3 Remedial measures

In workplaces/offices in public and private sector need to sensitize employers and employees on issues of transgenders. Anti-discrimination policies must be instituted and meaningfully implemented in the processes of hiring, retention, promotion and employee benefits. Workplace sexual harassment policies should be made transgender inclusive.

Other remedial measures to be included are:

- **Preference for admission** in education— Incrementally at all levels.
Discrimination against transgenders on the basis of gender in matters of education, employment, housing and public accommodation should be prohibited.
- Family awareness should be created by collaborating with schools and child rights organizations and networks.
- Create awareness to parents not to desert their transgender children and provide them with equal opportunities in the family.
- Corrective surgery at birth is not the preferred option medically or socially and so should be discouraged.
- Rehabilitation should not be forced. It needs to be a consultative process.
- Transgender children should be provided safe residence. The facilities so provided – short-stay homes, orphanages, adoption and fostering services – should be sensitive to the needs and concerns of gender non-conforming children.
- Old age: Old age shelter homes should be taken into account and the pension should also be a mandatory aspect.
- Media: Negative portrayal of transgender community should be discouraged.

1.4 Sustainability measures

- Scholarships and other measures to support education, health care and social security.
- Support and opportunity for enhancing skills to secure a livelihood that will ensure a sustainable income for a life with dignity.
- Converge existing schemes across departments for a more targeted and focused approach towards welfare of the transgender community.

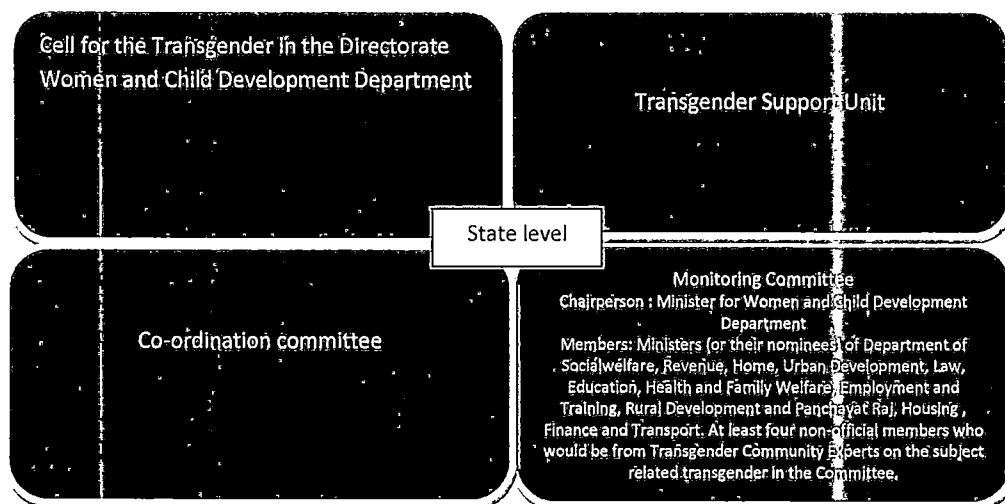
Example: Training and sensitization of Anganwadi teachers and Village Health Activists, ASHA (Accredited Social Health Activist) to help to identify parents and children who would need counselling support at the village level. Linking certain aspects of village level implementation and monitoring with the National Health Mission will provide a ready and robust mechanism for outreach.

- Provide policy and institutional reforms to enable access to social protection schemes for the community especially for those who are more marginalised among them.

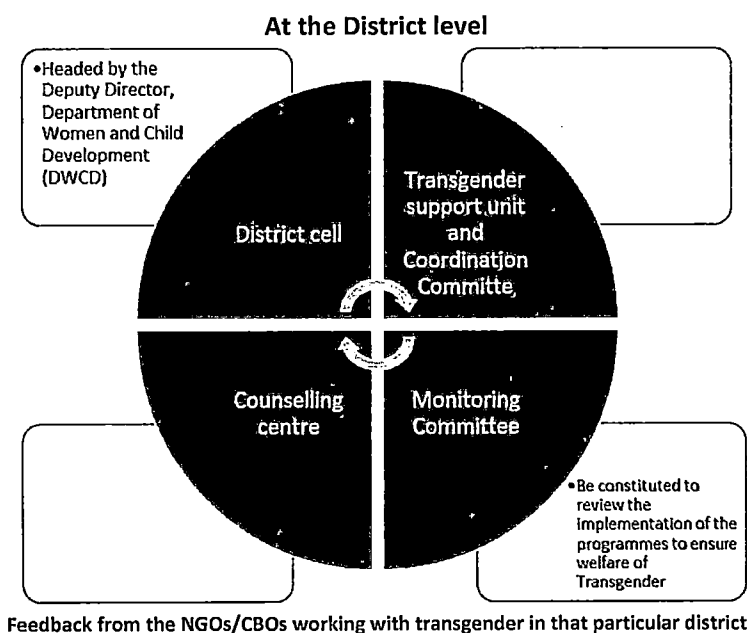
2 Implementation Mechanism

The function of the implementation mechanism is to create an enabling environment for the transgenders to realize their constitutional rights.

Karnataka Transgender Policy Implementation Mechanism



Child Development Project Officer would periodically report through Deputy Director of the district to the officer heading the Cell for transgender in the Directorate of Women and Child Development Department about the progress in the implementation of schemes.



2.1 Administrative Set-up

To ensure that transgenders lead a decent life and mainstream them into the society, a Cell for the Transgenders will be established in the Department of Women and Child Development with the Principal Secretary of WCD as the chief nodal officer to oversee and ensure implementation of the policy. The chief nodal officer will also lead the process of making an annual plan for the implementation of the policy with a supporting financial plan and budget allocations. This will ensure that the plan is rolled out in a timely manner and harmonized with the financial and administrative planning schedule of the state government.

At the State level there would be a Transgender Support Unit. There would also be a Coordination Committee.

At the district level, the Deputy Director, Department of Women and Child Development (DWCD) would take responsibility of implementing and monitoring of schemes, and take

feedback from the NGOs/CBOs working with transgenders in that particular district. Work is expected to be intensive during the initial policy roll out period of three years. The appointment of Nodal officers as “single point of contact” will ensure and facilitate the coordination and implementation of the required changes, orientation of the administration, and setting up of a robust delivery and review mechanism in a brisk manner.

The Child Development Project Officer would periodically report through Deputy Director of the district to the officer heading the Cell for transgenders about the progress in the implementation of schemes. At the district level also there would be a Transgender Support Unit.

2.2 Functions of the Cell for Transgenders

The functions of the Cell would be as follows- (i) to initiate welfare programmes for the upliftment of Transgenders, (ii) acquire funds from Government and distribute to various projects approved by the Government, (iii) issues ID Cards to transgenders, (iv) conduct awareness programmes to sensitize public about transgenders through mass media and other method of publicity campaign.

In order to enlist the transgenders as members of the community and provide transgenders welfare measures, the process currently being followed should continue. The process requires a self-declared affidavit along with a form that is to be submitted to the CDPO of the district which serves as a basis for being declared as a transgender. To issue identity cards, a Committee comprising of CDPO, Medical Officer and Tahsildar will be constituted at the taluk level. The Tahsildar will issue the identity cards. The identity cards issued should be acceptable to all authorities for indicating the gender on official documents like ration cards, passport, birth certificate, aadhaar card, for opening bank accounts, monthly bus pass, driving license, etc. Directives will be issued to the relevant Authorities to accept the identity cards to issue such official documents.

2.3 Functions of the support unit, coordination committee to be defined.

2.4 Counselling Centres

Addressing stigma, discrimination and violence faced by transgenders – Awareness generation and sensitization are required for parents to support and accept their gender non-conforming children. Counselling and other mental health services that confirm the child’s gender identity are required for the children as well as the parents. Besides this, they have to be counselled to cope up with the trauma of violence and abuse. The existing Counselling Centres set up for Women and children who are victims of violence will be extended to transgenders in all districts of the State. Additionally, District

Protection Officers, Anganwadi Workers, Health Workers and Self Help Groups may be oriented on transgender issues and involved in providing information to parents of gender non-conforming youth. Educational Institutions/Universities would be encouraged to establish an anti-discrimination cell to monitor any form of discrimination/harassment against gender non-conforming students.

3 Identification and Certification

Identification and certification is a critical aspect of being counted as a transgender and to benefit from the policy. It is of utmost importance to the purpose of this policy that the certification process should be empowering and welcoming to the applicant. It needs to be simple and accessible to the community, while at the same time transparent to ensure that misuse is minimised. At no time should process be demeaning.

The district level coordination cell, which will be the certification authority, should be welcoming and accessible to the community. The community representatives and member NGOs will help the committee in making the identification process more efficient, transparent and accessible to applicants.

3.1 Steps towards Certification

- Applications can be filled out and submitted to the Deputy Director, Women and Child Development or the member NGOs of the district level transgender cell.
- All applications received will need to be presented once in three months at the coordination committee meeting.
- Each application should be approved by at least four members of the cell which should include at least two government officials and two community representatives.
- The application should include an evaluation from the psychiatric department of the district hospital.
- In the initial stage of the policy implementation, the cell could also conduct camps for publicising the certification process required for accessing benefits, so that more community members can benefit without long delays.
- Once the certification process by the cell is completed, a card should be issued which makes them eligible for updating other ID cards, certificates, and marks cards by a simple process.
- This should include AADHAAR, voter ID, passport, ration card, pan card, insurance papers, school and college certificates.

- The certificate should be issued in a timebound, transparent process that takes not more than three months. Failure to do so, or rejection, should be recorded in writing and made available both to the coordinating cell and the applicant free of cost.

4 Accountability and Review Mechanisms

A Monitoring Committee would be constituted to review the implementation of the programmes to ensure welfare of transgenders. The Committee would comprise of Minister for Women and Child Development Department as the Chairperson. The official members would be Ministers (or their nominees) of Departments of Social Welfare, Revenue, Transport, Home, Urban development, Law, Education, Health and Family Welfare, Employment and Training, Rural Development and Panchayat Raj, Housing and Finance. There would be at least four non-official members who would be from transgender community. There would also be experts on the subject related to transgenders in the Committee.

There are a number of Acts such as Domestic Violence Act, Juvenile Justice Act etc. where amendments will be required to include transgenders under the Acts.

Suitable schemes are to be launched specifically for transgenders in various sectors such as education, health, housing, skill development, social welfare, etc. Audits will need to include and track both quantitative and qualitative data. A Management Information System (MIS) will be developed. Simple formats will be prepared so that each department can track resource allocation, schemes, applications, response, response time, functioning of redressal mechanisms and the number of beneficiaries. The system of monitoring and measuring impact will greatly benefit from a bench marking survey of the transgender population of the state based on a few key development indicators as part of grounding policy and planning incremental but definite positive changes.

5 Timeline

5.1 Implementation

The timeline for implementation and review reflect the hybrid approach of simultaneous fundamental and incremental change.

Some changes can be implemented immediately, while others may be planned over a period of time. Only then it will be possible to fully implement this policy in its true spirit

across all government departments and ensure compliance at all levels within 5 years. Societal transformation can also be achieved in the same time span.

A provision for the appointment of the Director, Women and Child development Department as Nodal Officer to oversee and ensure implementation of the policy at the state and appointment of a Nodal officer at each of the 30 districts for a period of three years/ till such time that the whole system is oriented to adopt changes required for implementation of the Karnataka State Transgender Policy.

5.1.1 Phase 1- First 12 months

Immediate: Mandate inclusion in public services: Primary health, schooling, access to public resources and spaces must be made mandatory from day one of the policy.

5.1.1.1 In 6 Months:

- Orientation of all IAS and KAS officers.
- Initiate a process of curriculum building to inform, sensitize and educate all stakeholders in schools, colleges, medical and health sciences, B.Ed. colleges, NCERT and Administrative colleges.

5.1.1.2 In 12 Months:

- Orient key personnel: The State Institute of Rural Development to train all panchayat leaders. The Police Training Academy and the Judicial Academy will take up the responsibility of training the state police and judiciary.
- A module on sensitization to transgender rights and the context and scope of the state transgender policy to be included as part of the orientation programmes and induction of officers and trainees in the public and private sector.

5.1.2 Phase 2- Month 13- 30

- **Harmonise existing laws:** There are laws and policies that are not in harmony with the Constitution of India and the Supreme Court directive on transgenders. Make required changes in law and policies that can impede or restrict the implementation of the transgender policy.
- New and revised curriculum to be included for schools and colleges.
- Implement the right to education (free and compulsory education in primary, secondary schools)
- Preference in admission, reservations in ITI, vocational training colleges, IITs, design, planning and management schools, nursing and medical colleges.

- Introduce hostels for teenage transgender students to help them pursue higher education at the district/ for a cluster of districts or/and at the state level.
- Increase the number of counselling and coaching centres that prepare transgender students for competitive exams for career paths that will be an asset to the community, school to the IAS, and UGC.
- Provide livelihood support and the credit policy to support livelihood options.

5.1.3 Final Phase of roll out – 31-36 month

Review and status report on the implementation of the policy including lessons learnt, best practice.

5.2 Reporting and review

5.2.1 Rollout

0-90 days: A baseline community survey to be conducted and the findings presented in consultations in all districts of Karnataka within three months so that the final policy benefits from inputs from the consultations as well as gains clarity on the scale and scope of change that can be envisaged through the policy.

91-180 days: After the policy is finalized and approved by the state government and a coordination mechanism is set up within the next 90 days to support its adoption and implementation by its various departments.

5.2.2 Monthly

- From the 6th month all concerned departments report to the central monitoring unit on a monthly basis and review every three months.
- The reports are uploaded and updated on a monthly basis on the government website for the purpose transparency, and ease to coordinate and communicate.

5.2.3 Half yearly

Once in six months a meeting is conducted face to face interaction between all concerned government department and implementing agencies and NGO partners, and community representatives.

5.2.4 Annual

An annual monitoring and review report on the implementation of the policy is published by the Director, Women and Child Development Department in January every year, so that it can feed into the planning and allocation of resources for the consequent financial year.

6 Laws and legal support

The existing Legal Aid Authority will also provide assistance to transgenders facing problems/harassment without prejudice as is being done for other marginalised sections of the society so that they can seek redressal under law for any problem faced by them. Efforts will be made to create awareness among transgenders about their legal rights.

The legal and law enforcement systems must be sensitised on issues of transgenders and action should be taken up such as –

- i. Amend sexual assault, sexual harassment and domestic violence laws to be transgender inclusive. Presently, Section 375 of IPC does not cover the transgenders as victims of sexual assault. Amend to make it gender neutral in respect of the victim.
- ii. Amend the Juvenile Justice Act to address the concerns of transgender children.
- iii. Amend laws on discrimination at the workplace to bring all workplaces into its ambit, as issues of discrimination are more severe when it concerns transgender employees. At present the threshold is 100 employees or more. This reduces the number of workplaces that need to implement this law.
- iv. Public Opinion will be built to Strike down Sec 377.
- v. Act against parents, family of birth and adoption, who desert or abuse their gender non-conforming children and against doctors who undertake electro-shock or other kinds of unethical conversion therapy.
- vi. Record and compile statistics of crime against transgenders in every police station.
- vii. Provide free legal aid to transgenders seeking redress against discrimination and violence.

7 In Conclusion

It is important, but in itself insufficient, to speak of equal rights and inclusion. Equal opportunity needs to be ensured to enable the envisaged change outlined in this policy. Thus the importance of a clear timeline and method to review and strengthen governance and support.

The more polarized the gender roles, the more violent the society. Indian society has been by and large is quite fixed with its position on gender roles aggravating the severity of violence faced by transgenders. The violence faced by the more vulnerable sections

of society, of which transgenders are one, is a leading indicator of the violence in society itself. Thus a policy that promotes an attitudinal change to accept gender diversity and eliminate violence against them will not just liberate transgenders, but people of all genders.

Though discrimination is intense, and the social, economic and political barriers are high, the total transgender population is not large, estimated to be about 30,000 in the state. Implementation and inclusion is doable. Karnataka can become a role model in inculcating and promoting inclusion and life with dignity, and a reason for pride and satisfaction.

8 Annexure 1- A vision for inclusion

There is a need to act with a clear vision to change and include all major actors in the most productive, sensitive and efficient way. Given below is a list of possibilities:

- Counselling centres for parents and children.
- Use electronic media – social media and interactive web space for creating awareness and support similar to existing sites like <https://www.genderspectrum.org/> which support teenage children and families to discuss gender more openly.
- Curriculum to be developed by the NCERT and Universities for schools, colleges, medical and health sciences, school teachers, counsellors, B.Ed. colleges, administrative colleges, curriculum (1 pagers to be included) in all orientation programmes and induction of officers and trainees in the public and private sector.
- The state public information centre should also promote basic information on the policy and its implementation through radio, television and its regular announcements reaching out to general public and particular sections, Resident Welfare Associations, elected leaders, religious heads.
- Made part of the curriculum for the orientation of the police, housing, slum board, transport and health department, panchayath and gram-sabha leaders, and state bureaucracy and judiciary.
- Include a campaign to know and respect, include and sensitize for general public in public spaces, through radio, news, television, promote publishers like Children's Book Trust-CBT, National Book Trust-NBT, Film division and the state Public Information Bureau-SPIB, and Public Service Broadcasting Trust-PSBT to publicise the policy in a relevant and impressing manner.

All such efforts in this direction should include address both aspects, the need to create safe spaces for transgender persons to pursue life and livelihood opportunities, as well

as promoting attitudinal change among people and institutions who can help achieve this. A clear example is provision of short stay homes and a sensitization programme that reaches out to a large spectrum of service providers.

9 Annexure 2: Schemes for the welfare of transgenders

9.1 Schemes that generate jobs and income

- Self-employment grants for taking up small business
- Provide vocational training to TGs in different areas including jewellery making, tailoring, beautician, artist, etc. Reservation of at least 5 seats should be provided to TGs in ITIs and Polytechnics. This would enable them to look for better job opportunities and lead to their economic empowerment.
- Design customised vocational training programmes for the transgenders as per their needs and interest and establish effective linkages with vocational training centres run by private and government agencies
- Training by NGOs on formation and governance of TG SHGs at the rate fixed by the Government from time to time. The existing Udyogini scheme should be extended to cover transgenders and gradually the scope of extending similar schemes such as NRLM; NULM etc. may also be explored. Helpline for career guidance and online placement support should be established. Capacity building and entrepreneurship development for transgender community is a must. Efforts should also be made to register transgenders in the Employment Exchange of the State. Liberal credit facilities and other needed support for economic activities should be provided.

9.2 Schemes for Housing/Shelter

Santhwana Centres, which are run with assistance from various NGOs and provide temporary shelter to women who have been subjected to atrocities can also be utilised as one stop crisis centres for transgenders. Simultaneously, five shelter homes may be opened in different parts of the State for the exclusive use of transgenders according to the population of transgenders in those areas. Under the existing housing schemes subsidies or grants may be provided to transgenders for constructing houses. Day care centres for older transgenders should also be made available. The possibility of providing registered land to transgenders for constructing houses should also be considered. The assistance given for housing of transgenders can be a combination of grants, subsidies, loans depending on the income of the beneficiary.

9.3 Schemes for Education

Education grants will be provided to gender non-conforming students as per the norms of scholarship given to OBC students. Government schools and colleges will be open to transgender students. Hostel facilities should also be provided to transgender students. transgender students may be allowed to use male and female toilets. Government should provide fee-waiver, free textbooks, free hostel accommodation and other facilities at subsidized rates for transgender students. The fulfillment of obligations under RTE Act is critical for the improvement in the educational conditions of transgender community.

9.4 Schemes for Health care

Transgenders should be included in the Rashtriya Swasthya Bima Yojana and all other health insurance schemes of the State. SHGs or Societies of transgenders can avail the benefits under Yeshaswini scheme also. Health insurance card should be issued to the transgenders. Government will provide financial assistance for Sex Reassignment Surgery (SRS) in selected Government hospitals. Directives will be issued by the Health and Family Welfare Department to all hospitals to provide health care facilities to them without any discrimination, so that they can access all hospitals without hesitation. Proper counselling to transgenders will be given about options available in relation to gender transition and proper post-operative follow-up counselling and support. All public hospitals would have policies and will include registration and admission of transgenders, training and sensitization of health care providers about transgenders and their health issues. Separate HIV Sero-surveillance Centres will be operated since transgenders face several sexual health issues.

9.5 Scheme on provision of food

BPL/Ration cards under Public Distribution System should be given to the transgenders to provide food at free/subsidised cost.

9.6 Monthly pension scheme for destitute transgenders

Financial assistance will be provided as monthly pension for destitute transgenders.

9.7 Other programmes

Awareness generation programmes, providing job opportunities in areas where they have been trained, on contract basis and also in MGNREGS. Link the outreach of policy priorities through National Health Mission to every village in the country through the trained female community health activist ASHA or Accredited Social Health Activist, who is selected from the village itself and accountable to it, the ASHA will be trained to work

as an interface between the community and the public health system. Organising events regularly with NGOs working for the welfare of Transgenders and other Transgender Associations to discuss all issues and solutions for transgenders to enable finalise future strategies for their welfare. There should be large scale awareness generation and sensitisation programmes by Government through mass media so that the transgenders could be a part of mainstream and are not discriminated against. The Police department officials will be sensitized through trainings so that transgenders are not seen as law and order problem. Transport Department and Urban Development Department should ensure that public toilets for transgenders are made available in public places such as bus stands, shopping places, cinema halls, hospitals, railway stations, etc.

10 Annexure 3: A checklist to ensure inclusive standards in basic services for transgenders

(Developed through focused group discussion with 18 participants, including 4 organizations, 5 independent community members, a government representative from WDC, and a facilitator.)

10.1 Health

10.1.1 Problems identified:

Lack of expertise, lack of research and lack of proper standards allow for a lot of medical malpractice, in approach and procedures, leading to extremely painful situations for the patient that at times can be fatal.

10.1.2 Suggestions:

a) Free SRS for F2M, M2F (Counselling, Hormone Therapy and Surgery:-

- Breast removal surgery –F2M
- Breast implantation surgery – M2F
- Uterus removal – F2M
- Penis construction – F2M (sex change)
- Penis castration – M2F (sex change)

- b) Medical Education – should include SRS in its syllabus.
- c) Create a data base of approved doctors and medical centres based on the guidelines
- d) Free health insurance including life partner (Health card and monthly free medical check-up)
- e) Mental health issues (community friendly counselling centres, free treatment and medicines)
- f) HIV Related :
 - Community friendly counselling centres
 - Care and support
 - Free nutrition food monthly once
 - Free testing for PLHIV
 - Free insurance policy
 - Free transportation in Govt buses, to access long term treatment.
 - Health development staff training for TG
 - Non-discrimination for services
 - Legal action on discrimination
 - Housing for PLHIV
- g) Promote transgender health care in the medical academia by including it in the curriculum at the under graduation and post-graduation courses, supporting research, conferences, publications and getting the medical council to set guidelines for minor and major medical interventions. Till such time as we develop local standards the WHO guidelines can be taken as the standard.
- h) Ensure privacy in times of treatment particularly for SRS, there should be a special ward- which could be a single room, 2/4 beds depending on the size of the hospital.
- i) Introduce a health insurance scheme similar to ESI, Yashasvini scheme, where medical costs are covered.
- j) A helpline that is linked to the ASHA workers, anganwadi teachers and district counseling center and the HIV + community care center should be introduced. Suicide support groups can be formed at district level to enhance local support against depression and suicidal tendencies.

10.2 Employment

10.2.1 Problem identified

Employment is not an option for most of the community. So in the short run the focus could be on livelihood options, entrepreneurship, but increasing employability should be part of the design. Inclusion in the formal education and creation of employment opportunities should be a linked priority. Inclusion from primary, middle, secondary and higher education should be monitored carefully as it is the biggest block in development.

10.2.2 Suggestions:

Suggestions to create increase employment opportunities and make work spaces more inclusive. Employment should be promoted in all avenues - Government, Private, MNC and self-employment sector

- a) Transgender working committee and a help desk to monitor
 - Positive discrimination and reservations.
 - Reserve all the government benefits as per law.
 - Transgender children benefits from concern Government job related to person (nominee)
 - In submitting and screening of tenders there should be no discrimination based on gender of applicants.
- b) Inclusion measure in workspace
 - Anti-discrimination desk in all the government sectors
 - HR Department (Should have clear guidelines to measure inclusion and criteria to punish discrimination based on gender)
 - Equal pay, opportunity and benefits across all genders.
- c) Loans and credit :
 - All private, government, society and co-operative financial sector should provide loan on basis of the needy requirement and on basis of legal documents (state wide)
- d) Relaxation of terms and conditions for investment loans.
- e) Plan of separate schemes can be drawn based on existing schemes, schemes for self-employment.

10.3 Education

10.3.1 Overall

- a) Orientation about Transgender community in all Educational Institutions (Through Anganawadi workers reach out family members to sensitize about trans child in their family)
- b) Monitoring committee or cell should be in place at all education institutions to address stigma, discrimination, sexual abuse and violence on trans people
- c) Need to define indicators for a friendly policy and go beyond non-discrimination.
- d) Reservation in all level of education
- e) Trans community should be included in Sarvashikshana Abhiyana, RTE and similar efforts to promote literacy and reduce drop outs.

10.3.2 Specific corrections:

- a) Syllabus – curriculum should be checked for portraying transgender community negatively in its literature and language books. Also remove positive reassertion of orthodox gender roles.
- b) Include information on the gender diversity in the syllabus.
- c) Reservation: All levels of formal education system should have reservations for transgender students, may column of others or transgender identity
- d) Certifications: There should be a timely process to change their name and gender in their educational certificates.
- e) Consideration and scholarship for trans children for their education
- f) Neutral uniform for all students
- g) Common Toilet in all schools, colleges and education institutions.

Jayalakshmi
(JAYALAKSHMI) 18/12/12

Under Secretary -2 to Govt.,
Dept. of Women & Child Development
& Empowerment of Differently Abled
& Senior Citizens.

18.12.12

Bincy Susan
TRUE COPY

The

Kolkata
Gazette
सत्यमेव जयते
Extraordinary
Published by Authority

AGRAHAYANA 9]

WEDNESDAY, NOVEMBER 30, 2022

[SAKA 1944

PART I—Orders and Notifications by the Governor of West Bengal, the High Court, Government Treasury, etc.

GOVERNMENT OF WEST BENGAL
Department of Women & Child Development and Social Welfare

NOTIFICATION

No. 155/WBTGPDB/Estt/15/2021, dt, 30.11.2022. – WHEREAS the draft rules, in exercise of the powers conferred by section 22 of the Transgender Persons (Protection of Rights) Act, 2019 (40 of 2019) was issued, as required by sub-section (1) of the said section by notification of this Department *vide* No.136/WBTGPDB, dated: 04.11.2022 and published in the *Kolkata Gazette, Extraordinary*, Part-I, on 4th November, 2022, inviting objections and suggestions from the persons likely to be affected thereby;

AND WHEREAS, the objections and suggestions received from the public in respect of the said draft rules have been considered;

NOW, THEREFORE, in exercise of the power conferred by section 22 of the Transgender Persons (Protection of Rights) Act, 2019 (40 of 2019), The Governor is hereby pleased to make the following rules, namely:—

Rules

1. **Short title and commencement** – (1) These rules may be called the West Bengal Transgender Persons (Protection of Rights) Rules, 2022.
(2) They shall come into force on the date of their publication in the Official Gazette.
2. **Definition.**— In these rules, unless the context otherwise requires,—
 - (a) “Act” means the Transgender Persons (Protection of Rights) Act, 2019 (40 of 2019);
 - (b) “applicant” means a transgender person who submits an application under rule 3;
 - (c) “application” means the application form as provided in Form-1;
 - (d) “affidavit” means affidavit in Form-2 to be submitted by an applicant seeking certificate of identity;

Birey Kumar
TRUE COPY

- (e) "any official documents" include all documents listed in Annexure-1, which the State Government may revise, by notification in the Official Gazette;
- (f) "certificate of identity" means a certificate issued by the District Magistrate under section 6 or section 7 of the Act as in Form-3 or Form-4 respectively;
- (g) "District Magistrate" means the District Magistrate of the respective district and for Kolkata, authority as designated by the State Government by notification for the purpose and intent of the Transgender Persons (Protection of Rights) Act, 2019 (40 of 2019);
- (h) "form" means a form prescribed these rules;
- (i) "identity card" means a photo identity card issued in Form-5 to a transgender person under section 6 or issued in Form-6 to a transgender person on change of gender under section 7 on the basis of "certificate of identity" issued by the District Magistrate or an identity card to a transgender person issued by a State authority prior to the coming into force of these rules;
- (j) 'procedure' means procedure laid in Annexure-1 to be adopted by District Magistrate for issue of certificate of identity under section 6 or 7;
- (k) "medical institution" means any medical institution whether hospital or clinic, private or public;
- (l) "medical intervention" includes any gender affirming medical intervention undertaken by an individual to facilitate the transition to their self-identified gender, including but not limited to counseling, hormonal therapy, and surgical intervention, if any;
- (m) "section" means a section of the Act;
- (n) "rule" means a rule under these rules;
- (o) all other words and expressions used herein but not defined in the Act shall have the same meaning assigned to them in the Act.

3. Application for issue of certificate of identity under section 6 or section 7:

- (1) A transgender person desirous of obtaining a certificate of identity shall make an application as prescribed in Form-1.
- (2) The application shall be submitted to the District Magistrate in person or by post till online facilities are developed by the State Government and thereafter the application shall be made by online :

Provided that in case of a minor child, such application shall be made by a parent or guardian of such minor child and in the case of a child in need of care and protection, by the competent authority under the Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016) as amended by Juvenile Justice (Care and Protection of Children) Amendment Act, 2021.
- (3) Transgender persons who have officially recorded their change in gender, whether as male, female or transgender, prior to the coming into force of the Act shall not be required to submit an application for certificate of identity under these rules:

Provided that such persons shall enjoy all rights and entitlements conferred on transgender persons under the Act.

4. Procedure for issue of certificate of identity:—(1) The District Magistrate shall, subject to the correctness of the applicant's particulars, get the application processed based on the affidavit submitted declaring the gender identity of any person in Form-2, without any medical or physical examination, and thereafter issue an identification number to the applicant, which may be quoted as proof of application.

- (2) For the purpose of determination of the place of residence, the applicant must have been a resident of the area under the jurisdiction of the District Magistrate for a continuous period of at least six months as on the date of the application, and an affidavit to this effect shall be submitted in Form-2.

5. Issue of certificate of identity for a transgender person under section 6. – (1) The District Magistrate shall issue to the applicant, a certificate of identity in Form-3 following the procedure provided in rule 4 indicating the gender of such person.

- (2) The said certificate of identity shall be issued within thirty days of receipt of duly filled in application along with the affidavit.
- (3) The certificate of identity issued under sub-rule (1) shall entitle the applicant to change the gender as well as the name and the photograph, if so necessitated, of the transgender person in all such official documents as provided in Annexure-1, in accordance with the gender specified in the said certificate of identity.
- (4) The District Magistrate shall, at the time of issuance of the certificate of identity under sub-rule (1), issue a transgender identity card in Form-5 to the applicant.
- (5) The appropriate authority shall maintain a register for the issuance of certificate of identity and the transgender identity card distinctively.
- (6) The authority that issued the official document, on an application made by an applicant under rule 3, shall change the name or gender or photograph or any of this information of the applicant in the official documents within fifteen days of making of such application.
- (7) Any official document wherein gender, name and the photograph of transgender are revised based on the said certificate of identity, shall bear the same serial or reference number as in the original official document of such transgender person who seeks change in the name or gender or both in the official documents:

Provided that all benefits that a transgender person was entitled to based on an identity card, if any, issued by a State authority shall continue to be enjoyed by that transgender person based on the certificate of identity issued under these rules.

6. Procedure for issue of a certificate of identity for change of gender.–

- (1) If a transgender person undergoes medical intervention towards a gender affirming procedure, either as a male or female, such person may apply in the Form-1, 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 the said medical intervention, to the District Magistrate for the issue of a revised certificate of identity.
- (2) The District Magistrate shall, on receipt of an application referred to in sub-rule (1) shall verify the correctness of the said medical certificate, which shall not include any physical examination.
- (3) The applicant shall be a resident for a continuing period of at least six months up to the date of application in the area under the jurisdiction of the District Magistrate and an affidavit to this effect shall be submitted along with the application in Form-1.

7. Issue of certificate of identity under section 7 – (1) The District Magistrate shall issue a revised certificate of identity in Form-4 to the applicant seeking change in gender indicating the gender of such a person as male or female, as the case may be.

- (2) The District Magistrate shall issue the revised certificate under sub-rule (1) within thirty days of its receipt of the application.
- (3) The certificate of identity issued under sub-rule (1) shall entitle the applicant to record or change the gender, as well as photograph and name, if so necessitated of transgender person in all such official documents listed in Annexure-1, in accordance with the gender specified in the said certificate of identity as male or female, as the case may be.
- (4) The District Magistrate while issuing the certificate of identity for change of gender shall simultaneously issue an identity card in Form-6 to the applicant.

- (5) The authority that issued the official document, on an application made by an applicant under sub-rule (3), shall change the name or gender or photograph or any of this information of the applicant in the official documents within thirty days of making of such application.
- (6) Any official document wherein gender, name or photograph of transgender person is revised based on the said certificate of identity, shall bear the same serial or reference number as in the original official document of such transgender person who seeks change in the name or gender or both in the official documents.
8. **Communication of rejection of application** – In case of rejection of application made under rule 3, the District Magistrate shall inform the applicant the reason or reasons for such rejection within thirty days from the date of receipt of such application.
9. **Right to appeal** – The applicant shall have a right to appeal, within ninety days from the date of intimation of the rejection of application made under rule 3, to the appellate authority as designated by the State Government by notification.
10. **Provisions for non-discrimination.** – (1) The State Government shall take adequate steps to prohibit discrimination in any Government or private organization or establishment including in the areas of education, employment, healthcare, public transportation, participation in public life, sports, leisure and recreation and opportunity to hold public or private office.
 - (2) The Government of West Bengal shall set up a Transgender Protection Cell in each District under the charge of the District Magistrate and under Director General of Police in the State and in case of Commissionerate under that Commissioner of Police to monitor cases of offences against transgender persons and to ensure timely registration, investigation and prosecution of such offences.
11. **Equal opportunities in employment.** – (1) Every establishment shall implement all measures for providing a safe working environment and to ensure that no transgender person is discriminated in any matter relating to employment including, but not limited to, infrastructure adjustments, recruitment, employment benefits, promotion and other related issues.
 - (2) Every establishment shall publish an equal opportunity policy for transgender persons.
 - (3) The establishment shall display the equal opportunity policy, including the details of the complaints officer, preferably on their website, and/or at conspicuous places in their premises.
 - (4) The equal opportunity policy of an establishment shall, inter alia, contain details of–
 - (a) Infrastructural facilities (such as unisex toilets), measures put in for safety and security (transportation and guards) and amenities (such as hygiene products) to be provided to the transgender persons so as to enable them to effectively discharge their duties in the establishment.
 - (b) applicability of all rules and regulations of the company regarding service conditions of employees;
 - (c) confidentiality of the gender identity of the employees;
 - (d) Complaint of the officers.
12. **Grievance redressal** – The State Government shall ensure that every establishment designates a complaint officer in accordance with section 11 within six months from the date of coming into force of these rules by notification.
 - (2) The complaint officer shall enquire into the complaints received within fifteen days from the date of receipt of such complaints.
 - (3) The head of the establishment shall take action on the enquiry report submitted by the complaints officer within fifteen days from the date of submission of the report.
 - (4) The head of the establishment shall take action forthwith in all cases where action has not been taken in accordance with the above time limits.

-
- (5) The State Government shall also set up within one year a grievance redressal mechanism, operating through a helpline and outreach centers, for ensuring proper implementation of the provisions of Chapter V of the Act with special reference to sub- sections (1) and (2) of section 12.
 - (6) The grievance redressal system shall ensure resolution of grievances within thirty days from the date of bringing of such grievance to the helpline, and imposing of penalties as laid down in section 18.
 - (7) The State Government shall put in place a monitoring system for tracking the number of complaints filed, enquired and action taken of all the establishments in their jurisdiction.

Form - 1

[See rules 2(c), 3(1), 6(1), 7(1)]

* Strike out whichever is not applicable

1	Name	
(i)	Given name (in capital letters)	
(ii)	Changed/Chosen name (in capital letters)	
(iii)	Out of (i) and (ii), name to be printed in the certificate of identity and in the identity card	
2	Gender	
(i)	Assigned at birth	
(ii)	Requested in the application	
3	Date of birth	dd/mm/yyyy
4	Educational qualification	
5	Present address	
6	Permanent address	
7	If there is a source of income, the annual income :	
(i)	Under Rs 1,00,000	YES / NO
(ii)	Between Rs 1,00,001 and 3,00,000	YES / NO
(iii)	Above Rs 3,00,000	Please specify the amount :
8	Do you have any of the following documents? If so, please submit self-attested photocopies of the certificates stated below.	
(i)	Birth Certificate	YES / NO
(ii)	Aadhaar Card	YES / NO
(iii)	PAN Card	YES / NO
(iv)	Election Voter Identity Card	YES / NO
(v)	Ration Card	YES / NO
(vi)	Passport	YES / NO
(vii)	Bank Passbook	YES / NO
(viii)	MNREGA Card	YES / NO
(ix)	Certificate of Caste (SC/ST/OBC/Others)	YES / NO
9	Medical history (for those applying under section 7 of the Transgender Persons (Protection of Rights) Act, 2019)	
(i)	Have you undergone any medical intervention in the context of transgender transition?	YES / NO
(ii)	Please give details.	
(iii)	Name and complete address of the Hospital or medical institute.	
(iv)	Name of the issuing authority along with the date.	

(v)	Any other medical status you would like to share.	
(vi)	Have you been issued any certificate of identity under Section 6 and Section 7 under the Act, or any other ID Card issued by the State Authority before the commencement of these Rules? If so, enclosed the same.	
10	Any other information you would like to give.	
11	Have you attached affidavit prescribed in Form -2 under rule 2(d) and 4(1) West Bengal Transgender Persons (Protection of Rights) Rules, 2022 under section 5 of the Transgender Persons (Protection of Rights) Act, 2019?	
12	Have you attached the passport size photographs?	Yes/No

Enclosed: _____ documents as mentioned in the application.

Declaration

I. I declare that the particulars furnished by me are true and correct.

Information provided in this application will be treated as confidential and shall not be shared with any person or organization save the Central and / or State security agencies, any other agency as provided by Law; and for statistical and policy framing purposes.

Place:	
Date:	Signature or left hand thumb impression of the applicant given name of the applicant

Form - 2

[See rules 2(d) and 4(1)]

Format of affidavit to be submitted by a person applying for certificate of identity and identity card for transgender persons under Rule 4 of the West Bengal Transgender Persons (Protection of Rights) Rules, 2022 read with Section 6 of the Transgender Persons (Protection of Rights) Act, 2019.

(Affidavit should be on Non-judicial stamp paper of Rs.10/-) Competent Notary Civil, District
(Name of the District), (Name of the State)

I, (Name), son/daughter/ward/spouse of (name of the parent/guardian/husband), aged (in completed years), residing at (address), (Tehsil), (District), (State) (Pin code) do hereby solemnly affirm and declare as under:

1. I am currently residing in the above address.
2. I perceive myself as a transgender person whose gender does not match with the gender assigned at birth.
3. I declare myself as transgender.
4. I am executing this affidavit to be submitted to the District Magistrate for issue of certificate of identity as transgender person under Section 6 of the Transgender Persons (Protection of Rights) Act, 2019 under West Bengal Transgender Persons (Protection of Rights) Rules, 2022.

* strike out whichever is not applicable.

Deponent

(Signature of the Applicant)

Verification

I, (Name), hereby state that whatever is stated here in above serial Nos. 1 to 4 are true to the best of my knowledge.

Deponent

(Signature of the Applicant)

Tehsil

Date

Identified by me

Advocate

Public

Before Me

Notary

Form - 3

[See rules 2(f) and 5(1)]

Form of certificate of identity to be issued by District Magistrate under rule 5 of West Bengal Transgender Persons (Protection of Rights) Rules, 2022 read with section 6 of the Transgender Persons (Protection of Rights) Act, 2019.

Photograph of the
certificate holder
District
Magistrate to
attest the
photograph

1. On the basis of the application dated dd/mm/yyyy to the undersigned, it is certified that Shri / Smt. / Km/ Ms (name) son / daughter / ward of Shri/ Smt. (name of the parent or Guardian) of (complete residential address of the applicant) is a transgender person.
2. His / her birth name is _____.
3. This certificate is issued in terms of the provisions contained under Rule 5 West Bengal Transgender Persons (Protection of Rights) Rules, 2022 read with section 6 of the Transgender Persons (Protection of Rights) Act, 2019.
4. It is also certified that Shri/Smt/Km/Ms. _____ is ordinarily a resident at the address given above.
5. This certificate entitles the holder to change name and gender in all official documents of the holder.

Date

Signature of the District Magistrate

Place

Seal

Form - 4

[See rules 2(f) and 7(1)]

Form of certificate of identity for change of gender to be issued by District Magistrate under Rule 6 of the West Bengal Transgender Persons (Protection of Rights) Rules, 2022 read with section 7 of the Transgender Persons (Protection of Rights) Act, 2019.

Photograph of the
certificate holder.
District
Magistrate to
attest the
photograph

1. On the basis of the application submitted to the undersigned along with a medical certificate from the Medical Superintendent or Chief Medical Officer (name of the Hospital and complete address), it is to certify that Shri / Smt. / Km/ Ms. (name) son/ daughter / ward of Shri/ Smt. (name of the parent or Guardian) of (complete residential address of the applicant) has undergone medical intervention to change gender.
2. His/ Her birth name is _____.
3. This certificate is issued in terms of the provisions contained under Rule 6 of the West Bengal Transgender Persons (Protection of Rights) Rules, 2022 read with section 7 of the Transgender Persons (Protection of Rights) Act, 2019.
4. It is also certified that Shri / Smt/ Km/ Ms. is ordinarily a resident at the address given above.
5. This certificate entitles the holder to change name and gender in all official documents of the holder.
6. Such change in name and gender and the issue of this certificate shall not adversely affect the rights and entitlements of the holder of this certificate.

Date

Signature of the District Magistrate

Place

Seal

Form - 5**[See rule 5(4)]****Form of Identity Card Front side of identity card**

State Emblem

Government of West Bengal

Office of the District Magistrate

Transgender Identity Card

Identity card number

Photograph
of the
Card holder

Name

Mother's name @

Father's or Guardian's name @

Gender

Transgender

Date of birth or

dd/mm/yyyy

Age as on the date of application for issue of

_____ years

Identity card

Reference number of
certificate of authority on
the basis of which this card
is issued

Back side of the identity card

Present address

Card issue date

Signature of the
issuing authority

Designation

Seal of the issuing authority

**Issued under Rule 5 of West Bengal Transgender Persons (Protection of Rights) Rules, 2022 and read with
under Section 6 of the Transgender Persons (Protection of Rights) Act, 2019.**

* Strike out whichever is not applicable

@ only in case the applicant is a minor child

Form - 6

[See rule 7(4)]

Form of Identity Card Front side of identity card

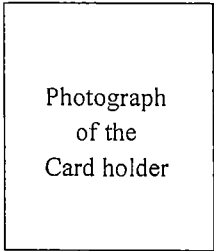
State Emblem

Government of West Bengal

Office of the District Magistrate

Identity Card

Identity card number



Photograph
of the
Card holder

Name

Mother's name @

Father's / Guardian's name @

Gender

Male /Female

Date of birth or

dd/mm/yyyy

Age as on the date of application for issue of

_____years

Identity card

Reference number of certificate of
authority on the basis of which this
card is issued

Back side of the identity card

Present address

Permanent address

Card issue date

Signature of the issuing authority

Designation

Seal of the issuing authority

@ only in case of a minor child

Annexure-I
[See rule 7(3)]

Illustrative list of official documents referred to in _____

Sl. No.	Name of the official document
(1)	Birth certificate
(2)	Caste/ Tribe certificate
(3)	Any education certificate issued by a school, board, college, university or any such academic institution
(4)	Election Photo Identity Card
(5)	Aadhaar Card
(6)	Permanent Account Number (PAN)
(7)	Driving Licence
(8)	BPL ration card
(9)	Post Office / Bank Pass book with photo
(10)	Passport
(11)	Kisan Pass Book
(12)	Marriage certificate
(13)	Electricity / water/ gas connection paper
(14)	Property papers,
(15)	Vehicle registration
(16)	Service book, employment papers
(17)	Identity card related to bar,
(18)	Policy papers

Annexure-II

Suggested list of welfare schemes to be considered :

1. Access to health :

- a) At least 1 government hospital in every State shall be equipped to offer safe and free gender affirming surgery, counseling and hormone replacement therapy to the transgender community, including all Male to Female (MTF) and Female to Male (FTM) procedures.
- b) State medical insurance shall cover procedures of SRS, hormonal therapy, laser therapy, counselling and other health issues of transgender persons at private hospitals
- c) medical insurance/arogyashri cards,
- d) All healthcare facilities should ensure that there are separate wards for transgender persons

2. Access to education :

- a) Scholarship for transgender students
- b) Inclusive and equitable quality education in schools that fosters respect for equality and gender diversity
- c) Protection against ragging in the educational institutions with provisions for grievance redressal
- d) Facilitation of accommodation and schooling for transgender, gender non conforming and intersex children in residential government schools and universities

3. Access to housing :

- a) Affordable housing
- b) Shelters and community centres for at risk transgender youth that provide nutritious food and counselling.
- c) Access to sanitation facilities and safe drinking water

4. Welfare measures :

- a) Universal access to Food security schemes and provision of ration cards,
- b) Pension for aged, disabled or other vulnerable transgender persons
- c) Old age and retirement homes for transgender persons facing housing exclusion
- d) Public transport to have harassment-free zones for transgender persons

5. Economic support :

- (1) Universal coverage of Life Insurance
- (2) Access to banking and financial services including loans
- (3) Explicit inclusion of transgender persons in employment guarantee schemes such as Mahatma Gandhi National Rural Employment Guarantee Act (MNREGA) and all social security schemes,
- (4) Formation into Self Help Groups for livelihood activities,
- (5) Provisions of zero-interest and other micro-finance schemes.

By order of the Governor,

SANGHAMITRA GHOSH, IAS
Principal Secretary to the Government of West Bengal.

ANNEXURE P7

[State Emblem of Kerala]

GOVERNMENT OF KERALA

Abstract

Social Justice Department – Transgender Policy - approved - orders issued.

SOCIAL JUSTICE (B) DEPARTMENT

G.O.(Ms) No. 61/2015/SJD

Dated, Thiruvananthapuram, 22.09.2015

Read: Letter No. D1/25733/15 dated 03.08.2015 from the Director of Social Justice,
Thiruvananthapuram.

ORDER

As per the letter read above, the Director of Social Justice has submitted the Draft Transgender Policy of the State, formulated based on a rights-based framework in tandem with the judgment of the Hon'ble Supreme Court of India in WP(C) 400/2012 and the Report of the Expert Committee constituted by the Ministry of Social Justice & Empowerment on issues related to Transgenders.

2) Government have examined the matter in detail and are pleased to approve the Transgender Policy of the State as appended to this order.

By order of the Governor,
A.Shajahan
Special Secretary

To

The Director of Social Justice, Thiruvananthapuram.
The Principal Accountant General (Audit), Kerala, Thiruvananthapuram.
The Accountant General (A&E), Kerala, Thiruvananthapuram.
The Accountant General (DB Cell), Kerala, Thiruvananthapuram.
General Administration (SC) Department
Web and New Media (for publishing in the web site)
Stock file, O.C.

Forwarded/By order
[Signature]
Section Officer

Bincy Susan
TRUE COPY

DEPARTMENT OF SOCIAL JUSTICE

GOVERNMENT OF KERALA

[State Emblem of Kerala]

STATE POLICY FOR TRANSGENDERS

IN KERALA, 2015

I. Background& Introduction	3
II. Summary Analysis of TG Issues in Kerala	5
Access to Capabilities, Economic Opportunities, Assets And Services	5
Right to Dignity &Violence Against TG	6
Right to Expression	6
III. TG Policy of the Kerala Government	7
<i>A. Goals and Objectives of TG Policy</i>	7
<i>B. Policy Approaches</i>	9
<i>C. Strategies and Responsibilities in Implementing the Policy</i>	9
<i>D. Policy Implementation Arrangements</i>	14
<i>E. Monitoring and Evaluation of the Results of the State's Gender Policy</i>	17
<i>Table 4: Results framework and Sample Associated Indicators</i>	18

STATE POLICY FOR TRANSGENDERS IN KERALA, 2015

I. BACKGROUND & INTRODUCTION

1. The Honorable Supreme Court of India (vide Judgment dated 15th April, 2014) has firmly established the right to equality and equal protection for transgender persons (TGs) under Articles 14¹, 15² and 16³ by prohibiting discrimination on the ground of gender identity. It has expanded the scope of the term 'sex' in Articles 15 and 16, which till recently referred only to binary genders of male and female, to include TG as a third gender. The Court has unequivocally declared that TGs cannot be discriminated against on the ground of Gender.

2. The Judgment also explains that Article 19(1)⁴ of the Constitution states that all citizens shall have the right to freedom of speech and expression, which includes one's right to expression of his self-identified gender. Self-identified gender can be expressed through dress, words, action or behaviour or any other form. No restriction can be placed on one's personal appearance or choice of dressing, subject to the restrictions contained in Article 19(2) of the Constitution.

¹Equality before law-The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

²Article 15(2): No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to—(a) access to shops, public restaurants, hotels and places of public entertainment; or (b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.

³Article 16: Equality of opportunity in matters of public employment—(1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State. (2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State

⁴All citizens shall have the right (a) to freedom of speech and expression; (b) to assemble peaceably and without arms; (c) to form associations or unions; (d) to move freely throughout the territory of India; (e) to reside and settle in any part of the territory of India; and (f) omitted (g) to practise any profession, or to carry on any occupation, trade or business

The Article values privacy, self-identity, autonomy and personal integrity as fundamental rights guaranteed to members of the TG community and stresses that the State is bound to protect and recognize these rights.

3. The judgment has also directed the Centre and State Governments to grant TGs full legal recognition of their gender identity. This includes granting legal recognition to a person's self-identified gender, as male/female/third gender; treating transgender persons as socially and educationally backward classes of citizens and extending reservations in public education and employment; providing separate HIV *sero*-surveillance for transgender persons and appropriate health facilities, amongst others.

4. In addition, the Report of the Expert Committee constituted by the Ministry of Social Justice and Empowerment on issues related to TGs, (Chapter 13)- (22nd October, 2013) recommends that Transgender should be declared as the third gender, and a TG should have the option to identify as 'man', 'woman' or 'transgender', as well as have the right to choose any of the options independent of surgery/hormones. Only the nomenclature 'transgender' should be used and nomenclatures like 'other' or 'others' should not be used. It also recommends that a state level authority duly designated or constituted to issue certificates to TGs certifying their gender on the recommendation of a District level Screening Committee headed by the Collector/District Magistrate and comprising District Social Welfare Officer, psychologist, psychiatrist, a social worker and two representatives of transgender community and such other person or official as the State Govt/UT Administration deems appropriate. These certificates issued, the report noted should be acceptable to all authorities for indicating the gender on official documents like ration card, passport, birth certificate, aadhaar card and so on.

II. SUMMARY ANALYSIS OF TG ISSUES IN KERALA

5. TG people face injustice at every turn: in their families and homes, in school systems that promise to shelter and educate, in harsh and exclusionary workplaces, at the markets and shops, the hotel front desk, emergency rooms, and at the hands of landlords, police officers, health care workers and other service providers.

6. To Understand The Issues Faced By Tgs, The Social Justice Department Conducted A State-Wide Survey Seeking Information On All Aspects Of Their Social And Personal Life. The Survey Questions Covered The Following Areas- (A) Basic Details, (B) Awareness About One's Body, (C) Civil Rights, (D) Self Esteem, (E) Access To Health Services And (F) Ability To Live With Dignity And With Freedom From Violence. It Also Included A General Section To Better Understand Their Aspirations, Needs, And Priorities. More Than 4000 Tgs Provided Feedback Of Which 99% Are Male To Female (m2f) Tgs And 63% Are Tgs Married To Females. Based On Snowballing Techniques, The Survey Estimates The Presence Of More Than 25,000 Tgs In The State. The Major Findings Of The Survey Are Provided Below:

ACCESS TO CAPABILITIES, ECONOMIC OPPORTUNITIES, ASSETS AND SERVICES

- 58% percent of TG students drop out before completing 10th grade (24 percent of TG students drop out even before completion of 9th grade). Reasons for this include:
 - o Severe harassment making studies impossible.
 - o Gender related negative experiences at school.
 - o Lack of poverty/special educational quota or reservation.
- Among those who had to leave school due to harassment, nearly half reported of having experienced a negative home environment;
- 51 percent of the respondents were denied equal treatment in doctor's offices and hospitals;

- 100% of them have had at least one experience of being denied job due to their gender identity.
- 54% of the respondents had a monthly income of less than Rs. 5000; Only 11.6% have regular jobs

RIGHT TO DIGNITY & FREEDOM FROM VIOLENCE

- 52% of the TGs face harassment from the police. 70.3% are not confident to face the police;
- 89% reported of being mistreated at worksite;
- 28% have been sexually harassed or raped, by partners within one year;
- 96% do not raise complaints against violence because of their gender identity.

RIGHT TO EXPRESSION

- 76% are unable to register gender identity the way they choose in the application form for an Id card or other services.
- 78% have not revealed their gender identity at work due to fear of discrimination.
- 51% hide their gender identity from the family;
- 44% have a sense of shame about the dissonance between their body and gender identity;
- 81% wish to change their identity but have no support from any person for the changes required in their physical appearance;
- 91% have not changed physical appearance through medicine/surgery.
- 41% of the TG population is of the view that they won't be accepted if their gender identity is revealed;

- 52% felt a need to change their physical appearance.

III. TG POLICY OF THE KERALA GOVERNMENT

6. The genesis of the problems of TGs in India lies in the stigma and discrimination they face in the society, resulting in their exclusion from socio-economic and political spectrum. They are an outlier group of the society. TGs have unique needs, which are overlooked and ignored by society. In view of the systemic injustices that prevent this minority community from realizing equal rights, they are forced to live as second-class citizens in their own countries. To rectify this situation, the State Government issues this policy, to enforce the constitutional rights of TGs, taking into account the Supreme Court judgment (2014) and the findings of the Kerala State TG Survey.

7. This policy covers all the categories of TGs, including but not limited to Female to Male TGs, Male to Female TGs and Inter sex people. This policy emphasizes the rights of TGs to self identify as man, woman or TG as stated in the Judgment.

8. This document states that the Government of Kerala's policy on TGs, its goals and objectives, approaches, implementation processes, and highlights selected areas of focus given Kerala's socio-economic context. It explains the broad framework within which TG considerations will be integrated into development interventions in Kerala.

A. GOALS AND OBJECTIVES OF TG POLICY

9. The TG Policy supports the attainment of
- A just society where men, women, and TGs have equal rights to access development opportunities, resources, and benefits;
 - The right to live with dignity and enjoy a life free from all forms of violence;

- The right to freedom of expression in all matters that affects them; and
- Right to equal voice and participation in key development decisions that shape their lives, communities, and the state.

The results framework for the Government's TG Policy is illustrated in Figure 1.

12.

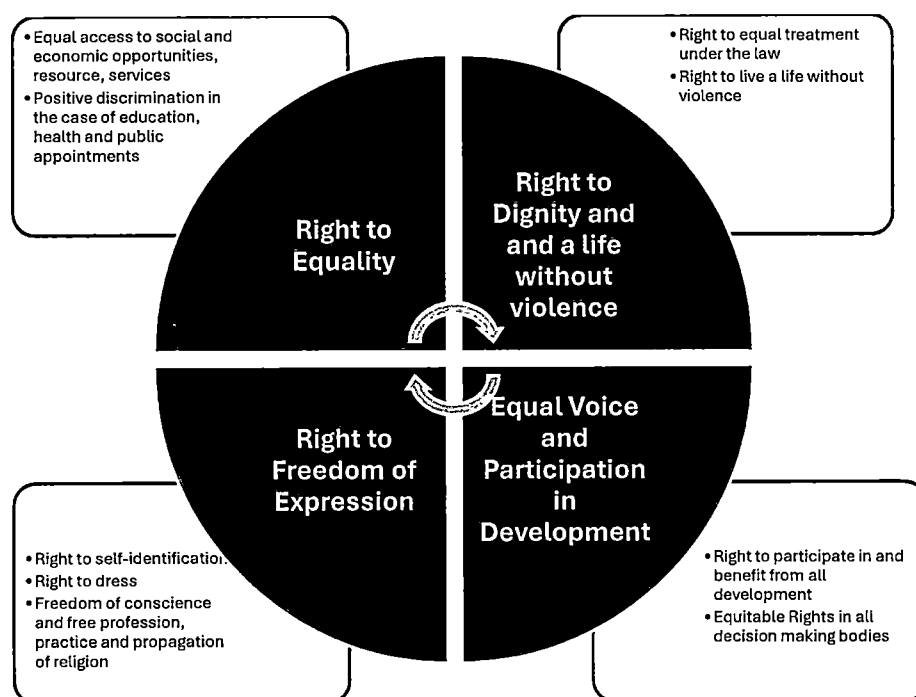


FIGURE 1: RESULTS FRAMEWORK FOR TG POLICY

Table 1: Strategies and Responsibilities		
Right	Proposed Activity	Responsibility
Right to Equality	o Ensure all Government Departments and public authorities to extend a non-discriminatory treatment to TGs.	o Overall responsibility: TG Justice Board who will seek annual

		reports from all relevant agencies
	o Provide barrier-free access to education, public transport, health, social security, and other services.	o All Service Providing Entities to implement guidelines
	o Government agencies, including LSGs managing public places must ensure equal access to TG community	o All Government agencies
	o In order to ensure equal access to all services, include TG as a third gender in all application forms for services, employment, and other benefits	o Each Service or benefit Provider
Freedom of Expression	o Addressing stigma, discrimination and violence faced by TG people: o Take steps to prevent TGs from being punished or harassed for cross-dressing and their gender-specific behavior. Encourage TG cultural activities through: o Providing opportunities for enhancing their artistic skills as well as facilitate their participation in state and other festivals to perform	o Law Department, Police, and Justice officials to take steps to raise awareness of their employees and contractors o Department of Culture o Department of Tourism
Right to Dignity and Life without Violence	Statutory Requirements as necessary to protect Rights of TG including: o Provide free legal aid to be provided to TG seeking redress against discrimination and violence.	o Law Department and TG Justice Board o Department of Home o Director-General of Police

	<ul style="list-style-type: none"> o Every police station should amend forms to record and compile statistics of crime against TGs. o TG help line (24x7) and crisis management centre – run by the Social Justice Department with the help of NGOs (working in the field of TGs) and CBOs. o Action against parents who desert or abuse their gender non-conforming children and against doctors who undertake any kinds of unethical conversion therapy o Sexual assault, sexual harassment and domestic violence laws should be TG inclusive. The State Government should take action to ensure that laws against gender-based violence are made TG-friendly. o The Juvenile Justice Act should also address the concerns of gender non-conforming children and therefore the Act should be suitably modified/amended o Criminal and disciplinary action against delinquent police official in cases of violations of human rights of TG persons o Ensure the rights of TGs regarding marriage, partnership, living relationship and parenting. o Ensure separate toilet facilities for TGs. 	<div>Local Self</div> <div>Government Departments</div> <ul style="list-style-type: none"> o KELSA to expand services for TG
--	---	---

Right to Employment	<ul style="list-style-type: none"> o Self-employment grants must be made available to TG to initiate activities related to raise incomes as well as TG Interests o Workplaces/ offices in public and private sector need to sensitize employers and employees on issues of TG. Anti-discrimination policies must be instituted and meaningfully implemented in the processes of hiring, retention, promotion and employee benefit schemes. Workplace sexual harassment policies should be made TG inclusive. 	<ul style="list-style-type: none"> o Department of Labor and Department of Industries
Right to Equal Access to Education Services	<ul style="list-style-type: none"> o Educational institutions/Universities should issue a TG Policy to address issues gender non-conforming students and TG students as well as establish an anti-discrimination cell to monitor any form of discrimination/harassment. o Educational institutions/Universities must include an option for transgender along with male and female in all forms. o Raise awareness of school students towards TGs, starting with the upper primary level. 	<ul style="list-style-type: none"> o Department of General Education and Higher Education
Right to Equal Access to Health Services	Schemes for Healthcare <ul style="list-style-type: none"> o TGs should be included in the Rashtriya Swasthya Bhima Yojana and provided health insurance. 	Department of Health, Department of Social Justice

	<ul style="list-style-type: none"> o Self Help Groups or Societies of TGs should be able to avail the benefits under the Comprehensive Health Insurance Scheme (CHIS) also. Health insurance card should be issued to the TGs. o A fund, should be established for Sex Reassignment Surgery (SRS) in Government hospitals. o All Govt. hospitals should have policies on registration and admission of TGs, training and sensitization of health care providers about TGs and their health issues. o Directives should be issued by the Department of Health to all hospitals to provide health care facilities to them without any discrimination, so that they can access all hospitals without hesitation. o Proper counseling to TGs about options available in relation to gender transition and proper post-operative follow-up counseling and support, should be given. o Separate HIV Sero-surveillance Centres should be established to address several sexual health issues faced by TGs. 	
Right to Voice and Participation	<ul style="list-style-type: none"> o Equitable rights in public decision making bodies that affect TGs o Establish Shelter homes in different parts of the State for the 	<p>Department of Social Justice</p> <p>Local Self Government Department.</p>

	<p>exclusive use of TGs according to the population of TGs in those areas.</p> <ul style="list-style-type: none"> o Under housing schemes including Indira Awaas Yojana subsidy must be set aside to TGs for constructing houses. The assistance given for housing of TGs can be a combination of grants, subsidies, loans depending on the income of the beneficiary o Day care centres for elders should be repositioned to accommodate the interests of TGs. o Establish capacity development of counselors, Anganwadi workers, ICDS, ICPS, DCPOs and other frontline service providers to be responsive to the needs of TG children o Ensure that institutional staff of short-stay homes, orphanages, adoption and fostering services are sensitive to the needs and concerns of such children addressing the concerns of gender non-conforming children and TGs. o Monthly Pension scheme for Destitute TGs – Financial assistance should be provided as monthly pension for destitute TGs and those above the age of 55. 	
	<ul style="list-style-type: none"> o Scheme on Provision of Food – BPL Ration Cards under Public 	Department of Food and Civil Supplies

	Distribution System should be given to the TGs to provide food at free/subsidized cost.	
	<ul style="list-style-type: none"> o Set aside an equitable amount of funds for addressing TG Issues o Open a grant window for accredited NGOs working with TG community to implement schemes and programmes to develop the capacity and skills of TG. o All Departments must ensure that all Government forms include TG in addition to male and female, 	All Departments

13 The above together provide a cohesive and comprehensive results-based framework for TGs to achieve their Constitutional rights and live as equal citizens in the State. The results framework will guide all institutional stakeholders in designing their contribution to TG Justice. Capacity development and gender issues will form crosscutting issues in all four dimensions.

B. POLICY APPROACHES

The basic approaches of the Policy are the following –

- Ensure that all rights of TGs are protected and enforced, including the right for self-identification of gender as man, woman or TG and the right to expression.
- Ensure equal access to all services of the Government;
- Support positive discrimination to address inequities in areas of education, health, and public appointments.
- Raise public awareness of TG rights and develop capacity of relevant stakeholders to enforce rights.

- Provide proper mechanisms to ensure equal access to all services and benefits as well as effective mechanisms to address issues of violence and harassment faced by TGs.
- Effective implementation and monitoring that TG rights are being protected and implemented and fine-tuning policy when required.

C. STRATEGIES AND RESPONSIBILITIES IN IMPLEMENTING THE POLICY

14. The strategies and responsibilities of different actors in implementing the policy are indicated in Table 1. This is not an exhaustive list, and others may be added as determined by the proposed TG Justice Board.

D. POLICY IMPLEMENTATION ARRANGEMENTS

15.Accountability Framework for Policy Implementation: In order to ensure that the TG rights are protected, and to mainstream them into society, a State TG Justice Board and district TG Justice committees are to be established under the Department of Social Justice, Government of Kerala. The TG Justice Board, Kerala is to be constituted by the Government of Kerala as detailed in Table 2.

Table 2: Members of the TG Justice Board	
Chairperson	<ul style="list-style-type: none"> • Honorable Minister for Social Justice
Member Secretary	<ul style="list-style-type: none"> • Secretary, Department of Social Justice
Members:	<ul style="list-style-type: none"> • Secretary, Department of Home affairs • Secretary, Department of Finance • Secretary, Department of Health • Secretary, Departments of General Education • Secretary, Department of Law • Secretary Department of Culture • Secretary Department of Local Self Government • Director of Social Justice • Director of Public Instruction
Nominated Members	<ul style="list-style-type: none"> • One representative from an NGO, which has been working for the rights of TGs for a significant period of time. The representative should also have a good track record in this field. • Five representatives from TG community

16 At the district level, a TG Justice Committee will be established in each District. The district TG Justice committees are to be constituted by the Government of Kerala as detailed in Table 3 below:

Table 3: Members of the TG Justice Board	
Chair person	<ul style="list-style-type: none"> • District Collector
Member Secretary	<ul style="list-style-type: none"> • District Social Justice Officer
Members	<ul style="list-style-type: none"> • City Police commissioner/District Police Chief • Rural SP • District Medical Officer • District Labour Officer • Deputy Director Education • District Child Protection Officer

Nominated Members	<ul style="list-style-type: none"> • One representative from a Community based Organization (CBO), which has been working for the rights of TGs for a significant period of time. The representative should also have a good track record in this field.
	<ul style="list-style-type: none"> • Four representatives from TG community

17 Functions of the TG Justice Board: The functions of the TG Justice Board would be as follows

- i. TG Justice Board should monitor and oversee the implementation of the TG Policy. This would facilitate policy and institutional reforms that enable access to social, economic development schemes for the poor and other at-risk TG groups;
- ii. Ensure convergence of existing schemes across departments for a more targeted and focused approach towards well-being of TG community;
- iii. Issue guidelines as necessary to ensure equality and equity of TGs;
- iv. Ensure that sufficient and quality development projects, programmes, and schemes are formulated and adequate funds are allocated for effective implementation of TG Policy;
- v. Require every relevant Department to submit an annual report on steps taken to protect TG rights, budget expenditures, and results achieved from each Department be submitted no later than June 30th of the financial year; and
- vi. Facilitate awareness programmes, in association with NGOs and community-based organizations (CBO) to sensitize public about TGs through mass media and other method of publicity campaign.

18 The Gender Cell in the Department of Social Justice must support the TG Justice Board in undertaking its responsibilities. The functions of the Gender Cell in this regard include:

- o Implement measures or instructions by the TG Board; and
- o Issuance of gender identity certificate to a TG person, based on the recommendation of the District TG Justice Committee. The certificate issued by the Cell should have the self-identity that the individual chooses (male/female/ TG) which can be used to revise all the legal documents such as voter ID, Passport, drivers license, Aadhar. The certificate should be acceptable to all authorities for indicating the TG's gender on all official documents and to avail access to all eligible schemes and benefits.

5. Functions of the District TG Justice Committee

19 The functions of the District TG Justice Committee would be as follows

- i. Has the responsibility of implementing and monitoring programmes for the social, economic, and political development of TGs
- ii. Constitute a screening committee for the verification of the application for the issue of gender identity certificate. The screening committee should be a subcommittee of the district TG Justice Committee, chaired by the District Medical Officer, with the psychologist, psychiatrist, the CBO representative and the 4 representatives from the TG community as members.

- iii. Issue recommendations to the TG Justice Board for gender identity certificate based on the reports of the screening committee.
- iv. Set up and monitor TG Support and Crisis Intervention Centres (TSCIC), on the model of Rape and Crisis Intervention Centers. The centre should undertake counseling programmes, mental health services, sensitization programmes and crisis intervention, with the help of CBOs. The centre should also function as an information centre and support centre for the TGs and the parents of gender nonconforming children. The centre should include qualified counsellors and community counsellor.

E. MONITORING AND EVALUATION OF THE RESULTS OF THE STATE'S GENDER POLICY

TABLE 2: SAMPLE RESULTS FRAMEWORK FOR GENDER EQUALITY & EMPOWERMENT IN KERALA

20 The State Government gives high priority to monitoring and evaluation of policy results. Annex illustrates the type of outcome and outputs indicators associated with each of the four key dimensions. TG-aware monitoring and evaluation capacity development will be a module in the initial training conducted by Department of Social Justice. However, until systems are set up to integrate TGs into the monitoring system of the Government, annual monitoring surveys will be conducted to better understand the impact of the policy on TG community. Indicators in the Annex will be the basis of the monitoring tool. Utilizing a methodology agreed with TGJB, Department of Social Justice will also conduct a mid-term evaluation of policy implementation and results in 2018, three years after the initiation of the policy implementation.

ANNEXE

RESULTS FRAMEWORK AND SAMPLE ASSOCIATED INDICATORS

Goals/Impact Universal Results Framework for gender equality	Equal and Equitable Rights	Freedom of Expression	Life with Dignity and Life without Violence	Voice and Participation
Outcomes/Objectives (Outcomes are defined and understood as owned by the State; they reflect expected development changes in programme countries.)	Indicators that demonstrate that TGs have equitable access to all public services. Zero dropouts in schools and colleges on grounds of discrimination. Increased TGs in public appointments.	TGs perceive that they have the freedom to wear the dress they like and to express themselves in any gender as they wish. Number of cultural activities organized with TG participation. National TG festival organized by state government	TG's perceive that their ability to live a life of dignity has improved after the issuance of the Policy.	Nominated member in Legislative Assembly and Parliament Equitable representation in democratic and public decision making bodies
Intermediate Outcomes and Outputs for TG Equality (results of different departments)	Reduced dropout rate among transgender	IEC Program on the rights of TGs undertaken by the	Raising awareness of Police employees on	Process to incorporate TGs in

and agencies at the institutional level)	<p>All service-related forms allow self-identification as TG in addition to male and female</p> <p>Reservations for TGs in Public Appointments</p>	<p>Government of Kerala covering different levels including schools, public bodies, communities, and state effectively influencing mindset changes to TGs.</p>	<p>the rights of TG.</p> <p>Reduced discrimination by service providers at different levels of State Administration</p> <p>Incidence of discrimination against TGs by public and partners reduced.</p>	democratic bodies
--	--	--	--	-------------------

[State Emblem]
THE ASSAM GAZETTE
EXTRAORDINARY
PUBLISHED BY THE AUTHORITY

No. 165 Dispur, Wednesday, 22nd April, 2020, 2nd Vaisakha, 1942 (S.
E.)

GOVERNMENT OF ASSAM
ORDERS BY THE GOVERNOR
SOCIAL WELFARE DEPARTMENT

NOTIFICATION

The 20th March, 2020

No. SWD.128/2019/82.- The Governor of Assam is pleased to notify the Assam State Policy for Transgenders as detailed below with immediate effect.

ASSAM STATE POLICY FOR TRANSGENDERS

1.0 INTRODUCTION:

The World Health Organization (WHO) defines Transgender as "an umbrella term for people whose gender identity and expression does not conform to the norms and expectations traditionally associated with the sex assigned to them at birth; it includes people who are transsexual, transgender or otherwise considered gender non-conforming".

1.1 Transgenders (TG) in our country are known to be confronted by a variety of social, cultural, economic and psychological issues that expose them to a high risk of isolation, discrimination and social exclusion and, consequentially, impact their basic right to a life with dignity, equality and non-discrimination on the ground of gender identity, among others.

1.2 The Transgender Policy developed for the state of Assam epitomizes the Government's attempt at an understanding of the factors responsible for the marginalization of the transgender community and its efforts to mitigate their problems by seeking to identify the causal and reinforcement factors that result in the social vulnerabilities of Transgenders living in the state. The Policy aims at delineating principles and identifying priority areas for implementing various programs for the welfare and protection of the rights of members of the transgender community. It seeks to thereby create an environment where a Transgender can live a full life with dignity; where both equality and non-discrimination on ground of gender identity and other rights are assured.

Binity Gusean
TRUE COPY

2.0 THEORETICAL PERSPECTIVE:

2.1 For the purposes of this policy, it is important to distinguish between sex and gender. Sex is assigned at birth and refers to one's biological status as either male or female. It is associated primarily with physical attributes such as chromosomes, hormone prevalence, and external and internal anatomy.

2.2 Gender is primarily a social construct. It refers to the roles, behaviour, activities, and attributes that a given society considers appropriate for its male and female members.

2.3 Gender identity refers to a person's innermost and individual sense of self as male, female or a blend of both or neither that can either correspond to or not correspond to the sex assigned at birth. Gender expression is viewed as a person's presentation of his gender identity and the one that is perceived by others.

3.0 BACKGROUND:

3.1 2014 has been a watershed year in India in terms of the legal recognition of transgenders as subjects of citizenship, rights and empowerment. Firstly, the Ministry of Social Justice and Empowerment (MSJE) brought out a report on 'issues relating to transgender persons' drafted by an 'expert committee' that it had constituted after consultations with representatives from the transgender community in 2013 (*Ministry of Social Justice and Empowerment, Report of the Expert Committee on the Issues relating to Transgender Persons, 27-1-2014*, <<http://socialjustice.nic.in/transgenderpersons.php>>). Then in April, the Supreme Court delivered a judgment following a writ petition filed by NALSA (the National Legal Services Authority) and supported by transgender activists (*National Legal Services Authority v. Union of India, (2014) 5 SCC 438*). The NALSA judgment, which gained rapid media coverage and activist attention, included directives for the legal recognition of transgender persons' identities and the provision of reservations in jobs and education. The Supreme Court judgement in the case obligated the Central and State Governments to take various steps for the welfare of members of the transgender community.

3.2 The Court grounded its reasoning on the fundamental rights of equality, non-discrimination, freedom of expression and dignity.

- **Equality:** The Court held that non-recognition of their gender identity denied transgender persons equal protection of the law. There was a constitutional obligation upon the State to ensure such equal protection proactively.
- **Non-Discrimination:** Discrimination is prohibited under the Indian Constitution on a number of specified grounds, which includes "sex". The Court read the term "sex" to include "gender identity".
- **Freedom of Speech and Expression:** The Court interpreted the right to freedom of speech and expression as including the right to expression of one's self-identified gender, which could be expressed through dress, words, action, behavior or in any other form.
- **Dignity:** The Court found that since gender constituted the core of one's sense of being, as well as an integral part of a person's identity, recognition of one's gender identity lies at the heart of one's fundamental right to dignity.
- The Supreme Court issued nine directions to the Centre and State Governments to crystallise the economic, social, cultural and political rights recognised in *NALSA* and provide a guide for protecting the rights of transgender persons. These directions ranged from recognising the right to self-identification of gender identity, operating HIV zero-surveillance centres to framing social welfare schemes for their betterment

and increasing public awareness to integrate transgender persons into social life. Significantly, one of the directions is for "...the Centre and the State Governments to take steps to treat them as socially and educationally backward classes of citizens and extend all kinds of reservation in cases of admission in educational institutions and for public appointments." The Supreme Court held that transgender persons are entitled to reservations in education and public employment as a socially and educationally backward class and directed the State to make provision for the same.

3.3 The Transgender Persons (Protection of Rights) Bill, 2018 was passed in the Lok Sabha on 17th December 2018. The Bill (*Bill No. 210-C of 2016*) addressed the definition of Transgenders through what is considered a more sensitive and dignified approach than what was originally used in the earlier version of the Bill and went on to define a Transgender as follows:

"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, gender queer and person having such socio-cultural identities as kinner, hijra, aravani and jogta.

4.0 TRANSGENDERS IN ASSAM- AN OVERVIEW:

4.1 **Population of Transgenders In Assam** – The first time an attempt was made to collect state-wise figures of the Transgender population in India was during the Census 2011 operation. The Census of India web portal admits this in the following way: *"Indian Census has never recognized third gender i.e. Transgender while collecting census data for years. But in 2011, data of Transgenders were collected with details related to their employment, Literacy and Caste. In India, total population of transgender is around 4.88 Lakh as per 2011 census. The data of Transgender has been clubbed (sic) inside "Males" in the primary data released by Census Department. For educational purpose, separate data of Transgender has been curved (sic) out from that.*

State	Transgenders	Child(0-6)	SC	ST	Literacy
<u>Assam</u>	11,374	1,348	774	1,223	53.69%

4.2 It is not known how authentic these statistics are. It is likely that the collection of statistically credible data in respect of this group may have been affected because of reasons of neglect and exclusion and also because of reluctance on the part of the community to reveal themselves to statistical authorities for fear of being stigmatised. The reasons for probable under-reporting can range from the construct of the questionnaire through the capacity and training of the enumerators to seek answers that may to the socio-psychological constructs. When such statistics are not adequately captured in the official estimates any policy being contemplated for the welfare of these people need to triangulate other possible sources of information or at least estimates available on the number and circumstances of this community. It is therefore important to capture data relating to the Transgender population in Assam through a survey to be conducted by a professional agency with the help of members of the community spread across the state.

4.3 Until 2012, the members of the transgender community in Assam seldom raised their voice in favour of their basic human rights and were apprehensive of disclosing their gender identity for fear of facing hatred and social humiliation both in family and in society. But in the year 2012, the Division bench of Hon'ble Bombay High Court made a landmark judgment on

Sex Reassignment Surgery (*WP (L)1092 of 2012, BHC*) supporting and protecting Swati Bidhan Baruah's right to undergo such surgery. This case got brought into focus the rights of Transgenders to undergo Sex Reassignment Surgery (SRS) and paved the way for Transgenders in Assam as well as in India to take steps towards actualizing their gender.

5.0 KEY ISSUES AFFECTING THE TRANSGENDER COMMUNITY THAT NECESSITATE THE FORMULATION OF A TRANSGENDER POLICY:

Transgenders in Assam face various issues that affect their over-all well-being and progress in society. Some of the issues that affect the rights of the Transgender community of Assam are: (*Inputs of Swati Bidhan Baruah, a lawyer and Transgender Activist are acknowledged in this regard*)

5.1 Access to Education, Economic Opportunities, Public Services and Employment:

- The academic environment in institutions is vitiated on account of negligence, discrimination and humiliation of TGs by classmates and teachers. There is therefore no motivation for TGs to pursue learning in these circumstances.
- There is a lack of family support for members willing to pursue academics.
- No educational quota or reservation or separate classes is available for TGs.
- Most of the TGs are denied access to health infrastructure and emergency treatment in government hospitals.
- TG community members are known to have been denied jobs on account of their choice of clothing and on account of their behavioural traits.
- There is no reservation for TGs in employment in the government sector. Nor are skill development programs available exclusively for them.
- Poverty affects community members in a big way. A huge portion of the TG community members have monthly income of Rs. 500 to Rs 1500. Good income comes in *Badhai* during marriage season.
- TG community members are usually not welcome to live amongst regular neighbourhoods. As a result, they are often constrained to establish their own settlements outside of regular communities and forced to live in conditions that are often not conducive to their growth and personality development.
- No TG specific health schemes are available to cater to the requirement of SRS for those who seek to undergo such surgery.

5.2 Right to Dignity and Freedom from Violence

- Abusive treatment by law enforcement personnel is a common complaint by the members of transgender community and they need to be insulated from any such abuse.
- Abuse, public humiliation, derision, ridicule, marginalization and exclusion of TGs is not only limited to the street but is also experienced in government offices, hospitals, schools railway stations and in other public places.
- The lack of societal or state support at the time of need is alarming. In case of any criminal victimization or sexual harassment, these individuals get little help/ support from government institutions. A majority of TGs do not raise complaints against violence out of fear of further victimization.
- The dignity of the TGs and their human rights are often violated inside police stations when they are forced to undeclothe by personnel to ascertain whether they have male or female genitals.

5.3 Right to Expression

- Many of the TGs are unable to register gender identity as a matter of choice and right in the application form for an ID card or for availing other services.
- Many among the TGs do not reveal their gender identity at work due to fear of discrimination.
- Some of the TGs hide their gender identity from their families and friends for fear of being ostracised and forced to leave their homes.
- Some TGs have a sense of shame about the dissonance between their body and gender identity.
- Some TGs suffer from suicidal tendencies.
- Most of TGs have not changed physical appearance through medicines/surgery.
- Some of TGs feel a need to change their physical appearance.

6.0 STRATEGIC OBJECTIVES OF THE POLICY:

6.1 The transgender policy aims to ameliorate the suffering of transgender persons in multiple dimensions of life. Its main objectives are as follows:

- To provide access to educational facilities and incentivise learning through reservation of seats in institutions, making provision for separate boarding and lodging arrangements and through provision of scholarships to TG students etc.
- To protect transgenders against destitution by ensuring a minimum standard of living and access to existing basic services like shelter and sanitation or by creating infrastructure to cater to them;
- To insure transgenders against the negative consequences of shocks and risks along the lifecycle, such as health shocks through TG specific health schemes;
- To promote human capital accumulation and access to productive assets and income generating activities alongside other genders;
- To raise awareness in order to empower transgender persons and provide them opportunities to exercise gender equality;
- To mainstream transgender persons, who are typically excluded from public services and programs, through enforcement of rights, providing means of livelihood and inculcating mutual respect among all genders.
- To ensure non-discrimination of TGs in any form in all spheres by public authorities and to support positive discrimination to address inequities in areas of education, health and employment.
- To raise public awareness and sensitization of TG rights and to develop capacity of relevant stakeholders to enforce rights. Large scale sensitization needs to happen starting from the school level to see transgenders not as an aberration, but as an integral and productive component of societal life.

7.0 COMPONENTS OF THE STATE TRANSGENDER POLICY**7.1 IDENTIFICATION AND REGISTRATION:**

7.1.1 A transgender person shall have a right to be recognised as such, in accordance with the Provisions of the *Transgender Persons (Protection of Rights) Act, 2019*.

7.1.2 A person recognised as Transgender under section 4.(1) of *Transgender Persons (Protection of Rights) Act, 2019*, shall have a right to self perceived gender identity.

7.1.3 A transgender person may make an application to the District Magistrate for issuing a certificate of identity as a transgender person. In case of a minor child, such application shall be made by a parent or guardian of such child.

7.1.4 The District Magistrate shall issue a certificate of identity as transgender person to the applicant as under section 5 of *Transgender Persons (Protection of Rights) Act, 2019*, after following such procedure and in such form and manner to be notified later through an Office Memorandum.

7.1.5 The gender of transgender person shall be recorded in all official documents in accordance with certificate issued, which shall confer rights and be a proof of recognition of his/ her identity as transgender person.

7.1.6 After the issue of a certificate, 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.

7.1.7 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.

7.1.8 The person who has been issued a certificate of identity under section 6 of the *Transgender Persons (Protection of Rights) Act, 2019* or a revised certificate under Section 7.(2) of the *Transgender Persons (Protection of Rights) Act, 2019* 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 shall not affect the rights and entitlements of such persons.

7.2 ENSURING SOCIAL AND PUBLIC SERVICES

One of the main reasons behind the plight of transgender persons is that they are excluded from many public services. In order to ensure a decent standard of living, access of Transgender people to social services needs to be improved. This policy aims to ensure that the needs of transgender persons pertaining to basic services of life are addressed. To that end, following action will be undertaken :

7.2.1 Housing:

Social exclusion of transgender persons forces them to take refuge in settlements that are secluded and often in pitiable conditions.

- Transgender shelters will gradually be built at certain locations where homeless transgender persons are able to live with dignity. These will be run by NGOs/ Gurus.
- A short-stay home will be constructed in Guwahati to serve as a temporary shelter for TGs in crisis and as a safe place for TGs to stay when they visit Guwahati only for the purpose of medical care and sex reassignment surgery.
- TGs can apply for benefits under the existing housing schemes like IAY, PMAY etc.

7.2.2 Education:

A lack of occupational and educational opportunities forces transgenders into entering the risky or contentious businesses. It is therefore imperative to ensure that transgender persons obtain adequate general and technical education. Following measures will be undertaken in this regard:

7.2.4 Employment, Livelihood and Sustenance:

The issue of providing jobs and / or livelihood opportunities to transgenders is to be seen in the light of their social exclusion and the lack of opportunity for them to obtain qualifications that are requisite for taking up jobs, be it in the private sector or in the government sector. The policy seeks to deal with this issue by focussing on building the capacity of transgenders for self employment and will consist of the following initiatives:

- Employment exchanges will register transgenders without any discrimination and these exchanges will forward names of transgenders for various government jobs along with the others.
- Vocational training will be provided to transgenders free of cost, based on their field of interest, through existing government schemes.
- Self-employment grants upto a maximum of Rs 25000 will be made available for small business entrepreneurs from the transgender community who have undergone vocational training and are willing to set up businesses.
- Material support like sewing machines upto a value of Rs 10000 per transgender will be provided to individual beneficiaries, based on assessment of the capacity and motivation of the beneficiary, who propose to use such support for income generation.
- Financial assistance in the form of monthly pension will be provided to those transgenders who are destitute or elderly, based on assessment of need.
- Ration cards will be issued to transgenders even if they are living alone or living in shelters.
- Formation of TG SHGs will be promoted and obtaining benefits by these SHGs under various income-generation schemes of the government will be facilitated.

7.2.5 Emergency/ Support Centres:

Given repeated instances of violence against transgender persons, there is a dire need to provide emergency support to transgender members of our society. Toward this end, the following actions will be taken:

- Emergency centres will be established for providing emergency relief and services, e.g. in case of violence against transgender persons, in course of time. Till such infrastructure is created, these centres will function out of available infrastructure of the Social Welfare Department.
- Counselling services will be made available in existing Social Welfare Department infrastructure in various districts free of cost to the families of transgender persons.
- Specialized social care services for victims of violence and rehabilitation services for drug abusers will also be put in place.
- A Help Desk in the office of all District Police Superintendents of Police will be set up and made available for transgenders. Massive sensitisation and awareness programmes for the public and public authorities

7.2.6 General Public Services:

Other general public services that will be provided under this policy are:

- Transgender persons will have full access to all services such as character certificate, telecom services, banking services, birth/death certificate, domicile certificate, property related services, vehicle registration, driving license, passport, legal services (including stamp paper, etc.) assets purchase, and taxation etc.

- In case of death of a transgender whose immediate next of kin is not available, Municipal Authorities will be responsible for the funeral of transgenders as per rites specific to the religion of the transgender.
- Separate lavatory facilities for transgender persons will be made available wherever possible.

7.2.7 Awareness Campaigns:

Awareness campaigns need to be launched across the state to spread the message of tolerance and diversity, to prevent the shaming and humiliation of transgenders and to change the prejudiced mindset and attitude of people towards transgenders. As part of this endeavour, the following measures shall be taken:

- **Students and teachers will be sensitised about transgender rights and students will particularly be convinced to refrain from the use of words that denigrate and demean and humiliate transgenders.**
- School curriculum will be revised so as to include basic information⁷ about transgenders as part of the sensitization initiative.
- Material for sensitising officials on the rights and privileges of transgenders will be developed and used during training of officials in administrative staff college, police academy, judicial academy etc.
- Training will be provided to law enforcement personnel, teachers and health staff etc on a humane and dignified handling of issues pertaining to transgenders.
- As part of a responsible media policy towards transgenders, print and electronic media will be requested to refrain from depicting transgenders in poor light and to assist in weaning out words from common parlance that stand to demean transgenders.
- Families of transgender persons will be sensitized about the rights of transgender persons and their responsibilities.

7.2.8 Charter of Responsibilities for Transgender Community

- A database of all transgender community leaders like Gurus and NGOs working for transgenders across the state will be separately maintained. This database will include details of the transgenders living with the Guru/ NGO and record the infrastructure available with the Guru/ NGO for using as shelter for transgenders.
- A charter of responsibilities will be formulated to bind the registered gurus and organizations providing shelter to the transgender children and taking care of these children for maintaining a minimum standard of living.
- The government will institute mechanism for regular monitoring of living arrangements of transgender persons.
- The government may, in the event of difficulty in creating government infrastructure for shelter of transgenders, provide one time grant-in-aid upto a maximum of Rs 2 lakhs for use/ upgradation of the shelters for transgenders run by NGOs/ Gurus.
- Awareness meetings will be conducted within the transgender community and Gurus about their rights and responsibilities. Awareness material will also be distributed among the members of the transgender community and the Gurus.

7.3 ADMINISTRATIVE SET UP:**7.3.1 State Level Transgender Support Unit:**

- The Social Welfare Department will be the Nodal Department for the purpose of implementation of this policy.
- A Transgender Support Unit (TSU) will be established in the Directorate of Social Welfare, under the Director Social Welfare, which will oversee all issues relating to transgenders. The Unit will prepare an annual plan for the implementation of this policy and also prepare a budget based on the requirements as envisaged in the policy document.
- The Unit will formulate timelines for implementation of the Policy and submit a report to the government along with the annual plan. In doing so the Unit shall follow a hybrid approach; identifying those that can be implemented immediately and those that can be implemented over a period of time while continuing to work on both simultaneously.
- The TSU will submit plans and proposals for implementation of this Policy to the TWB for approval.
- The TSU will liaise and coordinate with all concerned departments and stakeholders for the purpose of implementation of this policy.
- The TSU will create a dynamic database of all transgenders using a software application through which a smart I-card will be generated for issue to transgenders.

7.3.2 District Level Committee

A District-level Committee will be constituted with the following members with well defined functions and responsibilities. The Committee will meet at least once in a month.

- | | |
|--|------------------------|
| a) District Magistrate | ----- Chairperson |
| b) District Social Welfare Officer | ----- Member-Secretary |
| c) CEO, Zila Parishad | ----- Member |
| d) Superintendent of Police | ----- Member |
| e) Member Secretary, DLSA | ----- Member |
| f) Chairperson/ Representative from Municipal Board | -----Member |
| g) Joint Director, Health Services | ----- Member |
| h) District Elementary Education Officer | ----- Member |
| i) One Psychiatrist | ----- Member |
| j) All Child Development Project Officers | ----- Members |
| k) District Child Protection Officer | ----- Member |
| l) Five Representatives from TG community
(to be nominated by DC) | ----- Members |

The Committee will perform the following functions:

- Monitor implementation of various welfare and other programmes of TGs in the districts.
- Assist the State level Transgender Welfare Board in the process of issue of I-Cards including in the receipt of applications with self declaration from members of the transgender community.
- Liaise with all government departments and agencies to ensure non-discrimination of TGs and ensure the full enjoyment of the rights of the transgenders.

- Set up and monitor TG support and Crisis Intervention Centres on the model of Rape and Crisis intervention centres. The centre should undertake counselling programmes and mental health issues that disproportionately affect the TG communities. The centre should also function as an information centre and support centre for TG persons. In case of any typical case, the District Level Transgender Welfare Committee shall refer the matter to the State Level Transgender Welfare Board.
- Organize awareness campaigns to sensitize the general public and public officials about the rights and privileges of transgenders
- Submit formal proposals for taking up schemes within the Policy framework to the TSU for consideration.

7.3.3 Transgender Welfare Board

A Transgender Welfare Board will be constituted, comprising the following members, to monitor and oversee the implementation of the schemes adopted for Transgender community in Assam. The Board will be registered under the Societies Registration Act.

- | | |
|---|---------------------------------|
| a) Hon'ble Minister, Social Welfare Department, Assam | ---- Chairperson |
| b) Senior most Secretary to the Govt. of Assam, Social Welfare Deptt. | -- Vice-Chairperson |
| c) Transgender Activist/ Representative of TG community | -- Associate Vice - Chairperson |
| d) Director, Social Welfare Department, Assam | ----- Member-Secretary |
| e) Secretary, Department of Home & Political | ---- Member |
| f) Secretary, Department of Finance | ---- Member |
| g) Secretary, Department of Health & Family Welfare | ---- Member |
| h) Secretary, Personnel Department | ---- Member |
| i) Secretary, WPT & B.C Department | ---- Member |
| j) Secretary, Education (Secondary) Department | ---- Member |
| k) Secretary, Education (Higher) Department | ---- Member |
| l) Secretary, P & R D Department | ---- Member |
| m) Secretary, Urban Development Department | ---- Member |
| n) Secretary, Judicial Department | ---- Member |
| o) Commissioner of police Guwahati City | ---- Member |
| p) Five Representatives from TG community | ---- Members |
- (to be nominated by Chairperson with focus on regional representation)

The Transgender Welfare Board will perform the following functions:

- The TG Welfare Board will monitor and oversee the implementation of the TG Policy and review the work of the TSU. TSU activities need to be evaluated periodically with involvement of TG communities at the grassroots' level to ensure that the activities are needs-based, needy TG people are benefited, and implementation of schemes is timely
- The Board will suggest policy and institutional reforms that enable access to socio-economic development schemes for the poor TGs and other at risk TG groups.
- It will ensure convergence of existing schemes across departments for a more targeted and focused approach towards ensuring the well-being of the TG community.
- Issue guidelines as necessary to ensure equality and equity of TGs.

- Ensure that sufficient and quality development projects programmes and schemes are formulated and adequate funds are allocated for effective implementation of TG Policy.
- TWB will use multiple channels such as newspaper television, and brochures to inform the TG communities about the schemes available under various government departments, and how to access and use those schemes
- Gender identity cards to a TG person will be issued by the TSU on approval by the TWB.
- Ensure that the Gender I cards are acceptable to all authorities for use in all official documents, for changing details in documents and to avail access to all eligible schemes and benefits by persuading the government to issue instructions to all concerned in this regard.
- The TWB will approve the plans and proposals received from the TSU for implementation of this Policy.
- TGB will periodically conduct needs assessment regionally by involving Community Based Organizations (CBOs) and NGOs working with TGs to understand the needs, issues, concerns, and local context of TG communities. Based on findings, fresh needs-based schemes can be formulated.
- The TWB will consider all matters referred to it either by the District -level Committee or by the TSU and petitions received from TGs and issue suitable instructions
- The tenure of non-official members will be three years.
- The TWB will meet at least once every three months.
- Remuneration, travelling and daily allowance, as admissible and finalized by the Social Welfare Department, will be paid to non-official members for attending the meetings of the TWB.

JISHNU BARUA,
Additional Chief Secretary to the Government of
Assam,
Social Welfare Department, Assam.

Guwahati : Printed and Published by the Dy. Director, Directorate of Printing & Stationery, Assam,
Guwahati-21.

Extraordinary Gazette No. 329 - 10 + 10 - 22 - 04- 2020. (visit at- dpns.assam.gov.in)

Binita Barua
TRUE COPY

1/10505/2021

F.No.HQ-16024/1/2020-EU-I-HQ
Government of India
Ministry of Electronics and IT
Unique Identification Authority of India

7th Floor, UIDAI Headquarter,
Bangla Sahib Road, Behind Kali Mandir,
Gole Market, New Delhi - 110001
Dated :03-11-2021.

CIRCULAR

Subject: Standard Operation Procedure (SOP) of Name & Gender Update Request under Exception Handling Process

I am directed to forward herewith the revised SOP in respect of Name & Gender Update Request under Exception Handling Process.

This issues with the approval of the CEO, UIDAI.

Yours faithfully,

Signed by Prabhakaran
C.r.

Date: 03-11-2021 11:36:29
(Prabhakaran C.R.)
Reason: Approved
Deputy Director (E&U-I)

To,

1. All UIDAI Regional Offices.
2. UIDAI Tech Centre, Bengaluru.
3. All the Registrars and Enrolment Agencies.
4. File.

Birey Kumar
TRUE COPY

HQ 16022/2/2020-EU-I-HQ-Part(1)

Government of India

Ministry of Electronics & Information Technology (MeitY)

Unique Identification Authority of India (UIDAI)

Enrolment & Update Division

**Standard Operation Procedure (SOP) of Name & Gender Update
Request under Exception Handling Process**

NAME UPDATE : Residents can update their name in Aadhaar through the existing process of enrolling by submitting valid document with slight modification as under.

1. The existing practice of updation of Name, i.e., twice in a life time has been revised as under:

S. No.	Change Type	Current Provision	Recommended Provision
1.	Minor Name Edit / Change in initials, surname etc.	Name can be updated twice in a lifetime.	No Change.
2.	Full name change	No explicit guideline	In case of complete name change or change in the first name of the resident, the Gazette Notification of name change to be uploaded as PoI document.

2. The following cases shall not be counted as update request in terms of name update chances:
- A Resident is requesting for updating (correcting) his/her Name, which is to fix a typo mistake by an enrolment operator.
 - A resident requesting updating (correcting) his/her Name due to transliteration error.
 - Name update consequent to update of Regional Language of the resident.
 - ROs to initiate reprocess of such packets by forwarding such cases to Tech Centre with recommendation to reprocess the packet and not to count the update as a chance to update name. The resident shall be eligible for balance chances.

1/10354/2021 A detailed workflow depicting the procedure to handle the Name update requests are given at **Annexure-I**. Update requests beyond allowed chances will only be considered through the exception handling process.

3. Name update exception handling cases:

In case of exhaustion of Name update chances, i.e., after exhausting the two chances, ROs may consider the request for Name update under exceptional handling, only if the following conditions are satisfied:-

- i. Common scenario wherein Name update is sought at ROs is in case of marriage/divorce/adoption related change. Under exception handling, resident will have to submit the **marriage/divorce/adoption certificate** and request shall be considered by RO. This document will be uploaded under Pol.
- ii. A resident may request to append/edit initials in name. For example: person named as B I Hirani, would like to expand his first name or last name or both. In such cases, RO may verify if its in-line to the clarifications issued vide letter no. F. No. 4(4)/57/363/2018/UIDAI-E&U-II (Vol. II) dated 30.09.2020(Attached) for Name update.
- iii. Resident update his/her name to change the sequence of the existing name: i.e. Rajesh Prasad Sharma requests to update his name as Prasad Rajesh Sharma.
- iv. A few cases where a resident might seek complete name change request, like from Pankaj Kumar to Abhinay K Singh. In case of complete name change the **Gazette Notification of name change** to be uploaded as Pol document.

Process to be followed for

- i) For scenarios detailed in para 2 above, if the request is getting wrongly rejected during the process, the resident can raise the issue through any mode (directly to RO or through CRM by letter, mail or by calling 1947) and the concerned Regional Offices to reprocess the packet as per the process available for re-processing of wrongly rejected packets. If require, RO may instruct the resident to re-enroll with specific document and submit the EID for further process.
- ii) For Scenarios detailed in Para 3,
 - a) Resident to enrol for Aadhaar update at the nearest enrolment centre with concerned document and intimate UIDAI through mail. In case the resident contacts through 1947, the resident should be advised to reenrol and submit the EID through mail.
 - b) Once the request received at RO, the request to be verified with due diligence and to be packet to be processed as per the process available for re-processing of wrongly rejected packets.

I/10354/2021

- iii. A detailed workflow depicting the procedure to handle the Name update requests in exception handling is as given at **Annexure II**.

GENDER UPDATE

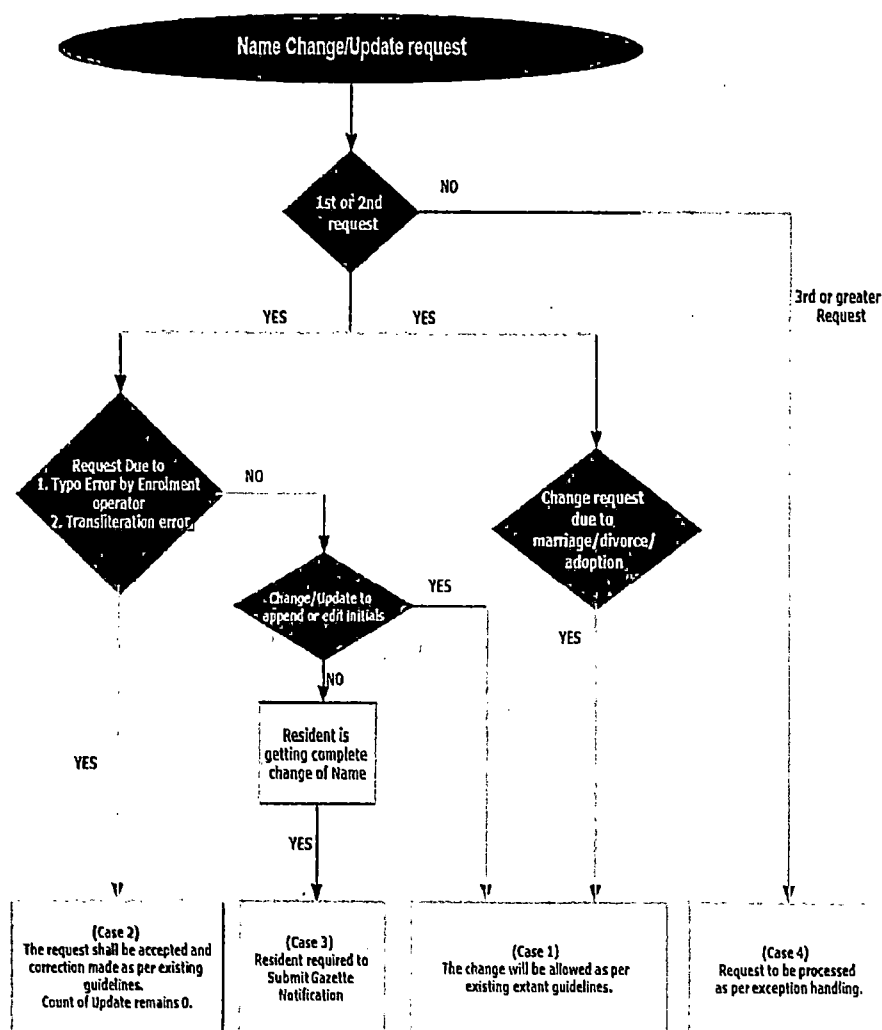
The Gender related update requests will be handled as under:

- i. In case the Gender mistakenly updated by error of enrolment Operator along with some other update:
 - a) The resident to reenroll for updating the corrected gender and once represent such cases to UIDAI through letter/mail or by calling 1947.
 - b) Such cases to be assigned to the concerned RO and RO to verify the case along with copy of enrolment form submitted with the packet.
 - c) ROs to initiate reprocess of such packets by forwarding such cases to Tech Centre with recommendation to reprocess the packet and change the status for number of gender update to zero.
 - ii. As per the present procedure, Gender update is permitted without any documentary support. Considering the restrictions on number of Gender update, the resident have to submit a medical certificate having photograph issued by surgeon or concerned Authority as POI document.
 - iii. In case of updation of gender to transgender, the resident will be required to submit a certificate issued by the Central/State Govt as POI document.
 - iv. A detailed workflow for exception handling in case of Gender update is given in **Annexure-III**.
4. The SOP shall be implemented as follows.
- i) In the initial stage, the requests shall be processed under exceptional handling process (manually by verifying/collecting the original or scanned copy of the document) by the concerned Regional office through any mode.
 - ii) After obtaining Authority approval through E&U-II division, Tech Centre shall be requested to include the list of documents in the client.
 - iii) After necessary changes in the client, residents shall have provision to submit the documents through client at the time of enrolment.
5. This issues with the approval of Competent Authority.

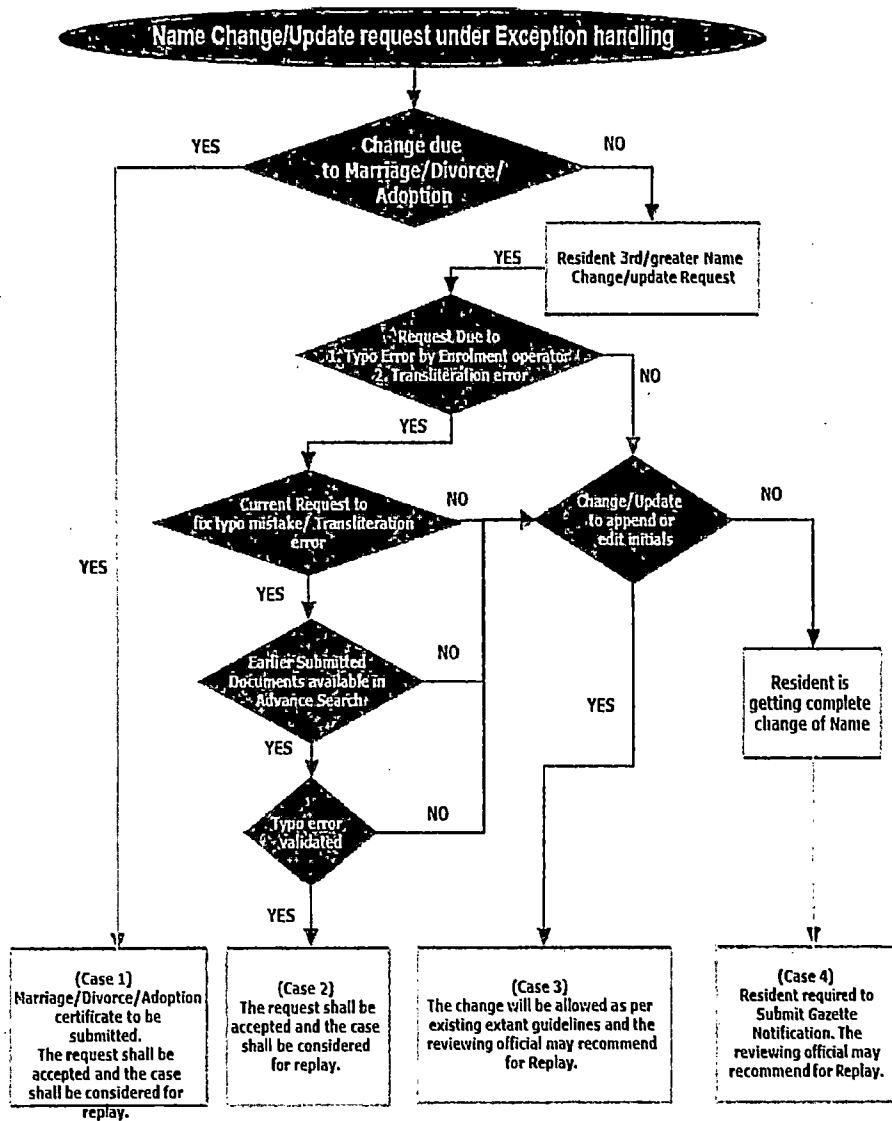
Signed by Prabhakaran
C.r.
Date: 28-10-2021 09:05:34
Reason: Approved
Prabhakaran C R
Deputy Director (E&U-I)

I/10354/2021

Annexure I

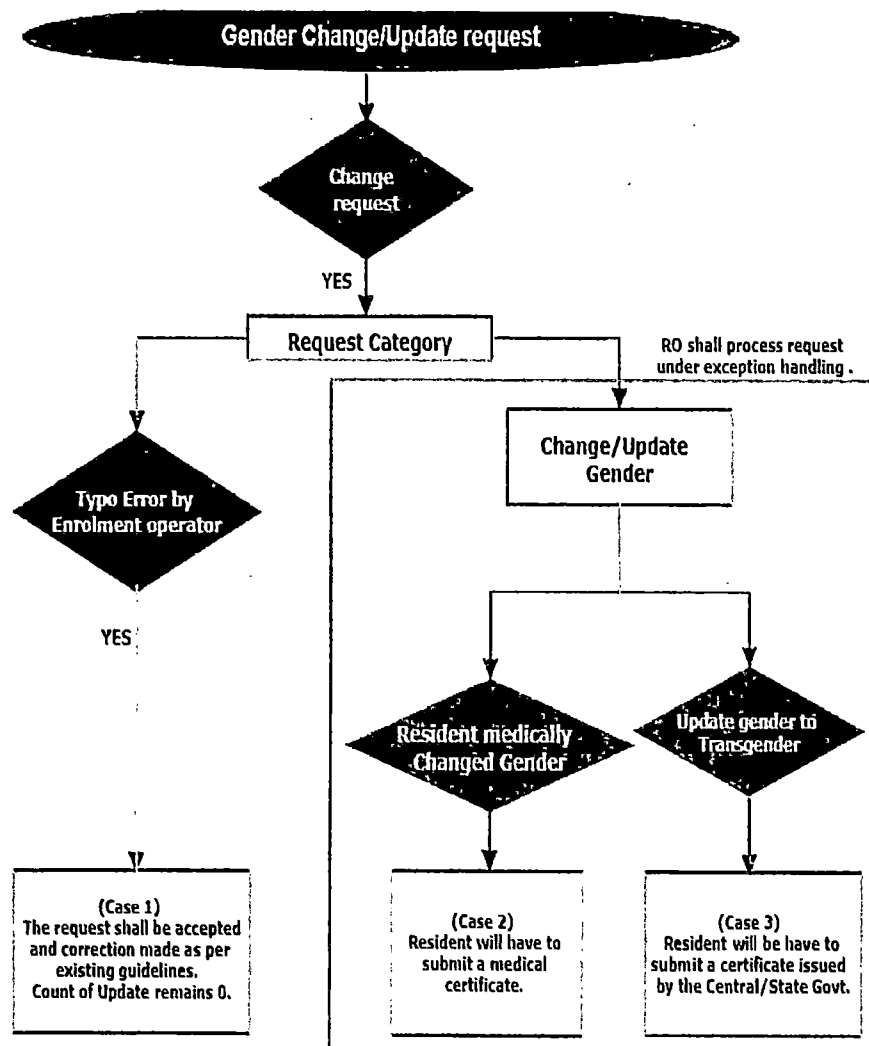


Annexure-II



I/10354/2021

Annexure III



Pradyumn
TRUE COPY

ANNEXURE P10

**COMPENDIUM OF
INSTRUCTIONS/ GUIDELINES
RELATING TO ISSUE OF
PASSPORTS IN
INDIA/ABROAD**

(Updated upto 31st May, 2020)

Disclaimer : This compendium consists of guidelines for Passport Issuing Authorities framed under the Passports Act, 1967 and rules made thereunder, and are not exhaustive in nature. The decision of the competent authority will be final.

Prady Grewal
TRUE COPY

Accordingly, PIAs shall not reject such applications and also not contest court cases on change of POB if the place already recorded in the passport and the one the applicants wants to change fall within the same district or adjoining districts. However, when such change is apparently fraudulent and sought to be made from one state to another (except in neighbouring/ bifurcated/ reorganized States etc); the case should be examined thoroughly and properly contested in the court (if the litigation in this regard has already been initiated by the applicant) under intimation to the Ministry.

6.4. In case of applications for change of POB from India to abroad, or from abroad to India, it involves the question of Indian citizenship and fraudulent obtaining of Indian passport. If POB is claimed to be outside India, PIA should confirm (i) if birth registration has been done at the Indian Mission/Post; (ii) if first passport was not issued from abroad, then whether the applicant travelled on the mother's passport; (iii) whether foreign birth certificate is genuine; and (iv) why previous passport (s) was obtained with a wrong POB. In order to obtain immigration quotas based on place of birth or to obtain foreign passports, applicants often try to get their POB changed from India to abroad.

7. CHANGE OF SEX

7.1. There are rare cases of request for change in sex consequent to medical procedure changing sex of an individual. The applicant should give a sworn affidavit regarding the change in sex and furnish supporting certificate from the hospital where he/she underwent the medical treatment for the purpose. Since the change in sex will also normally require a change in name, the applicant in that eventuality, will also have to follow the procedure in para 3.2 above regarding change of name. Passport should be issued on such application only after fresh police verification. Change in sex from male/female to Transgender does not require submission of any surgical reconstruction certificate. If an applicant's claims his sex as transgender, the applicant's claim may be accepted in good faith as it is a matter of self-identity.

8. CHANGE IN APPEARANCE

8.1. Passport can be reissued for change in appearance, subject to post-Police Verification in case of minor change and pre-Police Verification in case of substantial change of appearance. This will also apply to Sikh applicants who want to change from turbaned image to clean shaven image or vice versa.

9. CHANGE OF ADDRESS

9.1. Any of the following documents may be accepted as Proof of Residence at the time of applying for a new passport

- i. Aadhaar Card/ e-Aadhar/ Letter containing the unique Aadhar number
- ii. Allotment letter of the Government accommodation issued by the Estate Office/Public Works Department of the Central/State Government in respect of their employees
- iii. Applicant's current and valid ration card
- iv. Driving License

Binita Bhasin
TRUE COPY

ANNEXURE P11

Nomination of transpersons to contest from women's wards accepted

The candidatures of Amaya Prasad and Arunima M. Kurup, fielded by the UDF in Thiruvananthapuram and Alappuzha respectively, were approved by the respective returning officers on November 22, 2025, thus paving the way for them to contest the civic polls

Published - November 22, 2025 09:59 pm IST - KOCHI

THE HINDU BUREAU

Two transgender candidates have qualified to contest in the upcoming local body polls from divisions reserved for women, a first in the State.

The candidatures of Amaya Prasad and Arunima M. Kurup, fielded by the United Democratic Front (UDF) in Thiruvananthapuram and Alappuzha respectively, were approved by the respective returning officers on Saturday (November 22, 2025), thus paving the way for them to contest the civic polls.

While Ms. Prasad will contest from the Pothencode division of the Thiruvananthapuram district panchayat, Ms. Kurup will seek popular mandate from the Vayalar division of the Alappuzha district panchayat.

Ms. Prasad's candidature had raised some initial objections as her gender was marked as 'transgender' in the elector's photo identity card issued by the Election Commission. Ms. Prasad, a male by birth, had later changed her gender to female after undergoing a sex reassignment surgery. She had complained that her application to update her gender to female was pending.

Bincy Susan
TRUE COPY

However, the returning officer accepted her contentions and approved her nomination on the day.

"There were no such hassles for my candidature from the division reserved for women as my gender was marked as female in all relevant records," said Ms. Kurup.

Incidentally, the State Election Commission had issued an advisory to the returning officer of Thiruvananthapuram district on Saturday, urging the official to decide on the case after considering the provisions of the Transgender Persons (Protection of Rights) Act, 2019, which prescribed that transgender persons had the right to decide on their gender. The Commission also pointed out that the gender of Ms. Amaya could be considered as 'woman' if the candidate produced relevant documents, including the certificate of identity issued by the District Magistrate, which identified her as a woman.

Published - November 22, 2025 09:59 pm IST

Bincy Susan
TRUE COPY

ANNEXURE P12**IOC Policy on the Protection of the Female (Women's) Category in Olympic Sport and Guiding Considerations for International Federations and Sports Governing Bodies****PREAMBLE**

Eligibility for the female (women's) category has been a longstanding topic within the Olympic Movement. Most recently, in November 2021, the International Olympic Committee (the "**IOC**") issued the *IOC Framework on Fairness, Inclusion and Non-discrimination on the Basis of Gender Identity and Sex Variations* (the "**Framework**"), which provided guidance for International Federations ("**IFs**") to develop sport-specific eligibility criteria for the female (women's) category (the "**Female Category**"). The Framework provided for periodic review of that guidance to reflect relevant ethical, human rights, legal, scientific and medical developments, including stakeholder feedback on their application. This *Policy on the Protection of the Female (Women's) Category in Olympic Sport and Guiding Considerations for International Federations and Sports Governing Bodies* (the "**Policy**") reflects such review and developments.

BACKGROUND TO THE POLICY

From September 2024 to March 2026, the IOC Administration (the "**Administration**") conducted a broad-based review of the Framework's approach to eligibility for the Female Category at IOC Events (the "**Review**"). The Review included consideration of the IOC's policy goals for the Female Category, consultations with a range of experts in relevant fields and lessons learned, and feedback from Olympic Movement constituents, among whom were IFs whose sports have been on the sports programme of an Olympic Games and athletes from around the world potentially impacted by a revision of the Framework.

As part of the Review, in September 2025 the IOC established a working group specifically to examine scientific, medical and legal developments since 2021 (the "**Working Group**"). The Working Group members came from five continents and included specialists in sports science, endocrinology, transgender medicine, sports medicine, women's health, ethics and law. In addition, as a separate part of the Working Group, IF Chief Medical Officers representing individual and team sports were included.

Following an update to the IOC membership in November 2025 on the status of the Working Group's work to date, the Administration was tasked with drafting a policy on the protection of the Female Category in an Olympic context that would reflect the Working Group's work, the various IOC consultations and consideration of recent developments, including in international human rights law.

Biney Swamy
TRUE COPY

REVIEW AND DEVELOPMENTS

Review of and Developments in Science

The Working Group reviewed the state of the science, including developments since 2021, and reached consensus that:

- i. Male sex (as defined in Schedule 1) confers performance advantage in all sports and events that rely on strength, power, and/or endurance;
- ii. To protect fairness in such sports and events, as well as safety particularly in contact sports (e.g. combat, collision, projectile sports), it is necessary and adequate to base eligibility for competition on biological sex; and
- iii. The most accurate and least intrusive way currently available to screen for biological sex is by screening for the SRY Gene, which is a segment of DNA that is almost always on the Y-chromosome, initiates Male sex development in utero, and signals the presence of testes/testicles.

In reaching this consensus, among other information and evidence, the Working Group agreed on the following:

- **Sex and Gender:** Biological sex, which is divided into categories (Male and Female, based on their reproductive biology, including their sex chromosomes, gonads and hormones), is distinct from gender identity, which is a person's sense of themselves as a woman or a man or neither/non-binary.
- **Testosterone Levels:** Healthy adult Males have 15 to 20 times more circulating testosterone than healthy adult Females. Testosterone levels do not overlap between the two groups. The gap in testosterone levels exists in the general and elite athlete populations. Males experience three significant testosterone peaks: in utero, in mini-puberty of infancy and beginning in adolescent puberty through adulthood.
- **Performance Advantage:**
 - Consistent with the functional effects of higher circulating testosterone levels, Males have larger and stronger skeletal muscle and bone, larger and stronger hearts, larger lung size, more red blood cells, and lower body fat than Females trained to the equivalent level. Together these attributes afford Males individual sex-based performance advantages in sports and events that rely on strength, power and/or endurance.
 - Female athletes experience performance disadvantages relative to Males, associated with Female anatomy and physiology, that contribute to overall Male performance advantage in sports and events that rely on strength, power and/or endurance. These disadvantages may include, for example, the menstrual cycle, gestation and anatomical differences such as periodic ligament laxity (looseness), wider hips and more breast tissue.

- XY Transgender athletes and athletes with certain XY differences/disorders in sex development (DSD) (as defined in Schedule 1) have anatomical and physiological advantages in line with being Male even as their legal sex, the manner in which they were raised, and/or their gender identity may vary. XY transgender athletes and athletes with XY-DSD typically have testes/testicles and testosterone levels in the Male range. The clear majority are androgen-sensitive, meaning that their bodies are receptive to and make use of that testosterone during growth and development and throughout their athletic career.
- Androgen-sensitive XY-DSD and XY Transgender athletes retain Male performance advantage due in part to training effects and fixed traits. There is no current evidence that testosterone suppression or gender-affirming hormone treatment eliminates this advantage.
- XY-DSD athletes with Complete Androgen Insensitivity Syndrome (CAIS) (defined in Schedule 1) and other rare XY DSDs that do not benefit from the anabolic and/or performance-enhancing effects of testosterone should, on that basis, be included in the Female Category.
- **Magnitude of Advantage:** At the elite level, the magnitude of the Male performance advantage is different depending on the sport or event:
 - There is a 10-12 per cent Male performance advantage in most running and swimming events.
 - There is a 20+ per cent Male performance advantage in most throwing and jumping events.
 - The Male performance advantage can be greater than 100 per cent in events that involve explosive power, e.g. in collision, lifting and punching sports.
- **Variation in Advantage:** The extent of the performance advantage (and its implications) varies across sports and events and from occasion to occasion, depending on the athletes involved.
- **Safety risks:** In contact sports (e.g., individual and team combat, collision, projectile sports), the strength and power differential between Males and Females increases safety risks to Female athletes.
- **SRY Gene Screening:**
 - Screening for the SRY Gene via saliva, cheek swab or blood sample is minimally intrusive.
 - The presence of the SRY Gene is fixed and thus provides better evidence of biological sex than measuring testosterone levels, which are variable and can be changed.
 - SRY Gene screening is almost always sufficient to determine sex for eligibility purposes.
 - All Biological Female athletes screened will be negative and eligible, and virtually all athletes who screen positive will have testes/testicles that naturally produce testosterone at adult Male levels.
 - Because a positive SRY Gene screen does not establish a specific DSD diagnosis, further evaluation should be made available to the athlete to determine whether they have CAIS or another rare XY DSD that precludes testosterone's anabolic and/or performance-enhancing effects.

Review of IF Chief Medical Officers' Concerns and Developments in IF Policies

The Working Group and the IOC reviewed IF positions on the Framework. These included:

- i. The fact that, for fairness and safety and to meet additional institutional priorities, many IF policies continue to be based on the scientific understanding that Male athletes have a performance advantage in all sports and events that rely on strength, power and/or endurance.
- ii. Concerns in some sports about being able to preserve the unique nature of the Female game without relevant eligibility rules.
- iii. A preference for policy alignment led by the IOC, to achieve Olympic Movement integrity (consistency among sports that have a Female Category).

Review of and Developments in Law

The Working Group and the IOC examined the state of the law and took special note of the following:

- i. Based on IF experience, genetic screening for sex does not create significant problems in practice. It is legal in most countries, and athletes from the countries where it is not permitted can lawfully be tested elsewhere.
- ii. Human rights experts, including UN Special Rapporteurs, disagree on the legitimacy of sex-based eligibility rules in competitive sports. Some hold that they violate the rights of XY individuals who identify as women. Others also consider the rights of XX individuals.
- iii. No supranational court has held that defining eligibility for the Female Category by reference to biological sex would constitute an unjustifiable infringement of individual and/or human rights.

Review of and Developments in Olympic Movement Constituent Perspectives

As part of the Review, the IOC considered competition results and Olympic Movement constituent perspectives, and found that eligibility rules based on legal sex or gender identity do not align with the IOC's Policy Goals for the Female Category, as stated below. Specifically, there is broad consensus among Female athletes, and other Olympic Movement constituents, in favour of eligibility rules for the Female Category based on biological sex.

The IOC consulted athletes in three ways: through an online Athlete Survey that received over 1,100 responses, through in-depth individual interviews with impacted athletes from around the world, and via a presentation to and discussion with members of the IOC Athletes' Commission.

Although nuances exist across sex and gender, region and athlete status (active/retired), the athlete consultation revealed a strong consensus that fairness and safety in the Female Category requires clear, science-based eligibility rules, and that protecting the Female Category is a common priority.

POLICY GOALS

The IOC's role as leader of the Olympic Movement is to ensure the regular celebration of the Olympic Games. The Olympic Games host elite athletes who are among the best in the world according to their age, sex and skill. The IOC also recognises the importance of widespread participation in grassroots and recreational sports programmes, to which this Policy does not apply, and that different sport contexts are motivated by different goals. As such, eligibility rules should be carefully considered and tailored accordingly.

At the Olympic Games, in light of the scientific consensus that Males have a performance advantage in all sports and events that rely on strength, power and/or endurance irrespective of subsequent testosterone suppression or gender-affirming hormone treatment, the Olympic Movement has a compelling interest in having a sex-based Female Category, because this is necessary to ensure fairness, safety and integrity in elite competition. It is also necessary for the reliable attainment of the IOC's modern goals for the Female Category, shared with other Olympic Movement constituents:

- i. Equality - equal opportunities for Female athletes in finals, on podiums and in championships;
- ii. Enhancing Olympic Value - featuring both women's and men's finals in every sport; and
- iii. Visibility and Inspiration - celebrating Female athletes on the Olympic podium to inspire and represent women and girls worldwide.

It is universally accepted that providing for a Female Category is necessary to allow equal access to elite sport to both Males and Females. Including athletes who are XY transgender and/or androgen-sensitive XY-DSD athletes (whatever their legal sex or gender identity) in the Female Category in sports and events that rely on strength, power and/or endurance runs fundamentally counter to ensuring fairness, safety and integrity in elite competition and to the reliable attainment of the IOC's modern goals. Furthermore, the need for consistency and fairness across sports precludes eligibility criteria that require case-by-case consideration of differences in Male performance advantage.

To reliably uphold fairness, safety and integrity in elite sport and to meet these shared goals, and in light of relevant developments since 2021, the IOC is issuing this new *Policy on the Protection of the Female (Women's) Category in Olympic Sport and Guiding Considerations for International Federations and Sports Governing Bodies*.

THE POLICY

For the purpose of this Policy, the IOC has adopted the consensus definitions of the Working Group, which are set out in **Schedule 1**.

For all disciplines on the Sports Programme of an IOC Event, including individual and team sports, eligibility for any Female Category is limited to Biological Females.

Eligibility for the Female Category is to be determined in the first instance by SRY Gene screening to detect the absence or presence of the SRY Gene. On the basis of the scientific evidence, the IOC considers that the SRY Gene is fixed throughout life and represents highly accurate evidence that an athlete has experienced or will experience Male sex development. Furthermore, the IOC considers that SRY Gene screening via saliva, cheek swab or blood sample is unintrusive compared to other possible methods.

Athletes who screen negative for the SRY gene permanently satisfy this Policy's eligibility criteria for competition in the Female Category. Unless there is reason to believe a negative reading is in error, this will be a once-in-a-lifetime test.

With the exception of athletes with a diagnosis of CAIS or other rare DSDs that do not benefit from the anabolic and/or performance-enhancing effects of testosterone, no athlete with an SRY-positive screen is eligible for competition in the Female Category.

Athletes with an SRY-positive screen, including XY transgender and androgen-sensitive XY-DSD athletes, continue to be included in all other classifications for which they qualify, for example, they are eligible for (i) any Male Category, including in a designated Male slot within any mixed category, and (ii) any open category or in sports and events that do not classify athletes by Sex.

The IOC recognises that XY athletes who identify as women and who want the opportunity to compete at IOC Events according to their legal sex or gender identity may disagree with this Policy. However, after a thorough scientific review and consultations with constituents of the Olympic Movement, the IOC determined that a Sex-based eligibility rule is necessary and adequate to the attainment of the IOC's goals for competition at IOC Events.

SCOPE OF APPLICATION

This Policy applies to all IOC Events and enters into force at the date of its adoption by the IOC Executive Board. It is not retroactive and shall be applicable for the first time at the LA28 Olympic Games.

This Policy shall be adopted by IFs and other sports governing bodies, such as National Olympic Committees ("**NOCs**"), National Federations and Continental Associations ("**SGBs**"), when exercising their responsibility in implementing eligibility rules in relation to IOC Events.

The IOC retains the authority to establish that the IFs and SGBs have satisfied their obligations under the Policy, including but not limited to ensuring that all athletes participating in the Female Category at IOC Events are either SRY negative or qualify for an exception.

IFs and SGBs may request an exemption from this Policy if the IF/SGB can establish that their sport or discipline does not rely on strength, power and/or endurance, that their women's category exists for reasons unrelated to Sex differences in anatomy and physiology, and that ignoring Sex would not result in diminished opportunities for Female athletes.

This Policy replaces all previous IOC statements on this matter, including the Framework.

GUIDING CONSIDERATIONS FOR IFS/SGBS

In consultation with IFs that have already implemented such criteria and screening, the IOC will make available and periodically update best practice standards, but, consistent with the Olympic Charter, the IFs and SGBs must define, as applicable, the details of their respective programmes themselves. For the development of those details, the IOC provides the following guiding considerations and strongly recommends as follows:

SRY Gene Screening for Eligibility Purposes

- Individual athletes should be provided with age-appropriate, culturally sensitive, and accessible information necessary to make an informed decision about whether to undergo SRY Gene screening.
- Beyond relevant medical indications, information to make an informed decision about whether to undergo SRY Gene screening should include the facts that:
 - Athletes who wish to compete in the Female Category at IOC Events must demonstrate their eligibility in advance by means of SRY Gene screening results.
 - Athletes can expect to be eligible to compete in the Female Category if the results are negative.
 - Athletes will be ineligible for competition in the Female Category if the SRY results are positive, pending any further evaluation the athlete may choose to undergo regarding CAIS or other rare DSDs that do not benefit from the anabolic and/or performance-enhancing effects of testosterone. The opportunity for further evaluation should include counselling and an informed consent process at each step.
 - An athlete who declines SRY Gene screening or who has a positive result (and does not fit within the exception) can participate in all other sporting opportunities, including any other elite category competitions for which they meet the qualifying standards.

Athlete-Centred Approach

IFs and SGBs should undertake affirmative measures to educate their constituents and to mitigate foreseeable harm. Among other actions, IFs and SGBs should:

- Ensure that the athlete's human dignity, physical and psychological well-being, health and safety, and right to privacy and confidentiality are respected.
- Educate athletes, coaches, managers and other members of the athletes' entourage, with particular emphasis on the position that competitive integrity in women's sport requires eligibility criteria that ensure a level playing field consistent with Female sex development and Female anatomy and physiology. Such education should also emphasise the responsibility of coaches, managers and entourage members to support the athlete's autonomy, privacy and wellbeing, and to refrain from sharing information beyond authorised channels.
- Ensure full transparency of the process (what the screening is, how it works, what it measures, how to interpret results, who is involved, how information is shared, and the implications of the various outcomes).

- Establish internal mechanisms that offer athletes and other impacted stakeholders accessible, legitimate, safe and predictable avenues to obtain information on the process and rules, including clear pathways to raise concerns, seek safeguarding support or report inappropriate conduct or breaches of confidentiality without fear of retaliation.
- Encourage screening for biological sex early in the athletic career (for example, at the same time as entry of the athlete in international competition under the jurisdiction of the relevant IF, and in any case before embarking on the qualification pathway to participate in an IOC Event) so that athletes and their entourage can make informed decisions about their investment in competition in the Female Category.
- Carefully consider the special situation of minors and ensure that appropriate safeguards and protections are in place, including the involvement of appropriately qualified professionals, age appropriate explanations, parental or guardian consent, where required by law, and the prioritisation of the best interests of the minor at all stages.
- Wherever possible, combine SRY Gene screening with regular health evaluations.
- Reassure athletes that:
 - All athletes have a place in sport according to their age, sex and skill.
 - Biological sex-based eligibility criteria (including SRY Gene screening) are not a judgment on, and do not question, the athlete's legal sex or gender identity.
 - SRY Gene screening is a highly accurate, non-invasive screen for biological sex.
 - Unless there is reason to believe that the results are in error, SRY Gene screening will be required only once in an athlete's lifetime.
- Ensure that physical examinations are not required for initial sport eligibility determinations. In the very rare case of an athlete screening positive for SRY (<1%), such athlete may choose to either: (i) seek (with informed consent and support) further evaluation to obtain a clinical diagnosis that would clarify their eligibility and any health implications, or (ii) decline further evaluation which would make them ineligible. SRY-negative athletes (>99%) will have lifelong eligibility without further evaluation or examination.
- Make available or facilitate access to mental health and safeguarding resources for athletes undergoing SRY Gene screening, particularly for those with a positive result.

Right to Privacy and Confidentiality

IFs and SGBs must:

- Respect the right to privacy and confidentiality of athletes.
- Comply with all applicable data protection and privacy laws to which they are subject when processing any personal data (including sensitive personal data such as health or medical information). This includes, without limitation, applying relevant data protection principles such as:
 - Transparency towards athletes about how their personal data will be processed;
 - In relation to the implementation of this Policy, using athletes' personal data only to the extent strictly necessary.

- Comply with all applicable laws and regulations, including, those governing genetic screening for sex, and confidentiality obligations (for example when handling information protected by medical confidentiality), and obtain any required consents or authorisations.

Implementation Workshops and Knowledge Sharing

IFs/SGBs are responsible for implementing this Policy within their respective organisations and areas of competence. The IOC will organise a series of workshops, seminars and/or webinars with IFs and NOCs, including athlete representation, to provide guidance and facilitate the exchange of information and athlete-centred best practices related to the implementation of this Policy. These workshops will provide a platform to share experiences, discuss practical challenges and promote consistent, safe and effective application of the Policy across the Olympic Movement.

PERIODIC REVIEWS

This Policy will be subject to periodic review, and may be amended following such review, to consider any new and relevant scientific, medical, ethical and legal (including human rights) developments, and should include the impacted stakeholders' feedback on their application.

ADOPTION BY THE IOC EXECUTIVE BOARD

This Policy has been issued pursuant to Rule 19.3.10 of the Olympic Charter and was adopted by the IOC Executive Board on 26 March 2026.

SCHEDULE 1 – DEFINITIONS

Sex: Either of the two categories, Male or Female, into which humans are divided according to their reproductive biology.

Biological Female (Female): An individual who, regardless of their legal sex or gender identity, experienced female sex development usually based on their XX-chromosomes, ovaries, and estrogenic hormones.

Biological Male (Male): An individual who, regardless of their legal sex or gender identity, experienced male sex development usually based on their XY-chromosomes, testes/testicles and androgenic hormones.

Differences/Disorders of Sex Development (DSD): Rare genetic conditions that result in atypical sex development.

XY-DSD: A DSD that affects biological males who have the SRY Gene. With rare exceptions, athletes with XY-DSD have testes/testicles and testosterone levels in the Male range, and the vast majority are androgen-sensitive.

Complete Androgen Insensitivity Syndrome (CAIS): An XY-DSD characterised by the body's inability to respond to androgens, including testosterone. As a result, although the individual has XY chromosomes, testes/testicles and testosterone levels in the Male range, they do not experience androgen-dependent Male sex development.

Gender Identity: A person's sense of themselves as a woman or a man or neither/non-binary. While biological sex does not and cannot change, a person's gender identity can change over the course of a lifetime.

Transgender: A person whose gender identity is different from their biological sex. For example, they may have typical male sex development but female gender identity, or typical female sex development but male gender identity. Some transgender people take gender-affirming hormone treatment and/or undergo gender-affirming surgeries, and others are/do not.

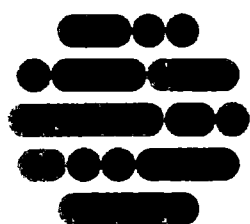
SRY Gene: A segment of DNA which is almost always on the Y-chromosome, signalling the presence of testes/testicles and initiating Male sex development by the production of testosterone. SRY stands for "sex determining region Y."

Female (Women's) Category: The competition category designated for athletes who are biological females.

Male (Men's) Category: The competition category designated for athletes who are biological males.

IOC Events: Sports events organised by the IOC, including the Olympic Games, Olympic Winter Games, Youth Olympic Games, Winter Youth Olympic Games, and any other event organised by the IOC.

Brian Kavan
TRUE COPY



**WORLD
AQUATICS**

**POLICY ON ELIGIBILITY
FOR THE MEN'S AND
WOMEN'S COMPETITION
CATEGORIES**

(BOTH APPROVED BY THE FINA BUREAU AND RATIFIED BY THE FINA CONGRESS ON 19 JUNE 2022)

version in force as 24 March 2023

Billy Green
TRUE COPY

A. Introduction

World Aquatics, formerly known as FINA, is the international federation recognised by the International Olympic Committee (IOC) for administering international competitions in Aquatics. Its primary mission is to promote and encourage the advancement of Aquatics in all possible aspects, throughout the world. It does this through the promotion of Aquatics health, education, and development, and the staging of World Aquatics competitions, including the World Aquatics World Championships, World Cups, Grand Prix, World Leagues, and World Series events and tournaments. World Aquatics is responsible for promulgating appropriate rules and regulations for the disciplines of Swimming, Open Water Swimming, Diving, Water Polo, Artistic Swimming, and High Diving, as well as for Masters programme/activity.

As part of its mission, World Aquatics is responsible for developing and administering eligibility criteria for its sport and competitions. In this respect, World Aquatics is committed to providing safe, fair, inclusive, and non-discriminatory opportunities for all Aquatics athletes wishing to compete in World Aquatics competitions.

Historically, Aquatics sport has been separated into men's and women's competition categories. The separation reflects the sport's commitment to: (1) ensuring equal opportunity for both male and female athletes to participate and succeed in the sport, including through the equal representation in its programs and competitions of athletes of both biological sexes; (2) ensuring competitive fairness and physical safety within its competition categories; and (3) developing the sport and promoting its popular appeal and commercial value. Because of the performance gap that emerges at puberty between biological males as a group and biological females as a group, separate sex competition is necessary for the attainment of these objectives. Without eligibility standards based on biological sex or sex-linked traits, we are very unlikely to see biological females in finals, on podiums, or in championship positions; and in sports and events involving collisions and projectiles, biological female athletes would be at greater risk of injury.

B. Background of the Policy

In November 2021, the IOC issued its Framework on Fairness, Inclusion and Non-Discrimination on the Basis of Gender Identity and Sex Variations (IOC Framework), which encouraged all international federations to develop eligibility criteria for the women's competition category that reflect the specificities of their particular sports but that include to the maximum extent possible athletes who, without regard to their sex or sex-linked traits, identify as women.

Specifically, the IOC Framework rejects the presumption that the male sex confers an athletic advantage, and discourages continued reliance on a testosterone proxy as the exclusive basis for eligibility for the women's category. Where evidence-based concerns about safety or fairness mean it is not possible to include male-to-female transgender athletes (transgender women) and athletes with 46 XY differences of sex development (46 XY DSD)

and a female legal gender and/or gender identity in the women's competition category, it encourages consideration of alternative opportunities within the sport, such as open events.

In January 2022, the International Federation of Sports Medicine and the European Federation of Sports Medicine Associations issued a joint position statement (Joint Position Statement) responding to what those organisations considered to be failures of the IOC process and recommendations. According to the Joint Position Statement, the IOC's focus on only one aspect of the human rights analysis meant that it failed to take proper account of "the scientific, biological or medical aspects," in particular that "high testosterone concentrations, either endogenous or exogenous, confer a baseline advantage for athletes in certain sports" such that "it is clear to uphold the integrity and fairness of sport that these baseline advantages of testosterone must be recognized and mitigated."

In response to the IOC Framework and the Joint Position Statement, World Aquatics convened a working group to consider the best available statistical, scientific, and medical evidence concerning sex differences in sports performance, and any associated male sex-based advantage. Its charge was to use this evidence to establish eligibility criteria to regulate the participation of transgender and 46 XY DSD athletes in the men's and women's categories in Aquatic sports that are consistent with World Aquatics' FOI mission and core commitments. The working group included (a) an athlete group (Athlete Group), (b) a science and medicine group (Science Group), and (c) a legal and human rights group (Legal and Human Rights Group).

The Athlete Group was comprised of current and retired Aquatics athletes and coaches (including transgender athletes and coaches), who brought to account their views and the views of their broader communities. The view of the majority of the Athlete Group was that competitive fairness must remain the primary objective in the establishment of competition categories. Moreover, it was highlighted that by reason of their sex and sex-linked traits, females often enjoy fewer societal opportunities compared to males, including fewer sporting opportunities, and sex-separated competitions are necessary to help address this inequality. In the majority view, World Aquatics should remain committed to the separation of athletes in sport into men's and women's categories based on biological sex and should allow male-to-female transgender athletes (transgender women) and athletes with 46 XY DSD with a female gender identity to compete in the women's category pursuant to eligibility criteria that are consistent with, and do not undermine, that commitment.

The Science Group was comprised of independent experts in the fields of physiology, endocrinology, and human performance, including specialists in sex differences in human performance and in transgender medicine. The task of the Science Group was to examine the most up-to-date scientific knowledge on (1) the impact of biological sex on athletic performance, and (2)

the impact of gender-affirming medical transition on factors that influence athletic performance, and to produce a report setting out their findings.

The Science Group reported that biological sex is a key determinant of athletic performance, with males outperforming females in sports (including Aquatics sports) that are primarily determined by neuromuscular, cardiovascular, and respiratory function, and anthropometrics including body and limb size. The extent of the male/female performance gap varies by sport and competition, but the gap universally emerges starting from the onset of puberty. The group reported that there are sex-linked biological differences in Aquatics, especially among elite athletes, that are largely the result of the substantially higher levels of testosterone to which males are exposed from puberty onwards. Prior to puberty, testosterone levels are similar in females and males. During puberty, however, testes-derived testosterone concentrations increase 20-fold in males, while testosterone concentrations remain low in females so that post-pubescent males have circulating testosterone concentrations at least 15 times higher than post-pubescent females (15-20 nmol/L in adult males versus c.1 nmol/L in typical females of any age). High testosterone levels generate not only anatomical divergence in the reproductive system but also measurably different body types/compositions between sexes.

According to the Science Group, if gender-affirming male-to-female transition consistent with the medical standard of care is initiated after the onset of puberty, it will blunt some, but not all, of the effects of testosterone on body structure, muscle function, and other determinants of performance, but there will be persistent legacy effects that will give male-to-female transgender athletes (transgender women) a relative performance advantage over biological females. A biological female athlete cannot overcome that advantage through training or nutrition. Nor can they take additional testosterone to obtain the same advantage, because testosterone is a prohibited substance under the World Anti-Doping Code.

The Legal and Human Rights Group was comprised of legal experts in sex discrimination, human rights, and international sports law, including the jurisprudence of the Court of Arbitration for Sport (CAS). This group accepted the lawfulness of World Aquatics' mission, authority and responsibility, and World Aquatics' core commitment to equality of opportunity for both male and female athletes, all as summarised above. It was informed of the views of the Athlete Group and the scientific evidence produced by, and conclusions of, the Science Group. Thus, its task was to reflect World Aquatics' commitment to a sex-based women's category as necessary to ensure that World Aquatics does not discriminate against—and is able to empower—female athletes, and that Aquatics is able to promote male and female athletes and male and female sport equally. It is also understood that, as with any form of affirmative action, World Aquatics' effort not to discriminate against female athletes and thus to ensure a sex-based women's category itself has exclusionary effects. In this instance, those effects are on male-to-female transgender athletes (transgender women) and athletes with 46 XY DSD whose gender identity is female. The Legal Group has tailored World Aquatics' eligibility rule narrowly, so

that (a) it is neither under- nor over-inclusive, and (b) it includes provisions throughout that are designed to ensure that the requirements and restrictions for transgender women and 46 XY DSD athletes with a female gender identity to compete in the women's competition category are limited to what is necessary and proportionate to achieve World Aquatics' overarching objectives.

C. The Policy

Taking into account all of the matters outlined above, World Aquatics issues this policy (the Policy) establishing the criteria for eligibility (a) to compete in the men's category or in the women's category in the World Aquatics World Championships, World Cups, Grand Prix, World Leagues, and World Series events and tournaments, and other international competitions events (World Aquatics competitions), and (b) to set World Aquatics World Records in the men's category or in the women's category in World Aquatics competitions and in other events recognised by World Aquatics, wherever they are held.

D. Policy Definitions

World Aquatics recognises that some individuals and groups may be uncomfortable with the use of medical and scientific terminology related to sex and sex-linked traits. World Aquatics respects all Aquatics athletes and has sought to avoid sensitive terminology that may cause offense. Nevertheless, some use of sensitive terminology is needed to be precise about the sex characteristics that justify separate competition categories and to ensure that the Policy's terms are understood by all Aquatics stakeholders. Some of those terms are explained in this section.

For purposes of this Policy:

"Differences of sexual development" (DSD) are a group of conditions where external genital appearance is discordant with internal sex organs (testes and ovaries). This Policy is only concerned with 46 XY DSD, i.e., DSD affecting athletes with testes (males as defined below).

The word "female" means possession of XX chromosomes and (in the absence of medical intervention) ovaries and increased circulating oestrogen and progesterone starting at puberty.

The word "male" means possession of XY chromosomes and (in the absence of medical intervention) testes and increased circulating testosterone starting at puberty.

The word "sex" denotes natural biological differences between females and males, including chromosomes, sex organs, and endogenous hormonal profiles. This Policy uses the word "sex" and the term "biological sex" interchangeably.

The term "Tanner Stages" denotes the five stages of puberty during which individuals develop secondary sex characteristics. Tanner Stage 2 denotes the

onset of puberty. The normal time of onset of puberty ranges from 8 to 13 years old in females, and from 9 to 14 years old in males.

The term "transgender" refers to individuals whose gender identity and/or expression differs from what is typically associated with their sex.

E. The Policy Objectives

World Aquatics is committed to the inclusion of all Aquatics athletes from all countries in the sport, subject to the eligibility requirements set out in this Policy.

It is committed to the separation of Aquatics sports into men's and women's categories according to sex, as this is necessary for the attainment of the goals for that category that are set out in the Introduction to this Policy. It is also committed to providing the opportunity for transgender and 46 XY DSD athletes to compete in Aquatics competitions pursuant to eligibility criteria that are consistent with and do not undermine those goals.

In light of these commitments, the objectives of this Policy are:

- to maintain the separation of Aquatic sports into men's and women's categories according to scientifically-grounded, sex-based criteria;
- to provide opportunities for transgender and 46 XY DSD athletes to compete in World Aquatics competitions in the competition category that reflects their gender identity based on eligibility criteria that are consistent with and do not undermine World Aquatics' goals for the women's category; and
- to provide a clear, fair, respectful, and confidential process by which athletes may establish their eligibility for World Aquatics competitions.

F. The Eligibility Requirements for Competition and for setting World Aquatics Records in the Men's and Women's Categories

1. Eligibility

a. Subject to the requirements set forth below, all Aquatics athletes are eligible to compete in the men's category or in the women's category in World Aquatics competitions and to set World Aquatics World Records in World Aquatics competitions and other events recognised by World Aquatics, whatever their legal gender, gender identity, or gender expression. No athlete is excluded from a World Aquatics competition or from setting World Aquatics World Records based on their legal gender, gender identity, or gender expression.

b. All issues relating to the eligibility of an athlete under this Policy to compete in a particular sex category will be determined by World Aquatics following consultation, as necessary, with one or more independent scientific and medical experts appointed by the World Aquatics Executive. It is an important part of this Policy that the experts can assess whether a given athlete meets

the eligibility criteria set out below. To that end, World Aquatics may ask the athlete to provide further information and documents and/or to submit to one or more medical examinations. All costs associated with this assessment will be borne by World Aquatics.

2. Certification

- a. All athletes must certify their chromosomal sex with their Member Federation in order to be eligible for World Aquatics competitions. Failure to do so, or provision of a false certification, will render the athlete ineligible.
- b. Member Federations must confirm their athletes' certifications of chromosomal sex when registering their athletes to compete in World Aquatics competitions.
- c. World Aquatics reserves the right to include a chromosomal sex screen in its anti-doping protocol to confirm such certification.

3. Eligibility for the Men's Category

- a. All male athletes, including athletes with 46 XY DSD, are eligible to compete in World Aquatics competitions and to set World Aquatics World Records in the men's category, regardless of their legal gender, gender identity, or gender expression.
- b. Female-to-male transgender athletes (transgender men) are eligible to compete in World Aquatics competitions and to set World Aquatics World Records in the men's category, except that:
 - i. For the disciplines of Water Polo and High Diving, the athlete must provide to World Aquatics an assumption of risk form (in the form set out in Appendix One to this Policy) signed and dated by the athlete or, if the athlete is a minor, by their legal proxy.
[Comment to Section F.3.b.i: It is strongly recommended that the athlete speaks with a qualified medical specialist prior to competition to ensure their physical ability to participate in the event in the men's category and to ensure that they understand the attendant risks.]
 - ii. All athletes who are undergoing treatment involving testosterone or other anabolic substances as part of female-to-male gender-affirming hormone treatment are required to obtain a Therapeutic Use Exemption (TUE) for that treatment in accordance with the World Aquatics Doping Control Rules (AQUA DCR).

4. Eligibility for the Women's Category

- a. All female athletes are eligible to compete in World Aquatics competitions and set World Aquatics World Records in the women's category, regardless of their legal gender, gender identity, or gender expression, under the following conditions:
 - i. Athletes who have previously used testosterone as part of female-to-male gender-affirming hormone treatment (with or without a TUE) but are no longer following that treatment are eligible to compete in the

women's category in World Aquatics competitions and to set World Aquatics World Records in the women's category in World Aquatics competitions and in other events recognised by World Aquatics if they can establish to World Aquatics' comfortable satisfaction that (a) the testosterone use was for less than a year in total (i.e., from the date of first use to the date of last use) and did not take place during pubertal growth and development, and (b) their testosterone levels in serum (or plasma) are back to pre-treatment normal and any associated anabolic effects have been eliminated.

ii. Female athletes who have used testosterone in violation of the World Anti-Doping Code or AQUA DCR (or any other applicable anti-doping rules) may return to competition after they have served their period of ineligibility.

b. Male-to-female transgender athletes (transgender women) and athletes with 46 XY DSD whose legal gender and/or gender identity is female are eligible to compete in the women's category in World Aquatics competitions and to set World Aquatics World Records in the women's category in World Aquatics competitions and in other events recognised by World Aquatics. If they can establish to World Aquatics' comfortable satisfaction that they have not experienced any part of male puberty beyond Tanner Stage 2 or before age 12, whichever is later. Specifically, the athlete must produce evidence establishing that:

i. They have complete androgen insensitivity and therefore could not experience male puberty; or

ii. They are androgen sensitive but had male puberty suppressed beginning at Tanner Stage 2 or before age 12, whichever is later, and they have since continuously maintained their testosterone levels in serum (or plasma) below 2.5 nmol/L.

iii. An unintentional deviation from the below 2.5 nmol/L requirement may result in retrospective disqualification of results and/or a prospective period of ineligibility.

iv. An intentional deviation from the below 2.5 nmol/L requirement may result in retrospective disqualification of results and a prospective period of ineligibility equal or commensurate in length to periods imposed under the World Aquatics DRC for intentional anti-doping rule violations involving anabolic steroids.

[Comment to Section F.4.b: For purposes of the Policy, all measurements of serum testosterone must be conducted by means of liquid chromatography coupled with mass spectrometry.]

5. Process for Application

The process for applications for eligibility is set forth in the Operational Requirements (see Appendix Two to this Policy).

G. Competitive Opportunities within and outside of the Men's and Women's Categories

1. Classifying athletes on the basis of sex is necessary to meet World Aquatics' goals for female Aquatics athletes and the women's competition category. World Aquatics' eligibility standards for the women's category are narrowly tailored so that they can achieve those goals without unnecessarily limiting participation by gender-diverse athletes.
2. Male-to-female transgender athletes (transgender women) and athletes who have a 46 XY DSD and a female legal gender and/or gender identity are eligible to compete in the women's category in World Aquatics competitions and to set World Aquatics World Records in the women's category at World Aquatics competitions and other events recognised by World Aquatics if they meet the applicable eligibility conditions.
3. Female-to-male transgender athletes (transgender men) are eligible to compete in the men's category at World Aquatics competitions and to set World Aquatics World Records in the women's category at World Aquatics competitions and in other events recognized by World Aquatics if they meet the applicable eligibility conditions.
4. Otherwise, everyone who qualifies according to the applicable eligibility conditions has a place in World Aquatics' competition categories based on their sex.
5. Within those categories, gender diversity is welcome. For example, female-to-male transgender athletes (transgender men) who are not using exogenous androgens remain eligible for, and are welcome to compete in, the women's category; and male-to-female transgender athletes (transgender women) remain eligible for, and are welcome to compete in, the men's category whether or not they are suppressing their endogenous androgens.
6. Athletes who do not meet the applicable criteria for the men's category or the women's category may compete in any open events that World Aquatics may develop in the future. World Aquatics will begin work following the final promulgation of this Policy to determine the feasibility of establishing an open category in Aquatics sport disciplines, in which an athlete who meets the eligibility criteria for that event would be able to compete without regard to their sex, their legal gender, or their gender identity.
7. Athletes may also seek to qualify for and compete in events that are organised and sanctioned by bodies other than World Aquatics. World Aquatics does not seek to limit the development by others of opportunities to participate in different competitions.

8. World Aquatics recommends that each Member Federation adopts its own sex and gender policy to determine eligibility to compete in events taking place under its jurisdiction. World Aquatics recommends that Member Federations use that policy to create a safe environment for their athletes, transgender or otherwise, that respects the inclusion of all Aquatics athletes.
9. Member Federations may use this Policy as a guideline for national-level and age-group competition, to be tailored based on any relevant requirements within their jurisdiction. For the avoidance of doubt, however, any policy applied at a national level will not determine the eligibility of athletes to compete in World Aquatics competitions or to set World Aquatics World Records. Instead, that will be determined exclusively by reference to this Policy. In addition, any policy adopted and enforced by a Member Federation remains within the jurisdiction of the Member Federation. It follows that any decision taken by a Member Federation concerning the applicability of its policy, or this Policy, is not considered a World Aquatics decision.
10. World Aquatics recommends that organisers of recreational (non-competitive or non-elite) Aquatics events consider their local circumstances and goals in their determination of whether or not separate sex competition is also necessary for them.

H. Continued Involvement

While all athletes have a place in Aquatic sports, World Aquatics acknowledges that the application of this Policy means that certain individuals may not be able to compete in the category that best aligns with their legal gender, gender identity, or gender expression. Individuals who exercise the choice not to compete because of these eligibility standards are encouraged to consider coaching, officiating, administration, and/or other ways to stay involved with Aquatics.

For more information on how to become involved, please contact World Aquatics or your Member Federation.

I. Application

This Policy will come into effect on 20 June 2022. It governs eligibility to compete in World Aquatics competitions and to set World Aquatics World Records at World Aquatics competitions and other events recognised by World Aquatics, taking place from that date forward.

World Aquatics is committed to reviewing this Policy periodically to take account of all relevant scientific and medical developments. It may be amended from time to time by World Aquatics based on such developments.

J. Assistance with this Policy

World Aquatics is committed to the inclusion of all Aquatics athletes in accordance with the eligibility requirements set out in this Policy. Any individual seeking information on the application of this Policy should contact World Aquatics for assistance at eligibility@worldaquatics.com

Appendices (Operational Requirements):

- Appendix One: Assumption of Risk Form;
- Appendix Two: Operational Requirements in relation to World Aquatics' Policy on Eligibility for the Men's and Women's Competition Categories

Bridget Lueken
TRUE COPY

**ANNEXURE P14****ELIGIBILITY RULES**

(Approved by Council on 23 July 2025, effective 1 September 2025)

Binky Green
TRUE COPY

Specific Definitions

The words and phrases used in these Rules that are defined terms (denoted by initial capital letters) shall have the meanings specified in the Constitution and the Generally Applicable Definitions, or (in respect of the following words and phrases) the following meanings:

"Chief Executive Officer (or their nominee)" means the chief executive officer of World Athletics or a nominee appointed by them.

"Citizenship" means legal citizenship of a Country, or in the case of a Territory, legal citizenship of the Territory's parent Country and appropriate legal status in the Territory under applicable laws.

"Competition Rules" means the World Athletics Competition Rules as amended from time to time.

"Country" has the meaning defined in the Generally Applicable Definitions.

"Eligibility Rules" means these World Athletics Eligibility Rules as amended from time to time.

"Mechanical Aid" has the meaning defined in the Mechanical Aids Regulations.

"National Representative Competitions" means the International Competitions listed in paragraph 1.1 of the International Competition definition that are contested by teams of Athletes who are entered by Members to represent their respective Countries or Territories, whether at senior level or at U20 or U18 or any other age group level.

"Nationality Review Panel" means the Panel established by the Council from time to time pursuant to the Regulations on Eligibility to Represent a Member in National Representative Competitions.

"Neutral Athletes" means as specified in Rule 3.1.2 of these Eligibility Rules, an Athlete who is granted special eligibility by the Council to compete in one or more International Competitions in an individual capacity and who satisfies at all relevant times any conditions to such eligibility specified by the Council. All provisions in the Rules and Regulations that are applicable to Athletes shall apply equally to Neutral Athletes, unless expressly stated otherwise; and any coach, trainer, manager, Athlete Representative, agent, team staff, official, medical or para-medical personnel, parent or any other Person employed by or working with a Neutral Athlete participating in an International Competition shall be an Athlete Support Personnel for purposes of these Rules.

"Other Relevant Competition" means any competition that is not a National Representative Competition but that is contested by teams of Athletes who are entered by bodies authorised to submit entries to that competition to represent a Country or Territory, whether at senior level or at U20 or U18 or any other age group level. Examples include the Olympic Games, the Youth Olympic Games, and the Commonwealth Games.

"Residence" means the place or location in which the Athlete is registered with the relevant authorities as having their primary and permanent home and/or where they ordinarily live for at least 75% of the time, excluding trips away to train or compete; and the word 'Reside' is to be interpreted accordingly;

"Territory" has the meaning defined in the Generally Applicable Definitions.

1. Definition of Eligible Athlete

An Athlete is eligible to compete provided they agree to abide by the Rules and Regulations and have not been declared ineligible.

2. Payments to Athletes

Athletics is an open sport and subject to the Rules and Regulations, Athletes may be paid in cash or in kind in any way appropriate for appearing, participating or performing in any athletics competition or engaging in any other commercial activity related to their participation in Athletics.

3. Restriction of Competition to Eligible Athletes

3.1 Competition under the Rules is restricted to:

3.1.1 Athletes who are under the jurisdiction of a Member and who are eligible to compete under the Rules; and

3.1.2 Neutral Athletes who satisfy the conditions of eligibility specified by the Council, including signing agreements on terms acceptable to World Athletics, in which they agree (among other things) to be bound by the Rules and Regulations (as amended from time to time) and to submit all disputes they may have with World Athletics or a Member to arbitration only in accordance with these Rules, accepting not to refer any such disputes to any Court or authority which is not provided for in these Rules.

3.2 The eligibility of an Athlete competing under these Rules must at all times be guaranteed by the Member to which the Athlete is affiliated. The burden of proving that an Athlete is eligible in accordance with this Rule rests with the Member and the Athlete concerned. The Member must provide World Athletics or the Area Association (as applicable) upon demand with valid, authentic, accurate and complete documentation demonstrating the Athlete's eligibility and such other evidence as may be necessary to prove the Athlete's eligibility on a definitive basis in any squad or team nominated or entered by the Member in a National Representative Competition or Other Relevant Competition. If required by World Athletics or the Area Association (as applicable), a Member shall provide a copy (certified by a public notary or other similar officer or witness) of all documentation on which it seeks to rely in demonstrating the Athlete's eligibility under this Rule.

3.3 Rule 3.2 does not apply to Neutral Athletes.

3.4 An Athlete shall only be eligible to compete in an age group competition as described in Rule 3 of the Technical Rules if they are within the age range specified in the relevant age group classification. In addition to the requirements set out at Rule 3.2 above, an Athlete must provide proof of their age through presentation of a valid passport or other form of evidence as permitted by the applicable regulations for the competition in which they want to compete. An Athlete who fails or refuses to provide the requisite proof shall not be eligible to compete.

3.5 Male and Female Categories:

3.5.1 In these Rules, 'biological male' means someone with a Y chromosome and 'biological female' means someone with no Y chromosome, irrespective of their legal sex and/or gender identity.

- 3.5.2 Only the following Athletes may compete in the female category:
- a. Biological females.
 - b. Biological females who have used testosterone as part of male gender-affirming treatment further to a Therapeutic Use Exemption granted in accordance with World Athletics' Anti-Doping Rules may not compete in the female category until the passing of a period of time after their last use of testosterone (the period of time will be not shorter than four years and will be determined by World Athletics on a case-by-case basis taking into consideration all relevant factors including the timing, duration, dosages, and effects of the male gender-affirming treatment).¹
 - c. Biological males who have Complete Androgen Insensitivity Syndrome and therefore have not gone through male sexual development including any type of male puberty.
 - d. Biological males with a difference of sex development who satisfy the transitional provisions issued by World Athletics.
- 3.5.3 Only the following Athletes may compete in the male category:
- a. Biological males.
 - b. Biological females who have used testosterone as part of male gender-affirming treatment further to a Therapeutic Use Exemption granted in accordance with World Athletics' Anti-Doping Rules.²
- 3.5.4 An Athlete must demonstrate their eligibility to compete in the female category by means of SRY testing (sex-determining region Y gene analysis) of an Athlete's buccal cells (i.e., cheek swab testing) or blood sample.
- a. If the SRY test is negative, the Athlete will be permitted to compete in the female category.
 - b. If the SRY test is positive, the Athlete will not be permitted to compete in the female category pending further medical assessment by World Athletics.
 - c. An Athlete who fails to undergo SRY testing as requested by World Athletics will not be eligible to compete in the female category.
- 3.5.5 Where the applicable rules permit biological males to compete in the female category at a competition that is not a World Rankings Competition, their results will not be recognised for the purposes of World Records and World Rankings, and will be listed separately by World Athletics.
- 3.5.6 World Athletics may issue further regulations and/or guidance on the practical implementation of this Rule 3.5.

¹ See further the WADA Transgender Athletes TUE Physician Guidelines, available at www.wada-ama.org.

² See footnote 1 above.

- 3.6 An Athlete wishing to compete using a Mechanical Aid shall be eligible to compete in competitions if they comply with the Mechanical Aids Regulations.

4. Eligibility to Represent a Member Federation

- 4.1 In National Representative Competitions, Members shall be represented only by Athletes who comply with the eligibility requirements of these Eligibility Rules.

- 4.2 An Athlete who has never been entered to compete or competed on behalf of a Country or Territory in a National Representative Competition or in any Other Relevant Competition shall be eligible to represent a Member in a National Representative Competition if they are a Citizen of the Country or Territory that the Member represents by virtue of:

4.2.1 having been born, or having a parent or grandparent who was born, in the Country or Territory (as applicable); or

4.2.2 having Resided in the Country or Territory (as applicable) for at least three years; or

4.2.3 they have been granted refugee status or asylum status and permission to Reside in the Country of the Member (or in the parent Country of the Territory of the Member, where applicable); or

4.2.4 marriage, or Residence for a period less than three years, or any other means of naturalisation not otherwise set out in Rule 4.2, but only in these specific circumstances if the approval of World Athletics is granted, which approval shall be conditional upon:

- a. the Athlete observing a waiting period of three years from the date that the application for approval is made to World Athletics (during which period the Athlete must not represent any Member in National Representative Competition or compete in any Other Relevant Competition); and
- b. the Athlete demonstrating that they have a genuine, close, credible and established link to that Country or Territory (as applicable) and/or will have such a link by the end of the waiting period;
- c. such other conditions to be met by the Athlete and/or Member as World Athletics reasonably believes appropriate in the circumstances. Where World Athletics sets a condition as part of its approval it shall state whether that condition is to be met by the end of the waiting period or a specific date.

For the avoidance of doubt, any conditions set under this Rule 4.2.4 can be overridden and World Athletics can, at its sole discretion, refuse to give its approval if World Athletics reasonably believes that the Council imperatives, set out, at Regulation 1.2 of the Transfer of Allegiance Regulations, are being impinged or compromised.

- 4.3 If an Athlete is eligible to represent more than one Member under Rules 4.2.1 to 4.2.3, they may choose which Member to represent, by representing that Member in a National Representative Competition or by competing on behalf of the Country or Territory of that Member in the Athletics programme of any Other Relevant

Competition. In accordance with Rule 3.2, a Member may, at any time, be requested to provide assistance, co-operate with, respond to any questions or queries and/or provide any further information or documentation to World Athletics or the Athletics Integrity Unit to establish or prove the Athlete's eligibility under Rules 4.2.1 to 4.2.3.

- 4.4 An Athlete who has been entered to compete or competed on behalf of the Country or Territory of a Member in a National Representative Competition or in any Other Relevant Competition ("**the First Member**") shall not be eligible to represent another Member in a National Representative Competition ("**the Second Member**"), except as follows:

4.4.1 in the following circumstances:

- a. if the Country or Territory (as applicable) of the First Member is subsequently incorporated in another Country that is or subsequently becomes a new Member, they may represent the new Member with immediate effect; or
- b. if the Country or Territory (as applicable) of the first Member ceases to exist and the Athlete becomes a Citizen as of right of a newly formed Country ratified by treaty or otherwise recognised at international level that subsequently becomes a new Member, they may represent the new Member with immediate effect; or
- c. if the Territory of a Member does not have a National Olympic Committee or other relevant body authorised to enter teams in Other Relevant Competitions, the Athlete may compete for the Territory's parent Country in Other Relevant Competitions without affecting their eligibility to compete for the Member representing that Territory in National Representative Competitions;

4.4.2 alternatively, an Athlete may represent a Second Member with the approval of World Athletics in accordance with the Transfer of Allegiance Regulations, which approval shall be conditional upon:

- a. the Athlete observing a waiting period of three years from the date that the application for approval is made to World Athletics (during which period the Athlete must not represent any other Member in National Representative Competition or compete in any Other Relevant Competition); and
- b. the Athlete demonstrating that as at the end of the waiting period:
 - i. they are or will be aged twenty or over; and
 - ii. they are or will be a Citizen of the Country or of the parent Country of the Territory which the Member represents; and
 - iii. they have or will have a genuine, close, credible and established link to that Country or Territory (e.g., through Residence there);
- c. such other conditions to be met by the Athlete and/or Member as World Athletics reasonably believes appropriate in the circumstances. Where

World Athletics sets a condition as part of its approval it shall state whether that condition is to be met by the end of the waiting period or a specific date.

For the avoidance of doubt, any conditions set under this Rule 4.4.2 can be overridden and World Athletics can, at its sole discretion, refuse to give its approval if World Athletics reasonably believes that the Council imperatives, set out, at Regulation 1.2 of the Transfer of Allegiance Regulations, are being impinged or compromised.

- 4.5 As a general rule, an Athlete will only be permitted to transfer allegiance in accordance with Rule 4.4.2 once. In exceptional circumstances, World Athletics may permit the Athlete to transfer allegiance a second time, but only back to the original Member.
- 4.6 The Nationality Review Panel shall have discretion to waive or vary any of the requirements of Rule 4 in circumstances that are deemed exceptional and in accordance with the Transfer of Allegiance Regulations. For the avoidance of doubt, Members may not agree between themselves on any waiver or variation of any of the requirements set out in these Rules (e.g., a shortening of the waiting period) in a particular case.
- 4.7 The following is a non-exhaustive list of factors that World Athletics (or its delegate) may take into account in exercising the discretion conferred on it under Rule 4.6 above, should it see fit to do so:
 - 4.7.1 where a Member applies for World Athletics approval of eligibility of an Athlete based on Citizenship acquired after birth, or for World Athletics approval of a transfer of allegiance from another Member, and/or requests a waiver or variation of some or all of the requirements for such approval, factors relevant to the exercise of discretion may include:
 - a. whether the application is motivated by circumstances outside of the Athlete's control (e.g., war, refugee status) or by personal circumstances (e.g., a family move) that are unconnected to the Athlete's sporting abilities;
 - b. whether the application is motivated by the First Member being suspended from participation in International Competitions;
 - c. whether the First Member agrees to the transfer, and what (if anything) the Second Member has offered to the First Member to secure such agreement;
 - d. what (if anything) the Second Member has offered to the Athlete to induce them to agree to the transfer (i.e., in addition to Citizenship);
 - e. whether the Second Member can show that the Athlete would actively promote a development programme that the Second Member has in place for home-grown Athletes, and would act as a role model for such Athletes;
 - f. the athlete prior to obtaining Citizenship of a Country had refugee or asylum status and permission to Reside in that Country (or, in the case of a Territory, in the parent Country of the Territory of the Second Member);

- g. where approval is sought under Rule 4.2.4 (i.e. the athlete has never competed on behalf of a Country or Territory) and the athlete is a dual national from birth;
- h. the athlete has their Residence in a freedom of movement area and the approval concerns a Second Member from a Country or Territory within that freedom of movement area; and
- i. the athlete last represented the First Member in the U20 age category or below in a National Representative Competition or Other Relevant Competition.

4.8 In addition, in the context of an application for approval made further to Rules 4.2.4 or 4.4.2 above, a Member is entitled to apply, to have a period prior to the date of the application credited towards the waiting period, provided that it is able to demonstrate to the satisfaction of World Athletics that the requirements for approval have been met throughout the entire period (including the period pre-application). This may be particularly applicable, for example, where the Athlete in question was born in Country A to nationals of Country B and as a result has to wait until a given age (e.g., the age of majority) to acquire the Citizenship of Country B.

4.9 In the event that an issue arises in relation to eligibility to compete on behalf of a Member in National Representative Competitions that is not already addressed in these Rules, the Nationality Review Panel will address it in a manner that protects and advances the imperatives identified in Regulation 1.2 of the Transfer of Allegiance Regulations, and its decision will be final and binding on all parties.

4.10 For the avoidance of doubt, there is no limit on the number of Athletes that a Member may field in a National Representative Competition who have transferred allegiance to that Member in accordance with this Rule 4.

4.11 The Transfer of Allegiance Regulations shall govern the practical implementation of this Rule 4 (as applicable).

5. Requirements to Compete in International Competitions

5.1 Rule 5 applies to International Competitions where an Athlete is not representing their Member Federation but rather is competing in their own right. No Athlete may take part in an International Competition unless they:

- 5.1.1 are a member of a Club or a region affiliated to a Member; or
- 5.1.2 are themselves affiliated to a Member; or
- 5.1.3 have otherwise agreed to abide by the rules of a Member; or
- 5.1.4 have been granted special eligibility by the Council to compete in that International Competition as a Neutral Athlete, and have satisfied any conditions to such eligibility specified by the Council; and
- 5.1.5 for International Competitions at which World Athletics is responsible for doping control, have signed an agreement in a form set by World Athletics by which they agree to be bound by the Rules and Regulations (as amended from time to time) and to submit all disputes they may have with World Athletics or a Member to arbitration only in accordance with these

Rules, accepting not to refer any such disputes to any Court or authority which is not provided for in these Rules.

- 5.2 Members may require that no Athlete or Club affiliated to the Member may take part in an International Competition in a foreign Country or Territory without the Member's written approval. In such a case, no Member hosting a competition shall allow any foreign Athlete or Club of the Member in question to take part without evidence of such permit certifying that the Athlete or Club is eligible and permitted to compete in the Country or Territory concerned. Members shall notify World Athletics of all such permit requirements. To facilitate compliance with this Rule, World Athletics shall maintain on its website a list of Members with such requirements. This Rule does not apply to Neutral Athletes.
- 5.3 No Athlete affiliated to a Member Federation may be affiliated to another Member without previous authorisation from their Member Federation of origin, if the rules of that Federation require such authorisation. Even then, the Member Federation of the Country or Territory in which the Athlete is residing cannot enter any Athlete's name for competitions in another Country or Territory without previous authorisation from the Member Federation of origin. In all cases under this Rule, the Member Federation of the Country or Territory in which the Athlete is residing shall send a written request to the Athlete's Member Federation of origin, and the Member Federation of origin shall send a written reply to that request within 30 days. Both of these communications shall be by a means that generates an acknowledgement of receipt. E-mail that includes a receipt function is acceptable for this purpose. If the response of the Athlete's Member Federation of origin is not received within the 30-day period, the authorisation shall be deemed to have been given.
- 5.4 In the event of a negative response to a request for authorisation under Rule 5.3, which response must be supported by reasons, the Athlete or the Member Federation of the Country or Territory in which the Athlete is residing may appeal against any such decision to the Chief Executive Officer.
- 5.5 Rule 5.3 only concerns Athletes aged 18 or over as at the 31st of December of the year in question. Rule 5.3 does not apply to Athletes who are not Citizens of a Country or Territory or to political refugees or to Neutral Athletes.

6. Ineligibility for International and Domestic Competitions

- 6.1 The following persons shall be ineligible for competitions, whether held under these Rules or the rules of an Area Association or a Member:

Any Athlete, Athlete Support Personnel or other person:

- 6.1.1 whose Member Federation is currently suspended by World Athletics. This does not apply to national competitions organised by the currently suspended Member for the Citizens of that Country or Territory;
- 6.1.2 who has been provisionally suspended or declared ineligible under the rules of their Member Federation from competing in competitions under the jurisdiction of that Member Federation, in so far as such suspension or ineligibility is consistent with these Rules;
- 6.1.3 who is currently serving a period of provisional suspension from competition under the Rules or Regulations;

- 6.1.4 who does not meet the eligibility requirements set out in these Eligibility Rules or the Eligibility Regulations Transgender Athletes or the Eligibility Regulations for the Female Classification;
 - 6.1.5 who does not meet the requirements of the Eligibility Regulations for Athletes using Mechanical Aids;
 - 6.1.6 who has been declared ineligible as a result of a breach of the Anti-Doping Rules;
 - 6.1.7 who has been suspended, disqualified, banned or otherwise declared ineligible by the Disciplinary Tribunal for a violation of the Integrity Code of Conduct including the violation of any Rule deemed to be part of or incorporated into the Integrity Code of Conduct;
 - 6.1.8 who has been suspended or banned by the Ethics Board for a violation of the Former Code of Ethics;
 - 6.1.9 who has been declared ineligible as a result of conduct specified in Rule 7 below.
- 6.2 Notwithstanding Rule 6.1.1, upon application, the Council (or its delegate(s)) may exceptionally grant eligibility for some or all International Competitions, under conditions defined by the Council (or its delegate(s)), to an Athlete whose Member Federation is currently suspended by World Athletics, if (and only if) the Athlete is able to demonstrate to the comfortable satisfaction of the Council (or its delegate(s)) that:
- 6.2.1 the suspension of the Member Federation was not due in any way to its failure to protect and promote clean Athletes, fair play, and the integrity and authenticity of the sport;
 - 6.2.2 if the suspension of the Member Federation was due in any way to its failure to put in place adequate systems to protect and promote clean Athletes, fair play, and the integrity and authenticity of the sport:
 - a. the Athlete is not directly implicated in any way (knowingly or unknowingly) by that failure; and
 - b. they have been subject to other, fully adequate, systems (including fully WADA Code-compliant drug-testing) for a sufficiently long period to provide substantial objective assurance of integrity; or
 - 6.2.3 the Athlete has made a truly exceptional contribution to the protection and promotion of clean Athletes, fair play, and the integrity and authenticity of the sport.

The more important the International Competition in question, the more corroborating evidence the Athlete must provide in order to be granted special eligibility under Rule 6.2 of these Rules. Where such eligibility is granted, the Athlete shall not represent the suspended Member Federation in the International Competition(s) in question, but rather shall compete in an individual capacity, as a 'Neutral Athlete'. The Council (or its delegate(s)) may reconsider a decision to grant or deny an application for eligibility under this Rule 6.2 where it deems it appropriate to do so (e.g., if new facts or new evidence emerge).

- 6.3 If an Athlete competes or has competed in a competition when not eligible to do so under Rule 3 of the Technical Rules or the Regulations thereunder or any previous version of the Rules in force at the relevant time (or any Regulations thereunder), without prejudice to any other disciplinary action that may be taken under the Rules, the Athlete and any team for which the Athlete competed may be disqualified from the competition with all resulting consequences for the Athlete and the team, including the forfeiture of all titles, awards, medals, points and prize and appearance money.
- 6.4 If an Athlete competes (or an Athlete Support Personnel or other person participates) in a competition, whether held under these Rules or the rules of an Area Association or Member, whilst Ineligible (as defined in the Anti-Doping Rules) to do so under the Anti-Doping Rules, the consequences set out in the Rules therein shall apply.
- 6.5 If an Athlete competes (or an Athlete Support Personnel or other person participates) in a competition, whether held under these Rules or the rules of an Area Association or Member, whilst ineligible to do so under any other Rule, the period of their ineligibility shall recommence from the time they last competed as though no part of a period of ineligibility had been served.

7. Persons Subject to Declaration of Ineligibility

- 7.1 Any Athlete, Athlete Support Personnel or other person:
- 7.1.1 who takes part or has taken part in an athletics competition or event in which any of the competitors were, to their knowledge, suspended from participation or ineligible to compete under these Rules or any previous version of the Rules or any Regulations thereunder, or which takes place in a Country or Territory of a suspended Member. This does not apply to any athletics competition which is restricted to the Masters' age group (in accordance with Rule 3 of the Technical Rules);
 - 7.1.2 who takes part or has taken part in any athletics competition which is or was not authorised in accordance with Rule 1 of the Competition Rules;
 - 7.1.3 who contravenes or has contravened these Eligibility Rules or the Transfer of Allegiance Regulations or the Neutral Athletes Regulations, or any previous version of those Rules or any Regulations thereunder;
 - 7.1.4 who contravenes or has contravened the Athletes' Representatives Rules or any Regulations made thereunder, or any previous version of those Rules or any Regulations thereunder;
 - 7.1.5 who commits or has committed a breach of any other Rule in force at the relevant time or any Regulation thereunder;
- may be declared ineligible under Rules 7.2 to 7.6 of these Rules.
- 7.2 In addition to any declaration of ineligibility or annulment of results, or if at any time it is found that either an Athlete or their representatives and/or Member Federation has been acting or, has acted against the letter or spirit of these Rules or the Transfer of Allegiance Regulations (including any Rules or Regulations prior to these Rules coming into force), then the Chief Executive Officer (or their nominee) reserves the right to apply a range of sanctions including but not limited to:

- 7.2.1 annulling any results obtained when the Athlete was not eligible to compete and making appropriate amendments to competition and other records to reflect the annulment(s);
 - 7.2.2 issuing a warning to the Athlete and/or Member Federation;
 - 7.2.3 imposing a fine on the Athlete and/or their Member Federation;
 - 7.2.4 suspending the Member Federation from submitting an application under the Transfer of Allegiance Regulations for a period of time;
 - 7.2.5 disqualifying the Athlete and declaring the Athlete's performance as invalid for non-compliance with these Rules with all resulting consequences for the Athlete, including the forfeiture of all titles, awards, medals, points and prize and appearance money.
- 7.3 The Chief Executive Officer (or their nominee) may, if it considers it appropriate, announce, publish or otherwise communicate the reasons for any sanction applied pursuant to this Rule 7.
- 7.4 The Chief Executive Officer (or their nominee) will in addition to taking action under these Rules refer any potential breach of these Rules, by Applicable Persons, to the Athletics Integrity Unit.
- 7.5 Any potential breach of these Rules by Applicable Persons may amount to a breach of the Integrity Code of Conduct and, in addition to any action taken under these Rules, may be subject to investigation and prosecution by the Athletics Integrity Unit under the Athletics Integrity Unit Reporting, Investigation and Prosecution Rules (Non-Doping) and possible proceedings under the Disciplinary Tribunal Rules.
- 7.6 Any potential breach of these Rules (or any previous version of the Rules or Regulations) may also be referred to the relevant Member Federation and the Member Federation may be required by World Athletics to investigate and prosecute the matter as appropriate. If a Member Federation fails to investigate or prosecute such a referral or to deal with the matter in a way that is satisfactory to World Athletics, World Athletics may take appropriate action itself for the potential breach of these Rules.

Doreen Gussan
TRUE COPY



Sex Eligibility Policy

EXECUTIVE SUMMARY

This document sets out World Boxing's policy on boxer eligibility for participation in its competitions, in accordance with the current World Boxing Rule Book.

This policy is designed to deliver a level playing field for men and women which ensures the safety of all participants, based on their sex as a key determinant in delivering competitive fairness and protecting the health and welfare of boxers.

As part of this policy, World Boxing will operate two categories as determined by sex: a men's category and a women's category. To be eligible for the men's category, a competitor must be male at birth. To be eligible for the women's category, a competitor must be female at birth.

To ensure this policy is implemented, World Boxing will introduce mandatory sex testing to determine the eligibility of female and male athletes that want to take part in its competitions. It means that all athletes over the age of 18 that want to participate in a World Boxing owned or sanctioned competition will need to undergo a, once-in-a-lifetime, PCR (polymerase chain reaction) test or a functional medical equivalent genetic test to determine their sex at birth and their eligibility to compete.

This policy will come into force on 20 August 2025. Details of how it will be implemented are contained within this document.

1. Purpose:

As the International Federation (IF) within the Olympic Movement governing the sport of boxing at world level, World Boxing is tasked with establishing, applying and enforcing the eligibility rules concerning the sport of boxing.

In doing this, World Boxing respects the dignity of all individuals and strives to provide opportunities for all athletes to participate in and excel at the sport through fair and meaningful competition conditions. For reasons of health, safety, and fairness, its policy on eligibility to participate is determined by the categories of sex, age, and weight. This eligibility policy is designed to ensure fair competition by requiring that all athletes



compete in a manner consistent with their natural biological attributes and thereby uphold the ethical principles of sport and the integrity of athletic performance as the credibility of competitive sport relies on a level playing field, where no athlete has an unfair advantage over the rest.

Competitive fairness is an essential goal of World Boxing's eligibility policy and has determined that sex, age, and weight are the critical considerations in the pursuit of this and delivering a fair and level playing field for all male and female athletes.

World Boxing has also determined that in the sport of boxing, an equally important fundamental goal for this eligibility policy is athlete safety. In combat sports like boxing, participants throw punches to the scoring area of the head and upper body, with the intent of accumulating points, the referee stopping the contest or by delivering a knockout. Boxing therefore creates a unique safety challenge, both acutely and chronically, for neurological injury, which can result in serious injury. These risks are real, which is why it is so important that World Boxing's policy on eligibility endeavors to provide a level playing field that ensures fairness, competitiveness and above all, safety for all boxers.

- 1.1 This policy will commence on 20 August 2025 and replaces all other sex eligibility rules

2. Definitions:

- 2.1 For the purpose of this policy the word "sex" (or "biological sex") denotes natural biological differences between females and males. Human development is organized around the production of large and small gametes (ova and sperm).
- 2.2 Sex is defined by the body system supporting these gametes and can be accurately identified by genetics, chromosomes, sex organs, and endogenous hormonal profiles.
- 2.3 The word "female"¹ means of or denoting the sex intended to produce ova. For the purposes of sex eligibility in boxing, a boxer shall be confirmed as female by the presence of XX chromosomes, or the absence of Y

¹ Includes commonly used terms such as girl and women



chromosome genetic material (i.e. SRY gene), or a difference of sex development where male androgenization does not occur (absolute androgen insensitivity).

- 2.4** The word “male²” means of or denoting the sex intended to produce sperm. For the purposes of sex eligibility in boxing, boxers shall be confirmed as male by the presence of Y chromosome genetic material (i.e. SRY gene) or with a difference of sex development where male androgenization occurs.

3. Eligibility Determination:

- 3.1** World Boxing will operate two categories as determined by sex: a men’s category and a women’s category. To be eligible for the men’s category, a competitor must be male at birth. To be eligible for the women’s category, a competitor must be female at birth.
- 3.2** All issues relating to the eligibility of an athlete under this policy will be determined by World Boxing following consultation, as necessary, with one or more scientific and medical experts appointed by the World Boxing Secretary General in consultation with World Boxing’s Medical and Anti-Doping Committee. It is crucial that the experts can assess whether a given athlete meets the sex eligibility criteria. World Boxing may require the athlete to provide further information and documents and/or to submit to one or more medical examinations.
- 3.3** All costs associated with these assessments will be borne by the boxer’s National Federation. In the event of an athlete’s challenge to a determination of their sex by their National Federation and/or World Boxing, the World Boxing Sex Categories procedures will apply.

4. Certification:

- 4.1** For international-level competitions owned or sanctioned by World Boxing, all athletes over the age of 18 years of age, must have their sex certified in accordance with World Boxing’s policy to be eligible for World

² Includes commonly used terms such as boys and men.



Boxing competitions. Failure to do so, or provision of a false certification, will render the athlete ineligible and subject the athlete (and potentially the athlete's National Federation) to sanctions.

4.1.1 World Boxing member federations must confirm their athletes' certifications of sex when registering their athletes to compete in World Boxing sanctioned competitions.

4.1.2 The certification of an athlete's sex must be determined by testing and for competitions owned or sanctioned by World Boxing, all athletes over the age of 18 that want to participate will need to undergo a, once-in-a-lifetime, PCR (polymerase chain reaction) or a functional medical equivalent genetic test to determine their sex at birth and certify their eligibility to compete.

4.1.3 World Boxing reserves the right/duty to do genetic sex screening on new or existing athlete samples to confirm certification.

4.1.4 National Federations are required to verify the sex certification of each member athlete. A false certification of sex provided by an athlete's National Federation shall result in sanctions to the National Federation, which may include up to a loss of eligibility of athletes of the federation to compete in World Boxing owned or sanctioned events and events administered by World Boxing, including, This is not limited to, multi-sport games, Olympic Qualifying events, and Olympic Games. World Boxing may also impose monetary sanctions and other sanctions for a false certification.

4.1.5 It is not necessary for a certification to be proven to have been submitted with knowledge of its falsity for a National Federation to be sanctioned; however, the degree of culpability of the National Federation in submitting a false certification may be considered in determining the severity of the sanction by World Boxing.

4.1.6 In the event the athlete's sex certification is challenged by the athlete's National Federation or by World Boxing, the athlete shall



be ineligible to compete until the dispute is resolved through the judicial process.

- 4.1.7** False (i.e. medically inaccurate) certification of sex shall result in a four-year period of ineligibility for the athlete unless the athlete proves that the athlete was without significant fault or negligence or was without fault or negligence. In either of these cases, the athlete shall be ineligible for competition for a two- year period from the date on which the athlete accepts the sanction or the falsity of the certification.

5. Testing and Procedure:

- 5.1** All athletes over the age of 18 that want to participate in a World Boxing Owned or sanctioned competition will need to undergo a PCR (polymerase chain reaction) or a functional medical equivalent genetic test to determine their sex at birth and their eligibility to compete. The PCR test is a laboratory technique used to detect specific genetic material, in this case the SRY gene, which reveals the presence of the Y chromosome, which is an indicator of biological sex. The test can be conducted by nasal/mouth swab, saliva or blood. Athletes are required to submit to testing of their cheek cells, blood, urine, and/or saliva at the request of the athlete's National Federation or World Boxing for purposes of sex verification, regardless of whether the athlete's sex certification has been formally contested. Such testing may include no-advance-notice testing.

- 5.1.1** National Federations will be responsible for testing and will be required to confirm the sex of their athletes when entering them into World Boxing competitions by providing a certification of their chromosomal sex, as determined by a PCR test or a functional medical equivalent genetic test.

- 5.1.2** Athletes that are deemed to be male at birth, as evidenced by the presence of the Y chromosome genetic material (the SRY gene) or with a difference of sexual development (DSD) where male androgenization occurs, will be eligible to compete in the male category.



- 5.1.3** Athletes that are deemed to be female at birth, as evidenced by the presence of XX chromosomes or the absence of Y chromosome genetic material (the SRY gene), or with a DSD where male androgenization does not occur, will be eligible to compete in the female category.
- 5.1.4** Where Y chromosome genetic material (i.e. SRY gene) is detected with suspicion of chromosomal abnormalities or an undetected difference of sexual development (DSD), a boxer's initial screens will be immediately referred to clinical specialists for genetic screening, hormonal profiles, anatomical examination, or other evaluation of endocrine profiles or markers by medical specialists to secure a diagnosis.
- 5.1.5** Medical records will be delivered to World Boxing medical experts for evaluation of eligibility following a decision-making process informed by the absence of male androgenization for the female category.
- 5.1.6** World Boxing's medical expert(s), with a full medical report, in accordance with the definition of female and male as stated in the eligibility policy, will make a final determination of athlete eligibility.
- 5.1.7** Sex certification and sex verification records shall not be considered confidential and shall not be considered medical records for the sole purpose of eligibility certification. An athlete must consent in writing that sex certification and verification records will not be considered confidential in order to compete in any competition recognized, sanctioned, conducted, or authorized by World Boxing or a World Boxing member National Federation.
- 5.1.8** World Boxing is committed to supporting the mental health and wellbeing of its athletes by providing access to appropriate services, while fully respecting their privacy rights in a manner that does not affect eligibility.



6. Transgender Policy:

- 6.1** World Boxing recognizes that athletes who identify as transgender may wish to compete in Boxing in a classification consistent with their gender identity. World Boxing respects the dignity of all individuals, including athletes who identify as transgender. World Boxing also wishes the sport of Boxing to be as inclusive as possible, and to encourage and provide a clear path to participation in the sport for all. World Boxing has determined that to ensure safety, competitive fairness, and equal treatment for all athletes, it is essential that strict sex based categories determined by sex at birth be maintained and enforced.
- 6.2** Boxers who identify as transgender are welcome to compete in the category of their birth sex in the sport of Olympic-style boxing under the same conditions applicable to all athletes in that sex, age, and weight category. All transgender boxers are responsible for complying with all World Boxing policies, rules, and all applicable Anti-Doping rules.

7. Implementation:

- 7.1** This policy has been approved by the Executive Board of World Boxing; it will commence on 20 August 2025 and replaces all other sex eligibility rules.
- 7.2** The first competition where this policy will apply is the World Boxing Championships in Liverpool, 4-14 September 2025.
- 7.3** World Boxing recognises that the issues of safety and sporting integrity in relation to eligibility are most pronounced in the female category, so the implementation of testing will be prioritised in this area and means that every female boxer that is entered into the 2025 World Boxing Championships will have to produce certified test result of their chromosomal sex, as determined by a PCR test or a functional medical equivalent genetic test. Female athletes that cannot provide certified test results of their sex will not be eligible to participate in the competition.
- 7.4** National Federations are encouraged to begin the process of testing for men, however the need to provide a certified test result will not be a



condition of entry at the World Boxing Championships 2025. Testing will be applied for boxers in the male category at all World Boxing competitions from 1 January 2026.

- 7.5** For purposes of absolute clarity and the avoidance of doubt, this means that from 1 January 2026, all athletes over the age of 18 that want to participate in a World Boxing owned or sanctioned competition will need to undergo a, once-in-a-lifetime, PCR (polymerase chain reaction) or a functional medical equivalent genetic test to determine their sex at birth and their eligibility to compete. Any athlete that is not able to provide certified test results of their sex will not be eligible to participate in any World Boxing competition.

³ This policy is subject to World Boxing's **Sport Integrity Process 2025**

Policy version and revision information

Policy Authorized by:	World Boxing Executive Board	Original issue:	May 2025
Policy Maintained by:	World Boxing Secretary General & World Boxing Sport and Competition Committee	Current version:	August 20, 2025

Billy Green
TRUE COPY

The WTA's Women's Eligibility policy is designed to promote equal athletic opportunities in women's professional tennis and maintain fair competition for all players participating in WTA tournaments.

Since first being introduced in 1975, the eligibility policy has undergone periodic review in light of developments across international sport. Following the most recent review, which included consultation with WTA members and evolving standards across women's sport, the WTA Board approved an updated WTA Women's Eligibility Policy beginning in 2026 based on biological sex.

The updated WTA Women's Eligibility Policy (the "Policy") is intended to provide a clear eligibility standard for participation in WTA tournaments. Eligibility to participate in WTA tournaments will be confirmed through a required, one-time screening process for the SRY gene. Player screening will begin in 2026, following all appropriate confidentiality and data privacy safeguards and concurrent with a comprehensive player engagement program.

The WTA recognizes that this is a sensitive and complex issue and is committed to treating all players with dignity and implementing the Policy in a respectful and thoughtful way. Additional detail can be found in the Policy below.

WTA WOMEN'S ELIGIBILITY POLICY

1. Introduction

- 1.1 The purpose of this policy is to preserve the integrity of women's professional tennis and maintain fair competition conditions for all players participating in WTA Tournaments.
- 1.2 This policy will come into effect on July 21, 2026 and will replace the previous version of this policy from that date onwards. It forms part of the WTA Rules and is binding on and must be complied with by all players, and (to the extent applicable to their roles) by officials, Tournament Support Personnel, Player Support Team Members, other Credentialed Persons, and other persons who are bound by the WTA Rulebook or otherwise subject to the WTA's jurisdiction.
- 1.3 This policy distinguishes between biological sex and gender identity, and between biological females and biological males, solely to the extent necessary to ensure that the policy is clear and has its intended effect. There is no intent to disrespect or question the gender identity or the dignity of any person.
- 1.4 In this policy, 'biological male' means an individual who, regardless of their legal sex or gender identity, has an SRY gene and therefore has or previously had testes or streak testes; and 'biological female' means an individual who, regardless of their legal sex or gender identity, has no SRY gene and therefore has or previously had ovaries or streak ovaries.

Betsy Swan
TRUE COPY



- 1.5 Other defined terms used in this policy (indicated by use of initial capital letters) have the meaning given to them in this policy or (if not defined in this policy) the meaning given to them elsewhere in the WTA Rules. In particular, (a) the phrases '**SRY Screening**' and '**SRY Screen**' mean genetic analysis of a player's saliva, cheek swab or blood sample or such other method as the WTA may specify to screen for the presence of the SRY gene, which is the gene responsible for turning undifferentiated gonads into testes rather than ovaries; (b) the phrase '**Complete Androgen Insensitivity Syndrome**' means the genetic condition (ORPHAcode 99429; ICD10-E34.5) that renders the subject's androgen receptors completely unresponsive to androgens; (c) the phrase '**Medical Manager**' means a medically qualified person who is authorized by the WTA to act on its behalf in matters arising under this policy; (d) the phrase '**Male Mini-puberty**' means the hormonal surge of gonadotropins and testosterone which occurs in early infancy, spiking at two to three months postnatal age and ending at around six months; and (e) the phrase '**Male Adolescent Puberty**' means a sustained progressive increase in hormones, including testosterone, usually around age nine through fourteen years old. Unless otherwise indicated, references in this policy to clauses are to clauses of this policy.
- 1.6 This policy will be subject to periodic review to take account of relevant scientific, medical and other developments, including stakeholder feedback on its application. In the event an issue arises in the application of this policy that is not foreseen in this policy, it will be addressed by the WTA in a manner that protects and advances the imperatives underlying this policy. The WTA may issue further regulations and/or guidance on the practical implementation of this policy.
- 1.7 This policy operates without prejudice to the other requirements in the WTA Rulebook that are applicable to all players. In particular, but without limitation, nothing in this policy permits, excuses or justifies non-compliance with any of the requirements of the Tennis Anti-Doping Program, including the requirement to obtain a therapeutic use exemption before using substances that are included on the WADA Prohibited List.
2. **Eligibility to compete in WTA Tournaments**
- 2.1 Further to Section I.A of the WTA Rulebook, WTA Tournaments are open to all women tennis players. For purposes of Section I.A, 'women' means those individuals who satisfy the following conditions (the '**Eligibility Conditions**'):
- 2.1.1 Biological females, provided that a biological female who has previously used testosterone or another androgen as part of gender-related treatment may not compete in WTA Tournaments until four years have passed since the last such use.
- 2.1.2 Biological males who demonstrate to the satisfaction of the WTA Medical Manager that due to their Complete Androgen Insensitivity Syndrome or other disorder of gonadal development (e.g., chromosome mosaicism/Klinefelter's syndrome, ovo-testicular
-



dysgenesis, or similar), they have never experienced the physiological effects of either Male Mini-puberty or Male Adolescent Puberty.

- 2.2 A player must demonstrate their eligibility to compete in WTA Tournaments by means of SRY Screening.
 - 2.2.1 If the SRY Screen is negative for the presence of the SRY gene, the player will be permitted to compete in WTA Tournaments. Unless there is reason to believe a negative result is in error, this will be a once-in-a-lifetime test.
 - 2.2.2 If the SRY Screen is positive for the presence of the SRY gene, the player will not be permitted to compete in WTA Tournaments pending further medical assessment in accordance with clause 3.2.

3. Screening and assessment of individual cases

- 3.1 A player who wishes to compete in WTA Tournaments must sign and file a copy of the form attached as Exhibit A to this policy (the Player Acknowledgement and Agreement of Eligibility Form) with the WTA, acknowledging and agreeing to abide by and to comply in full with this policy, and to demonstrate their eligibility to compete under this policy by means of SRY Screening and (where necessary) in accordance with clause 3.2.
 - 3.1.1 At the WTA's request, a player must undergo and cooperate in full with SRY Screening conducted by or on behalf of the WTA or recognized by the WTA. This includes providing a cheek swab, blood sample and/or saliva sample at the time and place and in the manner required by the WTA and satisfying any other WTA requirements in respect of that SRY Screening. It also includes consenting to the screening laboratory reporting the results of that SRY Screening directly to the WTA Medical Manager. Any player who fails to comply in full with these requirements will not be eligible to compete in WTA Tournaments.
 - 3.1.2 The WTA may provisionally suspend a player from competing in WTA Tournaments pending receipt of a copy of the player's signed Player Acknowledgement and Agreement of Eligibility Form and/or confirmation that the player meets the Eligibility Conditions. The rules in the WTA Rulebook relating to withdrawals due to a provisional suspension issued pursuant to the Tennis Anti-Doping Program (see Sections III.A.1.d.v and VIII.A.4.a.iii of the 2026 WTA Rulebook) are applicable to any provisional suspensions issued pursuant to this clause 3.1.2. In all such cases, all reasonable
-



endeavours shall be used to determine the player's eligibility under this policy as soon as possible.

- 3.1.3 The WTA may recognize the results of SRY Screening conducted by or on behalf of another sport governing body or other appropriate third party where the WTA considers those results to be sufficiently reliable.
 - 3.2 If an SRY Screen is positive for the presence of the SRY gene, the WTA Medical Manager (or their designee) will notify the player. In such circumstances, it will be the player's responsibility to demonstrate to the satisfaction of the WTA Medical Manager that they have Complete Androgen Insensitivity Syndrome or another disorder of sex development that means they have never experienced the physiological effects of either Male Mini-puberty or Male Adolescent Puberty.
 - 3.2.1 The WTA Medical Manager may make such enquiries or investigations as they consider necessary to determine accurately and effectively whether or not the player has Complete Androgen Insensitivity Syndrome or another disorder of sex development that means they have never experienced the physiological effects of either Male Mini-puberty or Male Adolescent Puberty, including conducting further testing and/or requesting further information from the player and/or the player's physicians and/or consulting with independent experts. As part of the assessment, the player and/or the player's physicians must provide a comprehensive medical history to the WTA Medical Manager. The player is responsible for ensuring that nothing relevant to the WTA Medical Manager's assessment of their case is withheld from the WTA Medical Manager.
 - 3.2.2 Unless and until the WTA Medical Manager is satisfied that the player has Complete Androgen Insensitivity Syndrome or another disorder of sex development that means they have never experienced the physiological effects of either Male Mini-puberty or Male Adolescent Puberty, the player may not compete in WTA Tournaments. Where considered necessary in order to protect the objectives underlying this policy, the player may be granted conditional eligibility to compete in WTA Tournaments, i.e., their eligibility is conditional on continuing satisfaction of one or more conditions. In such
-

cases, the references in this policy to the Eligibility Conditions will be to the Eligibility Conditions as varied by the WTA Medical Manager further to this clause 3.2.2.

- 3.3 The WTA Medical Manager may investigate any other case by such means as they deem necessary, including (without limitation) commissioning an SRY Screen for a player if such a test has not already been reliably performed.

4. General obligations

- 4.1 Each player competing or seeking to compete in a WTA Tournament is deemed to have agreed, as a condition to such participation:

- 4.1.1 to comply in full with this policy, including only competing in WTA Tournaments if the player meets the Eligibility Conditions;
 - 4.1.2 to cooperate promptly and in good faith with the WTA Medical Manager in the discharge of the WTA Medical Manager's responsibilities under this policy, including:
 - 4.1.2.1 providing all of the information and evidence requested by the WTA Medical Manager to determine whether the player meets the Eligibility Conditions;
 - 4.1.2.2 ensuring that all information and evidence provided by the player or on the player's behalf to the WTA Medical Manager is valid, authentic, accurate and complete, and that nothing relevant is withheld; and
 - 4.1.2.3 consenting to and ensuring the disclosure by the player's physician(s) to the WTA Medical Manager (or their designees) of any information or evidence that the WTA Medical Manager deems necessary for the assessment of the player's case;
 - 4.1.3 (to the fullest extent permitted under applicable laws) to the collection, processing, disclosure and use of information (including their sensitive personal information) as required to implement and apply this policy effectively and efficiently; for this purpose, all players will be requested to sign a consent form for eligibility screening;
 - 4.1.4 to follow exclusively the procedures set out in clause 6 to challenge this policy and/or to appeal decisions made under this policy, and not to bring any proceedings in any court or other forum that are inconsistent with that clause; and
 - 4.1.5 to provide written confirmation of the player's agreement with clauses 4.1.1 to 4.1.4 upon request by the WTA.
-



- 4.2 A player may revoke the consents that they have previously given in accordance with clause 4.1 at any time, with or without giving reasons, in which case they will no longer be eligible to compete in WTA Tournaments.
 - 4.3 Each Tournament Support Personnel, Player Support Team Member, and other Credentialed Person, and every other person who is bound by the WTA Rulebook or otherwise subject to the WTA's jurisdiction:
 - 4.3.1 is bound by and must comply in full with this policy to the extent applicable, including with this clause 4.3 and clause 4.4;
 - 4.3.2 must cooperate promptly and in good faith with the WTA Medical Manager in the discharge of their responsibilities under this policy;
 - 4.3.3 must ensure that any information they provide to the WTA Medical Manager for consideration under this policy is valid, authentic, accurate and complete; and
 - 4.3.4 must not provide any information to the WTA Medical Manager in bad faith, to harass, stigmatize or otherwise injure another person, or for any other improper purpose.
 - 4.4 The dignity of all players must be respected at all times. In particular (but without limitation), any conduct that disparages or calls into question a player's eligibility under this policy, or that harasses a player on the basis that their appearance does not conform to gender stereotypes, will be considered a serious violation of the Code of Conduct and/or the Safeguarding Code (or of any replacement or successor rules), as applicable.
 - 5. **Disciplinary action**
 - 5.1 The WTA may take disciplinary action in accordance with the Code of Conduct (or any replacement or successor rules) against:
 - 5.1.1 a player who knows that they do not meet the Eligibility Conditions but still competes in a WTA Tournament;
 - 5.1.2 a player who fails to demonstrate that they meet (or met) the Eligibility Conditions, e.g. by refusing to undergo SRY Screening as requested by the WTA within a reasonable timeframe as determined by the WTA in its sole discretion;
 - 5.1.3 a player who fails to cooperate fully and in good faith with the efforts of the WTA Medical Manager to assess compliance with the Eligibility Conditions under clause 3.2; and
-



- 5.1.4 anyone else who is bound by this policy who violates this policy themselves or who is complicit in a violation of or non-compliance with this policy by another.
 - 5.2 In such proceedings:
 - 5.2.1 The validity, legality or enforceability of this policy or of any decision made under this policy may not be challenged. Instead, such challenge may only be made in accordance with clause 6.
 - 5.2.2 The consequences that may be imposed, depending on all of the circumstances of the case, include (without limitation):
 - 5.2.2.1 a caution, reprimand and/or warning as to future conduct;
 - 5.2.2.2 a specified period of ineligibility to participate in WTA Tournaments;
 - 5.2.2.3 denial of privileges or exclusion from WTA Tournaments;
 - 5.2.2.4 disqualification of results achieved by a player while ineligible; and/or
 - 5.2.2.5 a fine.
 - 5.3 Players acknowledge that if consequences are imposed under this policy, the reason for the imposition of the consequences may become public knowledge or the subject of public speculation.
 - 5.4 There will be no readjustment of medals, titles, prize money, or ranking points for any player who competed against a player who is subsequently found to have been ineligible under this policy. No player or other person may bring a claim against the WTA or any person involved in the implementation of this policy on behalf of the WTA for losses allegedly incurred (including, without limitation, in relation to medals, titles, prize money, or ranking points) as a result of a person competing in WTA Tournaments who is subsequently determined to be ineligible under this policy to compete in WTA Tournaments.
 - 6. **Dispute resolution**
 - 6.1 This policy is governed by the laws of the state of Florida, excluding Florida conflict of law principles. Notwithstanding anything to the contrary in the WTA Rulebook or WTA By-Laws, the validity, legality and/or enforceability of this policy may only be challenged before a federal or state court located in Saint Petersburg, Florida, which is the WTA's principal place of business. All persons submit to the jurisdiction of such courts for the purpose of resolving such proceedings, and agree that Saint Petersburg, Florida is the proper venue for such proceedings. Pending final
-



determination of the proceedings, the provisions of the policy will remain in full force and effect unless the federal or state court orders otherwise.

- 6.2 Subject strictly to clause 6.1, and notwithstanding any other provision of this policy or anything to the contrary in the WTA Rulebook or WTA By-Laws, the following decisions made under this policy may only be challenged as follows:

- 6.2.1 a decision that a player is not eligible under this policy to compete in WTA Tournaments may be appealed by that player to the Court of Arbitration for Sport ('CAS');
- 6.2.2 a decision to suspend a player provisionally from competition pursuant to clause 3.1.2 may be appealed by that player to the CAS; and
- 6.2.3 a decision to impose consequences on a person pursuant to clause 5 may be appealed by that person to the CAS;

provided that the validity, legality or enforceability of this policy may not be challenged as part of that appeal. Instead, such challenge may only be made in accordance with clause 6.1.

For the avoidance of doubt, no person other than the player who is the subject of the decision may appeal against or otherwise challenge that decision, including (without limitation) (a) a decision by the WTA Medical Manager that a player is eligible or ineligible under this policy to compete in WTA Tournaments; or (b) a decision by the WTA to exercise or not to exercise its powers against a player under clause 3.1.2 or clause 5.1.

- 6.3 The CAS will hear and determine an appeal permitted under clause 6.2 in accordance with the CAS Code of Sports-Related Arbitration. Any such appeal will be conducted in the English language and will be governed by this policy, with the laws of the state of Florida (excluding Florida conflict of law principles) applying subsidiarily.
- 6.4 Pending final determination of an appeal to the CAS permitted under clause 6.2, the provisions of the policy and/or the decision under challenge or appeal will remain in full force and effect unless the CAS orders otherwise.
- 6.5 The decision of the CAS with respect to an appeal permitted under clause 6.2 will be final and binding on all parties, and no right of appeal or other challenge will lie from that decision on any ground, except as set out in Chapter 12 of the Swiss Federal Code on Private International Law.

7. Confidentiality

- 7.1 All cases arising under this policy, and in particular all player information provided to the WTA under this policy, and all results of screenings, examinations and assessments conducted under



this policy, will be maintained in strict confidence at all times. All medical information and data relating to a player will be treated as sensitive personal information and the WTA will ensure that it is processed by the WTA as such in accordance with applicable data protection and privacy laws. Such information and data will not be used by the WTA for any purpose not contemplated in this policy and will not be disclosed to any third party save (a) as is strictly necessary for the effective application and enforcement of this policy; or (b) as is required by applicable law.

- 7.2 The WTA will not comment publicly on a case arising under this policy except in response to public comments attributed to the player or the player's representatives. In provisional suspension and ineligibility cases, the WTA will consult with the player or the player's representatives on whether and if so how to communicate publicly about the player's eligibility status.

8. Support

- 8.1 Any player seeking to understand and comply with the requirements of this policy applicable to them may seek assistance from the WTA's Performance Health Department.
- 8.2 At the request of a player whose case is being assessed under this policy, the WTA will offer professional counselling or such other support services as the WTA Medical Manager deems appropriate in the circumstances and will pay the costs charged by the counselor or other service provider for providing such assistance.

9. Costs

- 9.1 Unless otherwise stated, the costs incurred by the WTA in assessing and monitoring compliance with this policy will be borne by the WTA. The costs of SRY Screening and any further testing to demonstrate that a player meets the Eligibility Conditions, including the costs of any medical assessment, examination, and/or reporting that may be required by the WTA, will be paid by the WTA. Any other costs incurred by the player in complying with this policy will be borne by the player in question.

10. Limitation of liability

- 10.1 In no circumstances will the WTA or any of the WTA's directors, officers, employees, contractors, agents, representatives, any independent expert consulted by the WTA Medical Manager in relation to the application of this policy, or any other persons involved in the administration of this policy, be liable in any way in relation to acts done or omitted to be done in good faith in connection with the administration of this policy.
- 10.2 Each case arising under this policy will be addressed as quickly as is reasonably practicable in all of the circumstances. However, in no circumstance will the WTA or any of the WTA's directors, officers, employees, contractors, agents, representatives, any independent expert consulted by



the WTA Medical Manager in relation to the application of this policy, or any other persons involved in the administration of this policy be liable for any detriment allegedly suffered by the player in question or anyone else as a result of the length of time taken to complete (i) the investigation and/or assessment of their case, or (ii) any appeal before the CAS.

Exhibit A: Player Acknowledgement and Agreement of Eligibility Form

I, the undersigned player, acknowledge that I have read and agree to comply in full with the WTA Women's Eligibility Policy (the "Eligibility Policy"). In particular (but without limitation):

- I agree to submit to and cooperate in full with SRY Screening requested by the WTA further to the Eligibility Policy.
- I agree to assist and to cooperate in full with the enquiries and investigations of the WTA Medical Manager conducted further to the Eligibility Policy.
- I acknowledge and agree to comply with the conditions set out in clause 4.1 of the Eligibility Policy.
- I acknowledge that if I fail to undergo SRY Screening as requested by the WTA or compete in a WTA Tournament in which I, to my knowledge, am ineligible to compete under this Eligibility Policy, the WTA may take disciplinary action against me in accordance with clause 5 of the Eligibility Policy and the Code of Conduct. I further acknowledge and agree that such action may result in (among other things) a specified period of ineligibility to participate in WTA Tournaments, which may lead to the reason for my ineligibility becoming public knowledge or being the subject of public speculation.

Signed: _____

Name: _____ [insert name in block capitals]

Date: _____

If you are a minor, we request that your parent or legal guardian also sign this consent below.

Signed: _____

Name: _____ [insert name in block capitals]

Date: _____

Binky Susan
TRUE COPY

No. S-11018/2/2017-SBM
 Government of India
 Ministry of Drinking Water and Sanitation
 Swachh Bharat Mission (Gramin)

4th Floor, Pt. Deendayal " Antyodaya Bhawan"
 CGO Complex, Lodhi Road
 New Delhi-110 003

Dated 03.04.2017

To

The Principal Secretary/ Secretary in-charge of Rural Sanitation,
 All States/UTs

Subject: Guidelines on Gender issues in sanitation

Madam/Sir,

1. The SBM (G) focuses on achievement of complete Open Defection Free (ODF) villages, it has been observed that number of women are coming to the forefront of the campaign to end open defecation.

2. Accordingly, the guidelines has been evolved to define the activities of Gender issues in sanitation at Annexure. It is hoped that this guidelines will prove useful to the States/UTs.

I am sure you will bring the above issues to the notice of the implementing machinery in your State, especially at the district level and below, in all the relevant departments, for due compliance. I shall also be happy to receive any queries or comments from you in the matter. I would like to hear from you about any initiatives taken by your states to ensure gender equality and the empowerment of women and girls with respect to sanitation. Selected stories of exceptional work done in this direction will be recognized and shared on the national platform.

[Signature]

(Arun Baroka)

Joint Secretary

Tel:011-24362192

Email: arun.baroka@nic.in

Copy to:

1. State Coordinators, SBM-G of all States/UTs
2. Mission Directors, SBM-G of all States/UTs

TRUE COPY

Annexure**Guidelines on Gender issues in sanitation**

As the Swachh Bharat Mission (Gramin) {SBM-G} has entered the third year of its implementation, it is important to reflect on gender issues in sanitation. It is true that women and girls bear the heaviest burden of poor sanitation and continued open defecation. Issues of lack of privacy, personal safety, sexual harassment and gender-based violence are faced by women and girls each time they defecate in the open. In addition, the situation arising from open defecation puts their health to risk through medical conditions such as urinary tract infections, chronic constipation and mental stress. Another common negative impact of open defecation is witnessed by young girls and women on a monthly basis when they menstruate. Lack of safe, private spaces for women and girls to wash or tend to their personal hygiene needs when menstruating, severely restricts their ability to fully participate in daily activities, including attending school.

2. While increasing number of women are coming to the forefront of the campaign to end open defecation, the following issues are mentioned for consideration.

Role of women in sanitation

3. Women are actively involved in the mobilization of communities through social and behavior change communication for sanitation. However, it is observed that their involvement in the actual process of implementation of the sanitation programme i.e. in planning, procurement, toilet construction and monitoring needs to be strengthened. Since implementation of SBM-G focusses on community engagement, it may be ensured that women are *actively* involved, not only in behaviour change activities, but also in the activities of institutions involved in the process of toilet construction (VWSCs, motivators, procurement committees, etc.). The SBM-G guidelines, Para 7.6.2 states that 50% of members of VWSC should be women. This must be ensured by the State government and local government bodies. Following the trend of increasing women's leadership in local governance, women should also be represented in the leadership of SBM-G committees and institutions like WASH (like Nigrani) committees, Village Water and Sanitation Committees (VWSCs) and Village Water Sanitation and Health Committees (VWSHCs), so that their communities and villages can benefit not just from women's participation but also their leadership.

Messaging in IEC/BCC

4. It is noted that behaviour-change messaging in SBM-G often includes subjects like 'shame and dignity of women'. While these may be useful for entry-point messaging, they carry risks of lack of ownership by men and the reinforcing of

gender stereotypes (like women should not step out of the house, men as the custodians of women's dignity, etc.) The IEC/BCC messaging should, therefore, be gender sensitive and targeted at both men and women, particularly focusing on men who are often the primary decision makers in rural households where household expenditure is involved. For example, stories of a brother gifting a toilet to his sister, a sarpanch declaring to take-off his moustaches unless his village becomes ODF, may perpetuate gender stereotyping and portray women as weak and passive compared to men. The SBM-G messaging should ensure that it does not propagate, even inadvertently, any such gender bias. Rather, SBM-G IEC/BCC should portray and popularize stories of powerful women and successful women Swachhta champions, to inspire and motivate women across the country to take charge of their own fate, health and safety. Examples of this can include women SHGs who along with other activities, take on the responsibilities of Sani Marts and even work as masons, adolescent girl leaders who speak out and raise awareness about menstrual hygiene management and men and women at the district level like DCs/DMs and other leaders who talk about the important role women have played in making their districts ODF.

Maintenance of toilets

5. Traditionally, due to the traditionally patriarchal nature of many communities, cleaning of toilets is looked upon as an 'unclean job', often to be done by women of the household. SBM-G should specifically promote the idea that everyone in the family, irrespective of gender, has an equal responsibility in keeping the toilet clean after use.

6. This equal responsibility for toilet maintenance also goes beyond the family. SBM-G should also promote universal responsibilities in communities for maintaining facilities and shared toilets so that factors like caste etc. do not play a role in determining who cleans and maintains toilets within households, in schools, health facilities and in other community places. All members of the community should be made aware that the decomposed pit material (in a twin-pit latrine) is safe to handle after about a year of closing the pit and can be used as compost/manure for agricultural purposes, and that switching of pits and taking out pit manure is safe and not a 'dirty' chore, nor is it solely the responsibility of the women in the family.

Inclusivity

7. In many communities, the third-gender may often be dissociated from the mainstream. SBM-G should make a conscious effort that they are recognized as equal citizens and users of toilets. They should be allowed to use the facility of their choice (men or women) in community or public toilets. There are also examples from around the country, where people belonging to the third gender have come up as Swachhta champions and have played a huge role in taking the

message of Swachhta to households in the community. Where suitable, their support can be enlisted in engaging communities, and their efforts duly recognized and honoured to break any stigma around them, and to also enable them to use facilities without any embarrassment.

8. Elderly women with age-related constraints, face increased risks of injury in everyday tasks, including while using toilets and other public facilities. For many, squatting is uncomfortable due to stiff joints, and many elderly people end up relieving themselves in a half-standing, half-squatting position. Similar difficulties can be experienced by pregnant women. Badly designed toilets also deter children from using them due to fear of darkness or falling down the plughole etc. Common toilet designs are often found to be unusable by the differently-abled, both men and women.

9. Toilets under SBM-G should, therefore, adopt an inclusive design that makes them barrier-free. They should be well-ventilated and well-lit to avoid stumbling, the floor should have a gentle slope towards the drain to keep the floor dry and to prevent slipping. In public toilets, care may be given to ensure that a ramp with appropriate slope, handle-bar support, both inside and outside of the toilet cubicle with different heights for adults as well as children, raised toilet seats/commodes for the elderly, the young, and the differently abled are included in the design. Community/public toilets designs may be revisited to make them accessible by children, senior citizens, and the differently-abled to encourage them to use these toilets. If there is a user fee in community/public toilets, concessions may be provided for senior citizens, children, and the differently abled, to encourage them to avail of these services.

Menstrual Hygiene Management (MHM)

10. Menstruation is a normal biological function and SBM-G is sensitive to MHM needs of adolescent girls and women. Towards this end, guidelines have been issued by the Ministry of Drinking Water & Sanitation in 2015, which is placed on the MDWS website¹. These guidelines must be adhered to. The SBM-G implementation should ensure that the MHM facilities take into consideration issues such as ample space, water availability, sanitary pad disposal mechanism, privacy and adequate ventilation. Few points that may be kept in mind are –

- Public toilet design should ensure safe and private entrance to women's toilets, with ample lighting after evening hours. The location of the toilets should be decided through a participatory process that is based on the feedback of users. The approach to the toilet should feel and be safe for women and girls e.g. ensuring that there are no public gathering spots on the path to the toilet where men gather socially.

¹<http://www.mdws.gov.in/sites/default/files/Menstrual%20Hygiene%20Management%20-%20Guidelines.pdf>

- Adequate water and space inside the toilet should be ensured for the women users to change napkins/cloth and to wash themselves.
- Toilet cubicles may be provided with a shelf, hooks or niche to keep clothing and menstrual adsorbents dry.
- Disposal bins with lids should be placed within the toilet, as the initial point of collection.
- To avoid transport of menstrual waste, incinerators may be built within the toilet with chutes directly adjacent to the toilet building.
- Funds under the SLWM components may be used for setting up of incinerators in community toilets.
- IEC plans should include MHM as a key component for raising awareness among girls as well as boys, women as well as men. The MHM guidelines have a description of possible interventions.
- Efforts must be made through the IEC activities, to rid the community of taboos and superstitions associated with menstruation. Involving faith leaders in this context may be considered.
- CSOs and SHGs may be engaged to inform the communities about safe menstrual hygiene practices and also develop economic models to meet the demand for low cost sanitary napkins.
- Studies show that when fathers of adolescent girls are made aware about the MHM needs of their daughters, they become their biggest champions and therefore specific communication to fathers should be included in the outreach to communities.
- Schools must have segregated toilets that are kept open and accessible during school hours, and have the above systems in place for menstrual waste management.
- It is reiterated that provision of MHM related facilities to schools including Communication interventions and as well as infrastructure creation, may be supported under the SLWM component of the SBM.
- Counseling sessions for adolescent girls, and special educational sessions around menstrual health and hygiene should be organized by qualified professionals as part of school education of girls of appropriate age.
- Similarly, menstrual health and hygiene awareness camps may be organized at local health centres, anganwadis, etc. by qualified professionals, for women in the community.

TRUE COPY

Pradyumn

Conclusion

11. Overall, SBM-G should be implemented in a way that is not just sensitive to gender issues, but also becomes a platform that enables the empowerment of women and girls and promote human dignity. For this, the programme needs to focus not only on women and girls, but equally on men and boys, so that everyone understands and appreciates the underlying nuances in everyday hygiene practices.

10/5/26, 5:29 PM

Trans inmate jailed for Wakefield prison sex offences

299



Register

Sign In

[Home](#) [News](#) [Sport](#) [Business](#) [Technology](#) [Health](#) [Culture](#) [Arts](#) [Travel](#) [Earth](#) [Audio](#) [Video](#) [Liv](#)

ANNEXURE P18

Trans inmate jailed for Wakefield prison sex offences

11 October 2018

Share

Save

 Add as preferred on Google



Facebook

<https://www.bbc.com/news/uk-england-leeds-45825838>

Printed Copy
TRUE COPY

1/8

Karen White must serve a minimum of nine years for rape, sexual assault and wounding

A transgender prisoner who sexually assaulted two inmates at a women's jail and had previously raped two other women has been given a life sentence.

Karen White attacked two women in 2017 while on remand at HMP New Hall, in Wakefield, for other offences.

White, 52, who is transitioning, was described as a "predator" who was a danger to women and children.

She must serve a minimum of nine-and-a-half years for rape, sexual assault and wounding, Leeds Crown Court was told.

- Reality Check: How many transgender prisoners are there?

The court heard White, who was born male and now identifies as a woman, used her "transgender persona" to put herself in contact with vulnerable women.



Karen White admitted two counts of sexual touching at New Hall Prison, Wakefield

Passing sentence, Judge Christopher Batty said: "You are a predator and highly

manipulative and in my view you are a danger.

"You represent a significant risk of serious harm to children, to women and to the general public."

- Latest news and stories from across Yorkshire

White was on remand at HMP New Hall for other offences when she attacked the two women between September and October last year.

She was moved to a male prison after pleading guilty to the offences in September.

She also is highly unlikely to be moved back into a women's prison due to the risk she poses even if she were to be legally declared a woman, the BBC understands.

The court heard White has previous convictions for indecent assault, indecent exposure and gross indecency involving children, violence and dishonesty.



Karen White was born Stephen Wood and is transitioning

Prosecutor Christopher Dunn told the court: "She is allegedly a transgender female.

"The prosecution say allegedly because there's smatterings of evidence in this case that the defendant's approach to transitioning has been less than committed.

"The prosecution suggest the reason for the lack of commitment towards transitioning is so the defendant can use a transgender persona to put herself in contact with vulnerable persons she can then abuse."

White, who was born Stephen Wood and is originally from the Manchester area, was first arrested last August after attacking a 66-year-old neighbour with a steak-knife in Mytholmroyd.

While on remand at HMP New Hall, she began gender re-alignment, wearing a wig, make-up and false breasts.

She also admitted to probation officers she was sexually interested in children and could abuse a child and "think nothing of it".

'Spiked drink'

The two counts of rape did not come to light until one of the victims came forward after White wrote to her from prison.

The woman, in her 20s, said White had violently raped her five or six times between January and December 2016, after meeting at a psychiatric unit in West Yorkshire.

Investigators also discovered White had raped a woman in 2003 when she was two months pregnant.

The court heard White attacked her after spiking her drink with vodka until she passed out.

White was arrested but no information was given in court as to why he was not prosecuted at the time.

A Prison Service spokesman said: "We apologise sincerely for the mistakes which were made in this case.

"While we work to manage all prisoners, including those who are transgender, sensitively and in line with the law, we are clear that the safety of all prisoners must be our absolute priority."

Det Insp David Rogerson said: "White has pleaded guilty to a number of serious sexual offences which span many years.

"We are pleased to see White appropriately sentenced by the courts for what are very serious offences."

Reality Check: How many transgender prisoners are there?

Trans inmate admits prison sex offences

Trans prisoner charged with sex offences



[Home](#) [News](#) [Sport](#) [Business](#) [Technology](#) [Health](#) [Culture](#) [Arts](#) [Travel](#) [Earth](#) [Audio](#) [Video](#)

[Live](#) [Weather](#) [BBC Shop](#) [BritBox](#)

[BBC in other languages](#) ▼

Follow BBC on: [X](#) [f](#) [i](#) [d](#) [in](#) [v](#)

10/5/26, 5:29 PM

Trans inmate jailed for Wakefield prison sex offences

306

[Terms of Use](#) [About the BBC](#) [Privacy Policy](#) [Cookies](#) [Do not share or sell my info](#) [Accessibility Help](#)

[Contact the BBC](#) [Advertise with us](#) [BBC.com Help & FAQs](#) [Content Index](#) [Set Preferred Source](#)

Copyright 2026 BBC. All rights reserved. The BBC is not responsible for the content of external sites. [Read about our approach to external linking.](#)

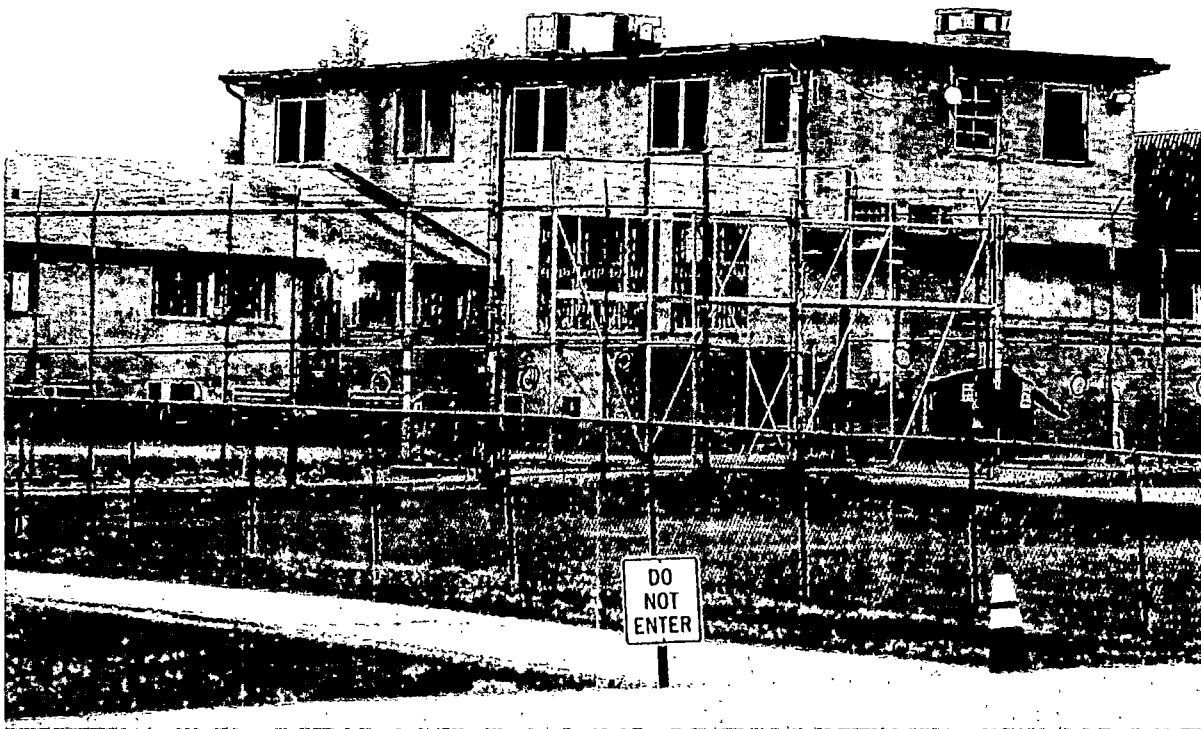
Bonny Cusack
TRUE COPY

ANNEXURE P19

OUT NEWS

N.J. trans prisoner who impregnated 2 inmates transferred to men's facility

Demi Minor, 27, has been transferred from New Jersey's only women's prison to the vulnerable housing unit at a men's facility.

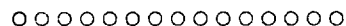


— The Edna Mahan Correctional Facility for Women in Clinton, N.J. Seth Wenig / AP file

July 19, 2022, 11:47 PM GMT+5:30

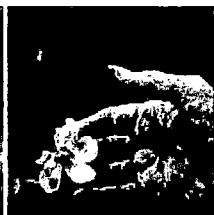
By Tat Bellamy-Walker

Betty Swaney
TRUE COPY



10/7/26, 6:24 PM

N.J. trans prisoner who impregnated 2 inmates transferred to men's facility



* Experimental vaccine shows promise against deadly brain cancer in some patients

* Meta's Oversight Board has a warning for AI companies building their own watchdogs

* Locals called t Heaven'. A plan to exposed its underl

"As a woman who is transgender I truly fear what lies ahead for me, its clear that staff have looked for some kind of security reason to kick me out of the only female correctional facility," Minor wrote in the post, which was published Friday. "They have thrown me to the wolfs and expected for me just gave up, I am baffled and disgusted by this use power and I can only ask that the commissioner and governors office please send me back. I don't deserve to be treated like this."

In a separate post published July 5, the blog alleged a group of correctional officers beat Minor in a van while transferring her.

The Department of Corrections said an investigation determined the assault allegations to be unfounded.

"The Department has zero tolerance for abuse, and the safety and security of the incarcerated population and staff are of critical importance," Sperrazza said in an email. "Any allegations of mistreatment or abuse are thoroughly and expeditiously investigated by the Special Investigations Division (SID)."

Follow NBC Out on Twitter, Facebook & Instagram.

Tat Bellamy-Walker

Tat Bellamy-Walker is the desk assistant for NBC News' diversity verticals.

Billy Cusack
TRUE COPY

ANNEXURE P20

Log In Watch TV

Questions mount over
Cornell University sexual...

WWE legend Diamond
Dallas Page makes bold...

Poll reveals Trump's low
approval among Latinos a...

Alleged Chinese
ARRESTED in

CALIFORNIA

3rd-strike 'trans' rape suspect prompts rebellion
against CA law after attack in women's prison

Tremaine 'Treymane' Deon Carroll transferred out of women's prison after being indicted on 2 rape counts



By Chris Pandolfo, Michael Ruiz · Fox News

Published June 3, 2024 4:00am EDT

Comments

Add Fox News on Google



Questions mount over
Cornell University sexual...

WWE legend Diamond
Dallas Page makes hold...

Poll reveals Trump's low
approval among Latinos a..

Alleged China
ARRESTED in

Tremaine "Tremayne" Deon Carroll, 51, is an incarcerated biological male who identifies as a woman and faces two charges of forcible rape and one of "dissuading a witness from testifying" in Madera County, according to a criminal complaint first obtained by the website 4W and later reported by Reduxx.

One of the alleged victims of the Jan. 30 incident is a biological female, identified as Jane Doe in court documents, who said Carroll attacked her in the shower at the Central California Women's Facility and raped her. The complaint also mentions another unidentified victim. Carroll has since been transferred to Kern Valley State Prison, a male-only facility in Delano, online records show.

Women's rights activists tell Fox News Digital that Carroll, who was the public face of a campaign to support California law SB 132, which allows transgender prisoners to be housed in a facility consistent with their gender identity, is a case in point why the law harms incarcerated women.

Questions mount over
Cornell University sexual...

WWE legend Diamond
Dallas Page makes bold...

Poll reveals Trump's low
approval among Latinos a...

Alleged Chinese
ARRESTED in

Tremaine "Tremayne" Deon Carroll, 51, was charged with rape in Madera County, California. A transgender person, Carroll was housed in a women's correctional facility by request and transferred to a men's facility following the indictment for rape (California Department of Corrections and Rehabilitations)

"Previous to SB 132, biological male inmates were allowed to, on a case-by-case individualized basis, be placed in women's facilities. But not if they hadn't had surgery, and it was always very individualized. What the bill did, what SB 132 did is it took away all of that safeguarding," said Lauren Bone, legal director of the Women's Liberation Front (WoLF).

WoLF is a self-described radical feminist organization that opposes policies that permit biological males in women-only spaces. The group currently represents four female inmates in a lawsuit against the California Department of Corrections and Rehabilitations (CDCR) that seeks to have SB 132, which is called the Transgender Respect, Agency, and Dignity Act, declared unconstitutional.

Questions mount over
Cornell University sexual...

WWE legend Diamond
Dallas Page makes bold...

Poll reveals Trump's low
approval among Latinos a...

Alleged China
ARRESTED in

have to identify as a woman anymore. You can identify as non-binary or many other things. And so, what the results are is that there's 50 men who are housed there. There are hundreds more on a wait list, who are still being processed. Nearly all of them have penises."

Carroll is one of several female-identifying biological males represented by the American Civil Liberties Union, Transgender Law Center and Lambda Legal who intervened to oppose WoLF's lawsuit in August 2023. In sworn testimony, Carroll stated, "I know what it feels like to live in fear and to carry the weight of the past abuse by men. But I am not a threat."

Less than a year later, Carroll would be accused of rape.

CALIFORNIA PROGRESSIVE CHIDES FELLOW DEMOCRATS BEFORE VOTING TO MAKE CHILD SOLICITATION A FELONY: 'I'M DONE'

Questions mount over
Cornell University sexual...

WWE legend Diamond
Dallas Page makes bold...

Poll reveals Trump's low
approval among Latinos a..

Alleged China
ARRESTED in



This view shows the Central California Women's Facility in Chowchilla (Tomas O'Valle/Fresno Bee file/Tribune News Service via Getty Images/File)

Attorneys for Carroll did not respond to a request for comment. The ACLU Foundation of Southern California, Lambda Legal and Transgender Law Center said in a joint statement that they are unable to speak about the specifics of Carroll's criminal case and "all allegations of sexual misconduct must be investigated thoroughly and fairly."

"We continue to represent the intervenors – including four trans women and our partner organization TGIJP – to ensure that the voices of transgender people are heard in the case and the constitutionality of SB 132 is zealously defended," the statement says.

Questions mount over
Cornell University sexual...

WWE legend Diamond
Dallas Page makes bold...

Poll reveals Trump's low
approval among Latinos a..

Alleged Chinese
ARRESTED in

CALIFORNIA'S PROPOSED PARENTAL NOTIFICATION POLICY FOR GENDER IDENTITY CHANGES FAILS TO QUALIFY FOR BALLOT



Amie Ichikawa spoke to Fox News Digital about her experience with a transgender prisoner while at a California facility.
(Independent Women's Forum)

Questions mount over
Cornell University sexual...

WWE legend Diamond
Dallas Page makes bold...

Poll reveals Trump's low
approval among Latinos a..

Alleged China
ARRESTED in

than be retried, Carroll pleaded guilty to two counts of kidnapping and was sentenced to prison for 10 years and eight months.

Carroll's third strike came in 1998 when he was the getaway driver in a jewelry store robbery, leading to a 25-to-life sentence as a three-strike offender. While awaiting trial in 1999, sheriff's deputies, acting on a tip from a confidential informant, found him to be in possession of a metal wire shank. He was given an additional four years to be run consecutively with his 25-to-life term.

In prison, Carroll committed various serious rule violations between 2001 and 2015. His offenses included fighting with other inmates, refusing to obey orders, drug possession, filing a false report against a peace officer and "behavior that could lead to violence," according to court records. He also filed various complaints alleging racial discrimination and sexual misconduct by CDCR employees.

"Tremaine has a long history of filing lawsuits against the department, tons of lawsuits. He is constantly writing inmate complaints about everyone and anyone he can have a negative impact on," said Ichikawa.

CALIFORNIA BILL WOULD BAN SCHOOLS FROM TELLING PARENTS IF STUDENT IDENTIFIES AS LGBTQ: 'GUT-AND-AMEND'

Questions mount over
Cornell University sexual...

WWE legend Diamond
Dallas Page makes bold...

Poll reveals Trump's low
approval among Latinos a..

Alleged Chinese
ARRESTED in



State Sen. Scott Wiener, a Democrat, greets the crowd during the 53rd annual San Francisco Pride Parade and Celebration on June 25, 2023. Wiener sponsored SB 132, which permits transgender inmates to be housed in their preferred men's or women's facility. (Getty Images)

In several complaints reported by Reduxx, Carroll uses he/him pronouns to refer to himself and does not mention his gender identity or sexuality. It wasn't until 2021, three months after the Democrat-controlled California legislature passed SB 132, that he began to identify as a trans woman.

SB 132, introduced by state Sen. Scott Wiener, a Democrat who represents San Francisco, requires that incarcerated transgender people in CDCR custody be classified and housed based on their "sense of health and safety, which may or may not correspond with their gender identity."

Questions mount over
Cornell University sexual...

WWE legend Diamond
Dallas Page makes bold...

Poll reveals Trump's low
approval among Latinos a..

Alleged China
ARRESTED in

After SB 132 became law, Carroll was transferred to the Central California Women's Facility (CCWF) in 2021, located in Chowchilla. Carroll does not present as female and has not undergone sex reassignment procedures. He began to garner media attention at this time as one of the first transgender-identified inmates transferred out of a men's facility into CCWF.

In a 2022 op-ed for the San Francisco Bay View, a "national Black newspaper," Carroll again claimed to be the victim of discrimination and sexual misconduct by CDCR employees.

"Born with boy parts and a girl's heart, and a confused mind was how life began. There were no dolls nor makeup nor dresses for an only child," Carroll wrote. The op-ed downplayed his prior criminal convictions, claiming he was given a 25-to-life sentence for "non-violent, non-serious aiding Grand Theft." Carroll also claimed that from ages 5 to 14 he had been molested by his stepmother.

Questions mount over
Cornell University sexual...

WWE legend Diamond
Dallas Page makes bold...

Poll reveals Trump's low
approval among Latinos a...

Alleged China
ARRESTED in



SB 132 does not require transgender inmates to undergo sex reassignment procedures, present as another sex or show any outward sign of their gender identity when they make a request to transfer to an opposite-sex prison (Getty Images)

The next year, Carroll was interviewed by MindSiteNews for an article that described him as "an incarcerated transgender woman instrumental in several prison lawsuits." Carroll told the interviewer he "never felt the need" to outwardly identify as anything or "wear lipstick or wear tight clothing or try to change my voice" because doing so would "put me in a box."

"So, simply because I identify as a woman, 99.9% of the people would assume I'm interested in men. I wasn't looking for a boyfriend, ever. Not in life, not in men's prison, not now, not never," Carroll said.

Questions mount over
Cornell University sexual...

WWE legend Diamond
Dallas Page makes bold...

Poll reveals Trump's low
approval among Latinos a..

Alleged Chinese
ARRESTED in

Ichikawa told Fox News Digital the allegations are upsetting though unsurprising given how SB 132 has "no guardrails" to protect incarcerated women from male convicts with intact penises housed in their facilities.

"The committee that's reviewing these requests to transfer can't use someone's criminal history, physical attributes, sexual orientation, anything like that. Anything that you would think would be a factor that should be taken into consideration before transferring someone to a women's prison is not allowed and deemed discriminatory," she said.

PLANET FITNESS REVOKES WOMAN'S MEMBERSHIP AFTER SHE SNAPPED PHOTO OF TRANSGENDER WOMAN IN WOMEN'S LOCKER ROOM

Questions mount over
Cornell University sexual...

WWE legend Diamond
Dallas Page makes bold...

Poll reveals Trump's low
approval among Latinos a..

Alleged China
ARRESTED in



Transgender rights activists fly a trans rights flag(Allison Dinner/AFP via Getty Images/File)

There are 1,992 inmates in the custody of CDCR who identify as transgender. Of that number, 347 have attempted or are attempting to transfer into a women's facility and 44 so far have been successful, according to Ichikawa.

"People are under the impression that the law has allowed prisoners that resemble Laverne Cox to transfer when the reality is there is no other requirement outside of self ID," she said. "When I was in CCWF for a special event last year, I was speechless. Actually being inside and seeing men walking around in what I once considered sacred grounds for broken women was shocking. The oppression and the silencing was so heavy. That place saved my life, but the prison I did my time in no longer exists."

Questions mount over
Cornell University sexual...

WWE legend Diamond
Dallas Page makes bold...

Poll reveals Trump's low
approval among Latinos a...

Alleged Chinese
ARRESTED in

progressives in "team crazy," which he said passed SB 132 for "political correctness."

CLICK HERE TO GET THE FOX NEWS APP

WoLF opposed SB 132 from the beginning and testified against the bill in legislative hearings. The group's lawsuit, filed in 2021, asserts that incarcerated women are being placed at a higher risk of sexual assault and pregnancy by SB 132 in violation of the Eighth Amendment. U.S. District Judge Jennifer Thurston dismissed the case on May 14, finding that CDCR, as a state agency, is immune from suit in federal court but gave WoLF leave to file an amended complaint by July 19.

Bone said WoLF is working to fix the deficiencies in its original complaint and will re-file the lawsuit shortly. She said California policymakers "need to care about everybody who's incarcerated," not just transgender prisoners.

Questions mount over
Cornell University sexual...

WWE legend Diamond
Dallas Page makes bold...

Poll reveals Trump's low
approval among Latinos a..

Alleged China
ARRESTED in

May 17. Carroll is next due in court for a hearing on July 1.

Chris Pandolfo is an American journalist and politics editor at Fox News Digital whose work focuses on national politics, legal affairs and breaking news.

Questions mount over
Cornell University sexual...

WWE legend Diamond
Dallas Page makes bold...

Poll reveals Trump's low
approval among Latinos a...

Alleged China:
ARRESTED in

Related Topics

California

US

CRIME

Sex Crimes

STATE AND LOCAL

POLITICS

1 Comment

Questions mount over
Cornell University sexual...

WWE legend Diamond
Dallas Page makes bold...

Poll reveals Trump's low
approval among Latinos a...

Alleged Chinese
ARRESTED in

4mo

Only in Ca



 Reply

U.S.

- Blue City Crime
- Campus Radicals
- Border Crisis
- True Crime

World

- U.N.
- Conflicts
- Terrorism
- Disasters
- Global Economy
- Environment
- Religion
- Scandals

Media

- FOX Nation Coverage

Politics

- Donald Trump
- Senate
- House
- Judiciary
- Foreign Policy
- Fox News Polls
- Elections

Opinion

Entertainment

- Dolly Parton
- Royal Families
- Country Music

Questions mount over Cornell University sexual...

WWE legend Diamond Dallas Page makes bold...

Poll reveals Trump's low approval among Latinos a...

Alleged Chinese ARRESTED in

- NBA
- NHL
- Golf
- Tennis
- UFC
- WWE

Health

- Longevity
- Brain Health
- Weight Loss
- Sleep Health
- Cancer News
- Mental Health
- Heart Health
- Healthy Living

FOX Business

- Personal Finance
- Economy
- Markets
- Watchlist
- Lifestyle
- Real Estate
- Tech

Deals

- Trending Deals
- Gift Guides
- Home Deals
- Kitchen Deals
- Tech and Electronic Deals
- Health and Fitness Deals
- Beauty and Fashion Deals

Science & Tech

- Air & Space
- Security
- Innovation
- Video Games
- Military Tech
- Planet Earth
- Wild Nature

Questions mount over
Cornell University sexual...

WWE legend Diamond
Dallas Page makes bold...

Poll reveals Trump's low
approval among Latinos a..

Alleged China
ARRESTED in

Icon Match

Daily Crossword Puzzle

Mini Crossword Puzzle

About

Contact Us

Careers

Fox Around the World

Advertise With Us

Media Relations

Corporate Information

Compliance

Apps & Products

FOX News Go

FOX Weather

FOX Nation

FOX Noticias

FOX News Shop

FOX News Radio

FOX News Newsletters

FOX News Podcasts

FOX One

Watch Live Sports on FOX One

Watch NFL Games Live

Watch College Football Games Live

Watch Cowboys vs Texans Live

Watch Packers vs Buccaneers Live

Watch Rams vs Eagles Live

Watch Jets vs Bears Live

Watch Dolphins vs Vikings Live

Questions mount over
Cornell University sexual...

WWE legend Diamond
Dallas Page makes bold...

Poll reveals Trump's low
approval among Latinos a..

Alleged China
ARRESTED in

Elections

World

U.N.

Conflicts

Terrorism

Disasters

Global Economy

Environment

Religion

Scandals

Opinion

Media

FOX Nation Coverage

Entertainment

Dolly Parton

Royal Families

Country Music

OutKick

OutKick Sports

OutKick Betting

NFL

College Football

MLB

NASCAR

NBA

NHL

Golf

Tennis

UFC

WWE

Lifestyle

Travel

Food & Drink

Faith

Discovery

Games & Quizzes

Questions mount over
Cornell University sexual...

WWE legend Diamond
Dallas Page makes bold...

Poli reveals Trump's low
approval among Latinos a..

Alleged China
ARRESTED in

Heart Health

Healthy Living

Beauty and Fashion Deals

FOX Business

Personal Finance

Economy

Markets

Watchlist

Lifestyle

Real Estate

Tech

Science & Tech

Air & Space

Security

Innovation

Video Games

Military Tech

Planet Earth

Wild Nature

Games

Scattergories Daily

5 Across the Letter Word Game

Downwords

Sudoku

Word Swap

Word Search

Icon Match

Daily Crossword Puzzle

Mini Crossword Puzzle

Watch Live

FOX News Shows

Programming Schedule

On Air Personalities

Full Episodes

Show Clips

News Clips

Questions mount over
Cornell University sexual...

WWE legend Diamond
Dallas Page makes bold...

Poll reveals Trump's low
approval among Latinos a...

Alleged Chinese
ARRESTED in

Compliance

FOX News Newsletters

FOX News Podcasts

FOX One

Watch Live Sports on FOX One

Watch NFL Games Live

Watch College Football Games Live

Watch Cowboys vs Texans Live

Watch Packers vs Buccaneers Live

Watch Rams vs Eagles Live

Watch Jets vs Bears Live

Watch Dolphins vs Vikings Live

[Terms of Use](#) [New Privacy Policy](#)  [Your Privacy Choices](#) [Closed Caption Policy](#) [Help](#) [Contact Us](#)
[Accessibility Statement](#) [News Sitemap](#) [Video Sitemap](#)

This material may not be published, broadcast, rewritten, or redistributed. ©2026 FOX News Network, LLC. All rights reserved. Quotes displayed in real-time or delayed by at least 15 minutes. Market data provided by Factset. Powered and implemented by FactSet Digital Solutions Legal Statement Mutual Fund and ETF data provided by SEI.

Biny Sweeney
TRUE COPY



Review of data, statistics and research on sex and gender

Biny Susan
TRUE COPY

Table of contents

Report structure	iii
Part One. Background to the review, Executive summary and recommendations	1
Background to the Review	2
Executive Summary.....	2
Recommendations	5
Part Two. Introduction and conceptual framework	15
Chapter 1. Introduction.....	16
Chapter 2. Principles of question design.....	24
Chapter 3. Asking About Gender Identity, Trans Status and Gender Reassignment	29
Chapter 4. Consultation with stakeholders	50
Part Three. Review of data collection on sex	55
Chapter 5. Review of guidance on collecting data on sex	56
Chapter 6. Review of data collection on sex: main findings and background	79
Chapter 7. The loss of data on sex: 1946 to 2023	83
Chapter 8. Health and social care	87
Chapter 9. Criminal and civil justice	115
Chapter 10. Education and early years	133
Chapter 11. Employers and employees	148
Chapter 12. Labour market, income, and housing	157
Chapter 13. Social and political attitudes.....	161
Chapter 14. Sport, leisure and recreation	165
Chapter 15. Travel and Transport.....	169
Chapter 16. General Household Surveys	173
Appendix 1. Legal advice	179
Appendix 2. Welsh Government Chief Statistician's Written Response:	
Review on Data, Statistics and Research on Sex and Gender.....	197
Appendix 3. Call for evidence: Strand one submissions	200
Selected bibliography.....	222

List of Tables

Table 1.	ONS summary of testing for the sex and gender identity topic.....	33
Table 2.	“Concepts of sex’, Methodological Assurance Review Panel 2021.....	64
Table 3.	Recruitment questions for survey panellists	74
Table 4.	Number of surveys reviewed by time-period	83
Table 5.	Sex and gender in the NHS Wales Data Dictionary	96
Table 6.	Rationale for new data items in the GUMCAD STI Surveillance System	97
Table 7.	Detentions under the Mental Health Act 1983, by age group & gender, 2021-22.....	98
Table 8.	How UK police forces record rape suspects	121
Table 9.	Overview of publications presented or associated with Statistics on Women and the Criminal Justice System 2021.....	123
Table 10.	MAPPA offenders by Gender on 31 March 2023.....	127
Table 11.	HESA Student and staff gender and sex records, 2003/4 to 2023/24	136
Table 12.	Scottish Funding Council, Further Education Statistics on sex, 2010/11 to 2023/24	142
Table 13.	Sex and gender in the Scottish Government Health & Social Care Staff Experience Survey, 2017 to 2024	153
Table 14.	Financial Services Culture Board Annual Survey, Gender question, 2016-2022.....	155
Table 15.	Question and response options in the OFCOM Public Service Tracker questionnaire, 2017-2019 and 2021-2023.....	167
Table 16.	Question and response options in Blue Badge statistics applications.....	170

List of Figures

Figure 1.	Sex and gender questions in surveys held by the UK Data Service, 1946 to 2023	4
Figure 2.	Sex ratio at birth, six countries, 1950 to 2021	18
Figure 3.	The impact of response order: national identity in the 2011 and 2021 England and Wales censuses (% of usual residents).....	25
Figure 4.	Public understanding of the terms ‘transgender woman’ and ‘trans woman’, Survation polling 2023	46
Figure 5.	Public understanding of the terms ‘transgender woman’ and ‘trans woman’ by region, 2023	47
Figure 6.	How much do you agree or disagree that a person who is transgender should be able to have the sex recorded on their birth certificate changed if they want? (British Social Attitudes)....	47
Figure 7.	Sex and gender questions in surveys held by the UK Data Service, 1946 to 2023	85
Figure 8.	The rise of ‘prefer not to say’ response options in UK surveys.....	86

Report structure

The report is structured in three parts.

Part One: Background to the Review, Executive summary and recommendations

Part one sets out the Executive Summary followed by the recommendations. The recommendations are supported by specialist legal advice commissioned for the Review, which is presented in appendix one.

Part Two: Introduction and conceptual framework

Chapter one introduces key issues around data collection on sex and gender identity. The chapter discusses why it is important to collect robust data on sex, the importance of data on sex, how sex is defined, and how it is modelled in law. The chapter also discusses data collection on gender identity and identifies some of the challenges. The final part of the chapter proposes a way forward for data collection in this contested area of data collection on sex and gender identity.

Chapter two sets out the key principles of good question design.

Chapter three looks at developments around data collection on gender identity and trans status, and highlights some of the main challenges in this area, including the difficulties that arose in the 2021 England and Wales Census.

Chapter four provides a summary of key themes from the stakeholder interviews conducted as part of this Review.

Part Three: Review of data collection on sex

Part three provides a broad-ranging assessment of data collection practices, policies, and guidance on sex, gender, and gender identity.

Chapter five reviews a range of publications that provide guidance on how to collect data on sex. This includes guidance published by public bodies, non-departmental government bodies, market research and survey companies, and charities. The chapter also looks at how key organisations, for example, the Office for National Statistics and Equality and Human Rights Commission approach data collection on sex, and how this has changed over time.

Chapter six provides high-level findings from the review of data collection practices. The chapter also provides information about the methodology and limitations.

Chapter seven draws on over 500 studies lodged with the UK Data Service to show how data collection practices on sex have changed from the 1940s onward.

Chapters eight to sixteen provide more detailed insights into contemporary data collection practices. The chapters are structured thematically, by policy area, as shown below. The analysis in these chapters looks at administrative datasets, large-scale surveys, and data collection policies, largely focusing on current data collection practices, and any recent changes.

- Chapter 8: Health and social care
- Chapter 9: Criminal and civil justice
- Chapter 10: Education and early years
- Chapter 11: Employers and employees
- Chapter 12: Labour market, income, and housing
- Chapter 13: Social and political attitudes
- Chapter 14: Sport, leisure and recreation
- Chapter 15: Travel and Transport
- Chapter 16: General Household Surveys

Appendices

Appendix one presents the specialist legal advice commissioned by the Review from Timothy Pitt Payne KC to ensure that the recommendations are compliant with relevant legal frameworks.

Appendix two presents written evidence submitted to the Review from the Welsh Government Chief Statistician.

Appendices three and four present submissions to the open call for evidence on examples of flawed data collection on sex and/or gender identity. Appendix four presents general submissions submitted to the Review and appendix five shows submissions solicited by a third-party organisation (Feminist Gender Equality Network).

Part One

Background to the review, executive summary and recommendations

Background to the review

This independent review was commissioned in February 2024 by the Secretary of State for Science, Innovation and Technology. The aims of the review are as follows:

- i. Identifying obstacles to accurate data collection and research on sex and on gender identity in public bodies and in the research system
- ii. Setting out good practice guidance for how to collect data on sex and gender identity

All public bodies, as defined by the Cabinet Office, are in scope of the review. The review also considers research institutions and organisations from outside the public sector, where relevant to the aims of the review. The review is UK wide, respecting the devolved nature of areas of responsibility within the research and development landscape and the collection of relevant areas of data and statistics.

This report concerns data and statistics. A further report will examine barriers to research.

The review is led by Professor Alice Sullivan, University College London, assisted by policy analysts Murray Blackburn Mackenzie, and Dr Kathryn Webb, University of Oxford.

Approach to the review

- We carried out a review of policies, guidance, datasets and statistics, including administrative data, major flagship surveys, independent academic studies, clinical trials, polling data, and marketing exercises.
- We held over 30 stakeholder interviews with organisations ranging from government departments, regulators and other public sector organisations to fieldwork agencies and those campaigning for the rights of women and LGBT advocacy groups.
- We held an open call for submissions, which ran from 7 May to 1 July 2024. Individuals were invited to submit examples of UK data collection on sex and/or gender identity which they perceived as inadequate or flawed.
- We commissioned a legal opinion to ensure recommendations were compliant with relevant legal frameworks, such as GDPR and ECHR Article 8 rights.

Executive Summary

Sex is a key demographic variable and collecting high quality, robust data on sex is critical to effective policymaking across a wide range of fields, from health and justice to education and the economy. It enables policymakers to measure and address disparities between women and men, and girls and boys. The Government has a strong interest in promoting high-quality data on sex, both in its role as a funder of research and as a producer and user of statistics. Accurate record keeping is also vital for operational purposes, for safeguarding and, within the healthcare system, for patient safety and care.

Stakeholders have told us that they recognise the importance of collecting data on sex. Confusion regarding the legal position has posed a barrier to collecting data on sex for some organisations. This report includes specialist legal advice which is presented in appendix one.

Both people's material circumstances and their identities are important to their lives. We know that sex affects many dimensions of people's lives, and we have much to learn about the ways in which having a transgender identity matters too. Rather than removing data on sex, government and other data owners should collect data on both sex and transgender identities, in order to develop a better understanding of the influence of both factors and the intersection between them. Collecting data on sex does not reduce people to biological categories, neither does it imply that people should conform with the stereotypes associated with those categories, nor does it deny the existence or experience of people with diverse gender identities. Indeed, people with diverse gender identities are being let down by data collection practices which conflate sex and gender identity, making it impossible to track the outcomes of distinct groups.

Respondents may understandably question why they are being asked for certain information. It is vital that everyone participating in research or providing data for administrative purposes is treated with respect and is informed about the reasons for data collection and reassured about the way their data will be processed and used. Some respondents may be reluctant to provide data on sex while others are reluctant to provide data on gender identity. In both cases, the purposes of the data collection, including potential benefits to the individual and society, should be explained.

Terminology used in the review

For clarity, the term 'sex' when used in this report without any qualifier simply means sex, in other words biological sex, which can also be termed natal sex or sex at birth. These terms have the same ordinary meaning, and this report uses them interchangeably. 'Legal sex' on the other hand is a shorthand for a categorisation which includes holders of a Gender Recognition Certificate (GRC) as the opposite sex. This can also be phrased as 'sex subject to a GRC'.

We have documented arguments against treating sex as a binary variable. These include arguments which instrumentalise the lives of people with Differences of Sex development (DSD) and propagate myths such as the claim that these rare conditions are 'as common as red hair' or that people with DSD do not have a sex. This has resulted in inappropriate and intrusive questions being asked about DSD.

Censuses and surveys internationally are increasingly seeking to capture information about the trans and/or gender-diverse population. They have approached these questions in different ways and with varying results. It is critical to establish a clear target for any question on gender identity. Stakeholders have expressed a need for clear guidance on data collection in this area. Questions which conflate sex and gender identity have become common, but do not effectively identify the gender diverse population.

In order to test hypotheses regarding the importance of sex and gender identity in any context, distinct variables are required in order to avoid the multicollinearity which arises when a sex/gender hybrid variable is used in the same analysis as a sex variable. Multicollinearity refers to a high degree of correlation between explanatory variables in a statistical analysis. Sex/gender hybrid questions are not useful in disentangling the effects of sex and gender identity because in practice these questions elicit information on sex from most respondents.

In some cases, the conflation of sex and gender identity has been embedded in shared IT systems, posing a barrier to organisations wishing to collect data on sex. For example, a data management system used by rape crisis centres in Scotland uses the following 'gender' fields for both victims and alleged perpetrators: Male/Female/Intersex/Gender queer/Other.

In the absence of a single source of authoritative guidance on data collection on sex and gender, various organisations have developed their own guidance. We

reviewed guidance produced by national governments, non-departmental public bodies including regulators, prominent organisations engaged in market research, and a small number of charities working on issues relating to sex and gender. We found that guidance produced by many of these organisations lacked conceptual clarity, often eliding data on sex with data on self-declared gender identity.

There are well-established principles of question design which should be applied to any topic (we outline these in chapter two). These principles have sometimes been overlooked in the field of sex and gender due to the politicisation of these questions. It is important to remember that the purpose of survey data collection is to gather data about populations rather than to provide an opportunity for each individual to express the full complexity and richness of their identity.

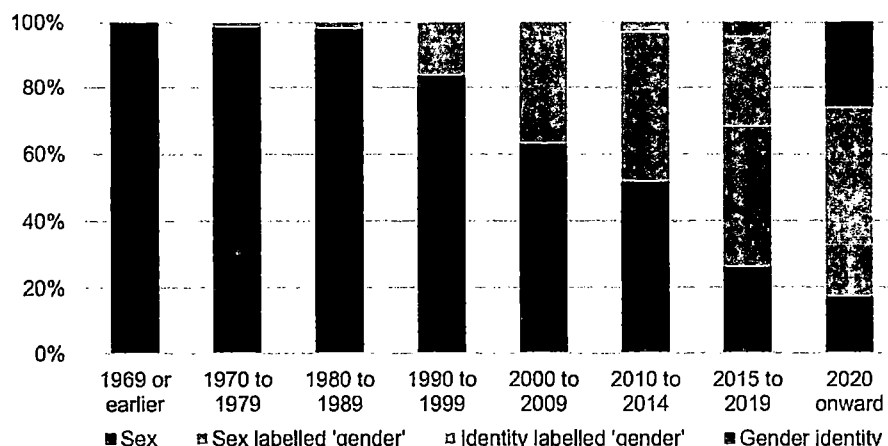
We recognise the high standards which the Office for National Statistics (ONS) typically upholds. However, we have seen evidence of a partisan climate on certain issues, including gender, within the organisation (see chapter five). Political impartiality (which must be understood broadly, not simply in terms of party politics) is a principle of the Nolan Principles of Public Life. In addition, the UK Statistics Authority Code of Practice states that 'People in organisations that release statistics should be truthful, impartial and independent, and meet consistent standards of behaviour that reflect the wider public good'.

Review of data collection practices

As part of the Review, we examined over 800 administrative and research datasets, surveys, and data collection policies. Our analysis revealed that:

- The meaning of sex is no longer stable in administrative or major survey data. This instability is evident across key policy areas including health and justice. This has led to a widespread loss of data on sex.
- In some cases, the loss of data on sex poses risks to individuals. This is particularly apparent within health and social care. These risks are especially high in the case of minors.
- How sex is defined is rarely made apparent in published outputs, including accredited official statistics. Some publications provide this information in accompanying documentation.
- Some publications present binary data on sex but are underpinned by survey instruments that included additional response options, such as 'other'.

Figure 1. Sex and gender questions in surveys held by the UK Data Service, 1946 to 2023



- These practices do not meet the standards set out by the Office for Statistics Regulation for collecting and reporting data about sex and gender identity in official statistics. The Standards state that data about sex and gender identity 'should be explained and defined for the purpose of a particular set of statistics, and terms, including gender, should not be used interchangeably or as a substitute for each other'.¹
- The loss of data on sex is a relatively recent phenomenon. Our analysis indicates that in the context of data collection, the term 'gender' gained traction as a synonym for sex in the 1990s. More fundamental changes have taken place within the last decade, which has seen both the reframing of 'gender' as a synonym for gender identity, and the replacement of sex questions with gender-identity questions. Figure 1 shows these trends, based on a review of over 500 surveys and questionnaires lodged with the UK Data Service.²

Call for evidence

Members of the public submitted a wide range of examples showing a loss of data collection on sex across public and private organisations. These are shown in appendix three. The submissions

further demonstrate the loss of data on sex and its replacement with gender identity data across a diverse range of policy areas, including health and social care; crime and justice; and education, and across different forms of data collection, including patient data, public consultations, equalities monitoring, and visitor surveys.

Taking forward the recommendations of this review

The generation of high-quality data for research and policymaking is a collective cross-government task, covering departments with responsibility for particular areas of government and those in central co-ordinating roles, including Cabinet Office. It also covers specialist statistical bodies, such as the Office for National Statistics and the Office of Statistics Regulation. We hope that this review will provide clarity regarding data on sex and gender identity for those engaged in data collection within government and beyond.

Acknowledgements

The review team are grateful to the stakeholders who agreed to be interviewed and to all those who submitted evidence³. We acknowledge support from the Economic and Social Research Council (ESRC), grant reference ES/X004627/1.

¹ Office for Statistics Regulation (2024), *Collecting and reporting data about sex and gender identity in official statistics: A guide for official statistics producers*, <https://osr.statisticsauthorities.gov.uk/publication/collecting-and-reporting-data-about-sex-and-gender-identity-in-official-statistics-a-guide-for-official-statistics-producers/>

² The UK Data Service is a digital repository for quantitative and qualitative social science and humanities research data.

³ Those organisations whose general impact on data collection practices is considered in the review were also offered the opportunity to comment on the factual accuracy of relevant parts of the report in draft. These were: the Office of National Statistics, the Scottish Government, the Welsh Government, the Home Office, the Equality and Human Rights Commission, NHS England, Arts Council England, the Financial Conduct Authority, Advance HE, Stonewall, IPSOS and the Market Research Society. Responses were received from the majority of those contacted. For the very large further number of organisations for which examples are provided of data collection practices, it was not practical to make direct contact in each case, but references are provided to relevant sources throughout.

Recommendations

Key recommendations

This section highlights ten key recommendations before providing the full set of detailed recommendations below.

1. In line with the UK Statistics Authority (UKSA) Inclusive Data Taskforce recommendations,⁴ data on 'sex, age and ethnic group should be routinely collected and reported in all administrative data and in-service process data, including statistics collected within health and care settings and by police, courts and prisons'.
2. Data on sex should be collected by default in all research and data collection commissioned by government and quasi-governmental organisations. By default, both sexes should be included in all research, including clinical trials, and sex should be considered as a factor in analysis and reporting. As a general rule (with some obvious exceptions), a 50/50 sex ratio is desirable in studies.
3. The default target of any sex question should be sex (in other words, biological sex, natal sex, sex at birth). Questions which combine sex with gender identity, including gender identity as recognised by a Gender Recognition Certificate (GRC) have a mixed target. Sex as a biological category is constant across time and across jurisdictions, whereas the concept of 'legal sex' subject to a GRC may be subject to change in the future and varies across jurisdictions. Using natal sex future-proofs data collection against any such change, ensuring consistency.
4. The form of the question should follow the UK Censuses (England and Wales, Northern Ireland, Scotland) question and response categories.

What is your sex?

Response categories: Female, Male
5. As sex and gender identity are distinct concepts, questions which combine sex and gender identity in one question should not be asked. We have observed a trend for questions which attempt to combine sex and gender diverse identities in one question. Such hybrid questions aim to solicit information on sex from the majority of respondents but on gender identity from some respondents. As such, the target of the question is muddled. Questions that mix sex and gender risk organisations being in breach of the PSED, as they do not identify either the protected characteristic of sex or the protected characteristic of gender reassignment.
6. The word 'gender' should be avoided in question wording, as it has multiple distinct meanings, including: a synonym for sex; social structures and stereotypes associated with sex; and gender identity. If a question targeting gender identity is worded as a question on gender, this is likely to mislead many respondents. Questions on sex have also often been labelled as 'gender'. Change in the use of the term 'gender' means that it is important that questions on sex are labelled explicitly as such.
7. The NHS should cease the practice of issuing new NHS numbers and changed 'gender' markers to individuals, as this means that data on sex is lost, thereby putting individuals at risk regarding clinical care, screening, and safeguarding, as well as making vital research following up individuals who have been through a gender transition across the life course impossible. In the case of children, this practice poses a particularly serious safeguarding risk, and should be suspended as a matter of urgency.
8. Questions on sex and/or gender identity should not contain an additional category for people with DSD conditions, sometimes also known as 'intersex'. People with DSD have a sex, they are not a third sex or sexless category, and to imply that they are is likely to cause offence. DSD is an umbrella term without a single agreed definition, and the question of which conditions are included is contested. Under conventional definitions, people with DSD are estimated to make up 0.018% of births, i.e. fewer than 2 in 10,000. Asking for DSD status is highly intrusive, poses a risk of identifiability, and is unwarranted given the lack of analytical use for data on such a small group. Asking for this information would need to be via a distinct question, not part of a question on sex or gender identity and is likely to be justified only in the context of specialist medical studies.

⁴ UK Statistics Authority (2022), *Inclusive Data Taskforce recommendations* <https://uksa.statisticsauthority.gov.uk/publication/inclusive-data-taskforce-recommendations-report-leaving-no-one-behind-how-can-we-be-more-inclusive-in-our-data/>

9. Data providers often default to using ONS Census questions. However, the ONS 2021 Census question 'Is the gender you identify with the same as your sex registered at birth' has been shown to be flawed⁵. The Office for Statistics Regulation (OSR) has stated that the statistics produced by this Census variable do not comply with important quality aspects of the Code of Practice for Statistics and has de-accredited these as official statistics⁶. This question (and variants of it) should not be used.
10. As organisations increasingly seek to collect data on gender identity, the problems identified with the ONS 2021 Census question have left a user need for a simple question which can be used in data collection with the general population. Organisations wishing to collect data on gender identity will need to be clear on the target of their question. We have identified three distinct possible targets for such a question: 1/The protected characteristic of gender reassignment; 2/ Trans identification; 3/ Identification as trans and/or gender diverse.

Full recommendations

The majority of these recommendations have broad relevance across government. A number of recommendations are directed particularly towards specific bodies. These are: recommendation 12 (NHS); 13 (Home Secretary and Police Forces); 23 (Scottish Government and Scotland's Chief Statistician); 24 (EHRC); 51, 53, 54 and 55 (Office for National Statistics); 55, 56 and 59 (UK Statistics Authority).

Sex

1. In line with the UK Statistics Authority (UKSA) Inclusive Data Taskforce recommendations,⁷ data on 'sex, age and ethnic group should be routinely collected and reported in all administrative data and in-service process data, including statistics collected within health and care settings and by police, courts and prisons'.
2. Data on sex should be collected by default in all research and data collection commissioned by government and quasi-governmental organisations. By default, both sexes should be included in all research, including clinical trials, and sex should be considered as a factor in analysis and reporting. As a general rule (with some obvious exceptions), a 50/50 sex ratio is desirable in studies.
3. The default target of any sex question should be sex (in other words, biological sex, natal sex, sex at birth). Questions which combine sex with gender identity, including gender identity as recognised by a Gender Recognition Certificate (GRC) have a mixed target. Sex as a biological category is constant across time and across jurisdictions, whereas the concept of 'legal sex' subject to a GRC may be subject to change in the future and varies across jurisdictions. Using natal sex future-proofs data collection against any such change, ensuring consistency.

⁵ Biggs, M., 2024. Gender identity in the 2021 census of England and Wales: How a flawed question created spurious data. *Sociology*, <https://doi.org/10.1177/00380385241240441>
⁶ Office for Statistics Regulation (2024) Review of statistics on gender identity based on data collected as part of the 2021 England and Wales Census: Final report <https://osr.statisticsau.thority.gov.uk/publication/review-of-statistics-on-gender-identity-based-on-data-collected-as-part-of-the-2021-england-and-wales-census-final-report/>
⁷ UK Statistics Authority (2022), *Inclusive Data Taskforce recommendations* <https://uksa.statisticsauthority.gov.uk/publication/inclusive-data-taskforce-recommendations-report-leaving-no-one-behind-how-can-we-be-more-inclusive-in-our-data/>

4. The form of the question should follow the UK Censuses (England and Wales, Northern Ireland, Scotland) question and response categories.

What is your sex?

Response categories: Female, Male

5. For some purposes, it may be appropriate to make providing information on sex optional for respondents. This can be done by allowing non-response, for example by allowing respondents to move to the next item in an online survey without responding to the sex question, by stating that responding to any question is optional, or more explicitly, via a 'prefer not to say' option. Different approaches may have different implications for non-response in different contexts, and data owners will need to consider these.
6. Omitting or discouraging the option of non-response may be appropriate where failing to collect data on sex would be unsafe, either for the respondent or for others. Examples where a non-response option may not be appropriate would include medical information and data used for safeguarding purposes.
7. Guidance for the sex question should provide clarity on the target of the question as follows. 'This question is about your sex at birth'.
8. We recommend against using the phrase 'sex assigned at birth'. This phrasing is inaccurate and misleading, as sex is determined at conception and typically observed in utero or at birth. An individual's sex is not *determined* by their birth certificate, it is merely *recorded* on their birth certificate. In very rare cases an infant's sex may be inaccurately recorded at birth, but this does not imply that sex is merely an assigned label rather than an inborn characteristic.
9. The concept of 'legal sex' is contested and has been subject to change over time and differences between jurisdictions. Therefore, advice on capturing this variable could change. In addition, the concept of 'legal sex' has been seen as ambiguous because, in the UK, state-issued documents, such as passports and birth certificates, can record a different sex for the same individual. If data on a person's sex modified by GRC status, rather than simply their sex, is identified as being required for a specific purpose, we recommend using the England and Wales Census question on sex as above, with the guidance that was used in the Census: 'If you are considering how to answer, use the sex recorded on your birth certificate or Gender Recognition Certificate.'
10. Whenever sex is recorded, it should be made clear what is intended: whether this refers simply to sex, or to 'legal sex' modified for some individuals by a Gender Recognition Certificate (GRC). If a document or record is intended to refer to the latter, this should be subject to change only on provision of a GRC.
11. Organisations that allow sex markers to be changed on official documents should keep records of the number of documents changed annually with basic demographic information attached such as age and sex.
12. The NHS should cease the practice of issuing new NHS numbers and changed 'gender' markers to individuals, as this means that data on sex is lost, thereby putting individuals at risk regarding clinical care, screening, and safeguarding, as well as making vital research following up individuals who have been through a gender transition across the life course impossible. In the case of children, this practice poses a particularly serious safeguarding risk, and should be suspended as a matter of urgency.
13. The Home Secretary should issue a mandatory Annual Data Requirement (ADR) requiring the 43 territorial police forces of England and Wales and the British Transport Police (BTP) to record data on sex in all relevant administrative systems. Relatedly, police forces should cease the practice of allowing changes to be made to individual sex markers on the Police National Computer (PNC).
14. In some cases, changing data on sex held within administrative systems may have been motivated by a desire to ensure that service users are addressed as they wish to be addressed. Service users should of course be treated with respect and addressed by their preferred name and title. It should be possible to store information on forms of address as distinct from information on sex and ensure that relevant people have access to this as required.

15. We are advised that, from a legal perspective, data on sex is close enough to data on gender subject to modification by a GRC to fulfil the PSED, even if a GRC is held to affect a person's status under the Equality Act. Given the desirability of a single meaningful and constant target for any question on sex both within and between organisations, a question on sex (i.e. natal, biological sex) is preferable for all purposes. Particularly if data on sex is multi-purpose, for example if it is designed to be used for research and/or operational reasons as well as compliance with the PSED, data on sex, (for the avoidance of doubt, meaning natal/biological sex), only should be collected. Collecting both sex and 'legal sex' would be unduly onerous and would risk identifying individuals with GRCs.
16. As noted by the Office for Statistics Regulation's guidance on 'Collecting and reporting data about sex and gender identity in official statistics', the conflation of terms relating to sex and gender leads to a lack of clarity for both respondents and users of data:

*'Through our work, we have seen instances where there is a lack of consistency and clarity around the term 'gender', both in data collection, and in statistical reporting. In some cases, it is not clear whether producers are using the term gender as a substitution for sex or gender identity.'*⁸

Sex and gender identity are distinct concepts and, in line with the Office for Statistics Regulation guidance, these concepts should not be conflated or combined.
17. As sex and gender identity are distinct concepts, questions which combine sex and gender identity in one question should not be asked. We have observed a trend for questions which attempt to combine sex and gender diverse identities in one question. Such hybrid questions aim to solicit information on sex from the majority of respondents but on gender identity from some respondents. As such, the target of the question is muddled. Questions that mix sex and gender risk organisations being in breach of the PSED, as they do not identify either the protected characteristic of sex or the protected characteristic of gender reassignment.
18. The word 'gender' should be avoided in question wording, as it has multiple distinct meanings, including: a synonym for sex; social structures and stereotypes associated with sex; and gender identity. If a question targeting gender identity is worded as a question on gender, this is likely to mislead many respondents. Questions on sex have also often been labelled as 'gender'. Change in the use of the term 'gender' means that it is important that questions on sex are labelled explicitly as such.
19. Questions on sex and/or gender identity should not contain an additional category for people with DSD conditions, sometimes also known as 'intersex'. People with DSD have a sex, they are not a third sex or sexless category, and to imply that they are is likely to cause offence. DSD is an umbrella term without a single agreed definition, and the question of which conditions are included is contested. Under conventional definitions, people with DSD are estimated to make up 0.018% of births, i.e. fewer than 2 in 10,000. Asking for DSD status is highly intrusive, poses a risk of identifiability, and is unwarranted given the lack of analytical use for data on such a small group. Asking for this information would need to be via a distinct question, not part of a question on sex or gender identity, and is likely to be justified only in the context of specialist medical studies.
20. In some face-to-face contexts, sex is recorded based on observation rather than by asking a question. Asking for a person's sex in the context of a face-to-face interaction can be perceived as rude. Observed sex is used in operational contexts where asking for an individual's sex may reduce rapport or exacerbate a potentially fractious situation, for example in the context of policing. Similarly, in face-to-face surveys, sex is sometimes recorded based on the interviewer's observation. The potential dissonance and break of rapport generated by asking a person's sex in the context of a face-to-face interaction may be particularly undesirable in surveys which contain sensitive or potentially distressing questions.
21. Data owners should be reassured that it is lawful to collect observational data on sex in both operational and research settings. However, the record must state that this is

⁸ Office for Statistics Regulation (2024), *Collecting and reporting data about sex and gender identity in official statistics*, <https://osr.statisticsauthority.gov.uk/publication/collecting-and-reporting-data-about-sex-and-gender-identity-in-official-statistics-a-guide-for-official-statistics-producers/pages/2/>

based on observation only. This is in line with the general principle that the way in which a variable has been captured should be recorded explicitly in all datasets. Further detail on this point is available in the legal appendix.

22. We have noted some apparent confusion between the concepts of self-reported sex and self-identified gender identity. These are distinct concepts and should not be confused in data collection or guidance. Self-report simply means that the information is reported by the respondent.
23. The Office for Statistics Regulation has written to Scotland's Chief Statistician regarding the Scottish Government's 2021 guidance for public bodies on the data collection and publication of sex, gender identity and trans status, suggesting that this guidance would benefit from clarification taking on board developments since the guidance was published.⁹ Further to this, the Scottish Government guidance should be reviewed to take account of the recommendations of this review, and to consider our legal advice.
24. The Equality and Human Rights Commission (EHRC) should review the material available on its website and either archive or clearly flag documents and guidance that are not consistent with its current view that sex in the Equality Act 2020 refers to 'legal sex' meaning sex subject to modification by a GRC.
25. Data providers often default to using ONS Census questions. However, the ONS 2021 Census question 'Is the gender you identity with the same as your sex registered at birth' has been shown to be flawed¹⁰. The Office for Statistics Regulation (OSR) has stated that the statistics produced by this Census variable do not comply with important quality aspects of the Code of Practice for Statistics and has de-accredited these as official statistics. This question (and variants of it) should not be used.
26. Questions on gender identity should recognise that the concept of gender identity as such will be unfamiliar, unclear or irrelevant to some respondents, and that many respondents may not perceive themselves as having a gender identity. Questions should not assume that respondents will agree that they have a gender identity.
27. As organisations increasingly seek to collect data on gender identity, the problems identified with the ONS 2021 Census question have left a user need for a simple question which can be used in data collection with the general population. Organisations wishing to collect data on gender identity will need to be clear on the target of their question. We have identified three distinct possible targets for such a question: 1/The protected characteristic of gender reassignment; 2/ Trans identification; 3/ Identification as trans and/or gender diverse.
28. For organisations wishing to capture the protected characteristic of gender reassignment for the purposes of equalities monitoring, a question on trans status lacks sufficient specificity, and therefore will not assist in compliance with the PSED. To capture the protected characteristic of gender reassignment, we recommend asking a direct question addressed to this target, such as: 'Do you have the protected characteristic of gender reassignment?' Response options: Yes/No/Don't know/Prefer not to say.

⁹ Office for Statistics Regulation (2024), *Ed Humpherson to Alistair McAlpine: Regulatory guidance on collecting and reporting data about sex and gender identity in official statistics* (29 February 2024), <https://tinyurl.com/v3-in57-jv>

¹⁰ Biggs, M., 2024. Gender identity in the 2021 census of England and Wales: How a flawed question created spurious data. *Sociology*, <https://doi.org/10.1177/00380385241240441>

29. We acknowledge that gender reassignment will be an unfamiliar concept for many respondents. A guidance note should be included prominently alongside the above question as follows: 'A person has the protected characteristic of gender reassignment if the person is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attributes of sex'.
30. For organisations wishing to capture trans identification, we recommend asking a question clearly directed towards this target. Questions which meet this specification would follow the following format: 'Are you' [or 'Do you identify as' or 'Do you consider yourself to be'] 'transgender' [or 'trans']?' with response options such as: Yes, Trans woman/Yes, Trans man/Yes, Non-binary/Yes, Other, please specify if you wish [open text]/ No/Don't know/ Prefer not to say.
31. The small differences in the options provided above reflect the fact that different formulations have been used and recommended across different data collection exercises, with apparent success, and we are not in a position to know whether these differences may affect response in any way. In order to settle on a single agreed formulation, it would be desirable to conduct question testing.
32. Further quantitative research should be undertaken to assess what the general public takes as the meaning of key words which may be used in data collection in this area, including 'transgender man', 'trans man', 'transgender', 'trans', 'transsexual', and 'gender reassignment', along the lines of polling which has already been carried out on the words 'trans woman' and 'transgender woman'.¹¹
33. If guidance is required, we recommend the following: 'Some people describe themselves as transgender when they do not identify with their sex at birth'.
34. If there is a need and sufficient space for more detailed guidance, we suggest providing the Stonewall definition: 'Trans people may describe themselves using one or more of a wide variety of terms, including (but not limited to) transgender, transsexual, gender-queer (GQ), gender-fluid, non-binary, gender-variant, crossdresser, genderless, agender, nongender, third gender, bi-gender, trans man, trans woman, trans masculine, trans feminine and neutrois.'
35. It is likely that, for some research purposes, a broader question will be desirable. A question on wider gender-diverse identities may be required, for example to identify respondents expressing a non-binary identity who may or may not identify as trans. If the target of the question is to identify those with gender-diverse identities including, but not limited to, those who identify as trans, we recommend asking a question which makes this clear. For example: 'Are you [or 'Do you identify as' or 'Do you consider yourself to be'] transgender [or trans], non-binary or gender diverse?', with response options: Yes, Trans woman/Yes, Trans man/ Yes, Non-binary/Yes, Other, please specify if you wish [open text]/No/Don't know/Prefer not to say.
As this question is novel, it will require full question testing.
36. Organisations considering collecting data on gender reassignment or trans status will need to consider both the fact that this is sensitive personal information and that it identifies a small group. Whether it is appropriate to collect this data will depend on a number of factors, including: the size of the dataset; the prevalence of trans identities in the population of interest; and the proposed use of the data. Organisations should only collect data which they intend to process. The PSED does not imply a duty to collect data which is unlikely to be useful.

¹¹ For similar polling in this area, see: MurrayBlackburnMackenzie (2023), *Clarity matters: how placating lobbyists obscures public understanding of sex and gender*, 7 August 2023, <https://murrayblackburnmackenzie.org/2023/08/07/clarity-matters-how-placating-lobbyists-obscures-public-understanding-of-sex-and-gender/>

Reporting on data

37. All databases should provide a clear record of how data on sex is defined and collected. All reports using data analysis on sex should provide a clear account of how data on sex is defined and collected, and whether and how this varies between different databases or systems. Any changes to how data on sex is defined over time should be made clear. Data producers should provide a clear audit trail on how data on sex is collected. For example, where appropriate, reporting should include copies of questionnaires and instructions to interviewers. If survey data is collected by a third party using pre-recruited panellists, the source definition should be stated.
38. Analysts must be able to use clear and familiar language in reporting findings on sex. Terms such as women, men, boys and girls are synonymous with (respectively) adult human females and males and children of each sex. Similar considerations apply to terms such as mothers and fathers, sons and daughters. While all language concerning sex and gender has become contested to some degree, those reporting on sex-disaggregated data should not be dissuaded from using familiar sexed terms. Sensitivities which may apply when referring to specific individuals should not apply at the aggregate level. Any guidelines on language use in reporting on data and research should foreground clarity and ease of communication.

Clear language in legislation, guidance and discourse

39. Previously a polite synonym for sex, 'gender' now has multiple distinct meanings. Legislation referring to 'gender' is now open to misinterpretation, even in cases where it may appear clear that, at the time the legislation was enacted, gender meant sex. It is desirable that legislation should refer clearly to sex and/or to gender reassignment as appropriate rather than using the term 'gender'. This has direct implications where data collection is mandated via legislation. Where organisations feel constrained by the use of 'gender' in relevant governing statutes when it comes to collecting data, the government should consider amending that legislation so that it refers to sex.
40. When reporting on or discussing issues relating to sex, it would be desirable to see a shift to using the term 'sex' instead of gender, given the ambiguity of the term 'gender'. This should be reflected in government language and guidance. For example, guidance for employers on 'gender pay gap' reporting should refer to 'sex pay gap' reporting.

Publishing data on individuals

41. Some organisations may wish to publish data on individual sex. For example, in athletics, race organisers typically publish results according to sex/age categories which are used for competition purposes and to compute sex/age adjusted performance gradings. In other contexts, the sex of a practitioner may be published so that members of the public can be informed of this information where relevant.
42. Published information on individuals must be accurate and accurately recorded and conveyed. Data on sex should not be reported as being data on gender identity or vice versa, and the two concepts must not be combined.
43. Individuals should typically be given the option of not having their sex published.

Opinion research

44. When asking for respondents' opinions, it is vital that respondents can understand what is being asked, so that they can provide accurate information on their views. In cases where sex and gender identity are relevant to the target of the question, clarity on these concepts is important. It should be borne in mind that language which is familiar to some groups of respondents may be unfamiliar or misunderstood by others. For example, it has been shown that some respondents take the term 'trans woman' to mean the opposite of what is actually intended, i.e. some respondents assume that a 'trans woman' is a female who identifies as a man, rather than a male who identifies as a woman. Clear language should be used to identify sex where relevant. For example, 'Should males who identify as women be allowed to compete in female sports categories?' is clearer than 'Should trans women be allowed to compete in women's sports categories?'.

Developing and Reviewing Questions

45. Some stakeholders perceive a pressure to keep data categories under regular review. We would emphasise that continuity is desirable, and change should only be implemented where there is a good reason. Some categories are subject to real social change, for example, the ethnic composition of the UK has changed over time. Other categories, such as sex and age, are unaffected by societal change.
46. Consistency throughout the data landscape is desirable, for purposes of comparability and data linkage. Data providers should default to standard ONS categories unless there is a compelling reason to do otherwise. By the same token, the ONS should recognise their role in providing 'gold standard' questions which therefore need to be fit for purpose for the widest possible range of respondents and uses.
47. Where data owners are engaged in question review and development, they should be mindful of the distinction between data users and respondents, and not conflate the needs of these two groups, both of which are important.
48. It is often appropriate for data owners to consult with special interest or community groups, but this should be done in a balanced way, mindful of both conflicts between groups and the possibility that groups claiming to represent a particular constituency may not reflect the full range of opinion, or indeed the majority opinion, within that constituency. Community and campaigning groups should not be assumed to have expertise in question design. Data owners should consider carefully which issues these groups are qualified to advise on, and how much weight to give to their input. This also applies to research including focus group work where the participants have been recruited via an organisation with a particular viewpoint.
49. Questions intended for general use should be tested on the wider relevant population, not just on minority groups, including in the case of questions which are primarily intended to identify minority groups.

50. Organisations should consider carefully whether it is appropriate to include internal staff groups in consultations on data collection. This is unlikely to be appropriate when the data collection is external rather than internal and is not without risk in the case of internal data collection. The views on data collection of internal staff networks should not be given undue weight.
51. When considering new questions or substantial changes to questions, the ONS should seek a wide range of views and expertise. This should include engagement with the community of quantitative data analysts from across the relevant academic disciplines.
52. Public bodies should strive for transparency, openness and accountability regarding the development of changes in data collection policy and practice. The leadership and composition of groups working on such questions should be named in the public domain. Organisations should maintain a clear audit trail of who has been consulted on their data collection practices, including organisations and individuals. Anonymity should only be granted to individuals under exceptional circumstances. Transparency, openness and accountability are particularly important in the case of national statistical bodies which are seen as developing 'gold standard' data.
53. The ONS must publish detailed research reports on all of its question testing and development research. This is publicly funded work and failure to share it can only be detrimental, preventing wider scrutiny of and learning from ONS research. Publishing only basic summaries of research is not sufficient.
54. The ONS should review its file management system and ensure that documentation which has any potential bearing on its data collection practices is kept in good order and not destroyed without appropriate senior level approval.

Organisational Culture

55. Government departments and bodies should strive to promote a culture of critical thinking and robust and civil disagreement. Some stakeholders expressed the view that it was difficult to have open and comfortable discussions on data collection on sex and gender. Organisations, including government departments, should strive to tackle any barriers to such discussions taking place, and actively promote a collegial and professional approach.

Civil servants have a duty to maintain political impartiality. Objectivity is one of the Nolan Principles of Public Life, 'Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias'. The UK Statistics Authority Code of Practice principle of Honesty and Integrity states 'People in organisations that release statistics should be truthful, impartial and independent, and meet consistent standards of behaviour that reflect the wider public good'. Government departments and bodies, including the ONS, should review their internal cultures and practices with the goal of upholding these principles.

56. The UK Statistics Authority should consider undertaking a review of activism and impartiality within the civil service, in relation to the production of official statistics.
57. Ministers should consider the vulnerability of government and public bodies to internal activism that seeks to influence outward-facing policy, including through staff networks, and whether stronger safeguards are needed.

Communicating the purposes of research

58. Respondents may understandably question why they are being asked for certain information. It is vital that everyone participating in research or providing data for administrative purposes is treated with respect and is informed about the reasons for data collection and reassured about the way their data will be processed and used. Some respondents may be reluctant to provide data on sex while others are reluctant to provide data on gender identity. In both cases, the purposes of the data collection, including potential benefits to the individual and society, should be explained.
59. We cannot assume that there is universal public understanding of the diverse purposes and benefits of data collection. UKSA's existing aim of advocating for improved statistical literacy should include seeking opportunities to spread knowledge of the wide benefits of accurate data collection, both in the area of sex and gender identity and beyond.

Bridget Cusack
TRUE COPY

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
(UNDER ARTICLE 32 OF THE CONSTITUTION OF
INDIA)

I.A. NO. _____ OF 2026
WRIT PETITION (CIVIL) NO. OF 2026

IN THE MATTER OF:

WOMEN'S DECLARATION INTERNATIONAL INDIA
THROUGH POWER OF ATTORNEY HOLDER
PETITIONER

VERSUS

UNION OF INDIA AND OTHERS
RESPONDENTS

APPLICATION PRAYING FOR AD INTERIM AND EX-

PARTE STAY

TO,

THE HON'BLE CHIEF JUSTICE OF INDIA
AND HIS COMPANION JUDGES OF
THE SUPREME COURT OF INDIA

THE HUMBLE PETITION
OF THE PETITIONER
ABOVENAMED

MOST RESPECTFULLY SHOWETH:

1. The Applicants have filed the captioned writ petition under Article 32 of the Constitution of India challenging the constitutional validity of the impugned regulatory regime ("Impugned Regulatory Regime") insofar as it treats

gender identity as determinative of sex for legal purposes and enables biological males to obtain opposite gender certificates (“**Opposite Gender Certificates**”) and avail the constitutional and statutory protections exclusive to women, i.e., biological females. The Impugned Regulatory Regime includes Section 7 of the Transgender Persons (Protection of Rights) Act 2019 (“**TP Act**”), as amended in 2026, the Transgender Persons (Protection of Rights) Rules, 2020, all rules and policies (Central and State) in this regard, the administrative practices, which include all certificates and official documents issued or modified pursuant thereto. The challenge is founded on Articles 14, 15(3), 16, 19(1)(a), 21 and 25(1) of the Constitution, as well as the constitutional requirements of legal certainty and the rule of law.

2. The contents of the writ petition are not being repeated here for the sake of brevity and may be read as part and parcel of this Application.
3. The Petitioner, Women’s Declaration International India (“**WDI India**”), is a trust registered under the laws of India, which forms part of Women’s Declaration International (“**WDI**”). WDI is constituted as a feminist, non-partisan, all-volunteer and all female organisation advocating for the rights, dignity, safety, and freedom of women. The Petitioner’s members and constituency comprise women whose constitutional, statutory and social protections are directly affected by the present petition.

4. The Impugned Regulatory Regime improperly conflates “gender identity” and “sex” which are distinct concepts. Persons have the rights to believe in gender identities and hold and express these internal experiences. However, sex is a immutable biological attribute determined at conception that is not altered by documentation, certification, counselling, hormonal interventions, or surgery. While gender identity concerns a person’s deeply felt internal experience, sex is the stable immutable biological category on which numerous constitutional and statutory protections for women are premised. By treating gender identity as determining or overriding sex, the Impugned Regulatory Regime destabilizes the constitutional protections on the ground of sex.
5. The Impugned Regulatory Regime allows sex markers in official documents to be overridden by gender identity, a person’s professed internal experience. Even after the 2026 amendments to the TP Act, a biological male who has undergone medical intervention remains biologically male, however, even post the amendments in 2026, will be able to obtain documentation that continues to classify him as “female” for varied purposes.
6. By allowing biological males to be classified as “female”, the Impugned Regulatory Regime has produced tangible effects across multiple domains. Biological males holding documentation recording “female” identities have contested and won elections in seats reserved for women. A biological

male was permitted to compete in the women's category in a contact sport, winning a state-level championship. A biological male was directed to be appointed as a "female" nursing assistant in a government hospital. A biological male was admitted to the NCC Girls Division despite concerns regarding shared accommodation and intimate facilities. Biologically female persons were treated as engaging in "body shaming" for describing a biological male placed in a women's hostel as male. Biological male persons are also housed within women's jails. In each instance, the legal system treated self-professed gender identity as overriding biological sex, without examining whether biological sex was material to the right, protection, or entitlement in question, as well as the intended objective of the affirmative action meant for biological females.

7. The Impugned Regulatory Regime is arbitrary, disproportionate, and discriminatory against biological females. In particular, it dilutes the operation of affirmative measures under Article 15(3) and the constitutional reservations for women; undermines equality of opportunity for women in public employment under Article 16; compromises the bodily privacy, safety, integrity, dignity, and personal security of women in sex-segregated spaces, intimate care settings, and criminal-law safeguards protected under Article 21; and compels all persons to express belief in gender identities or recognise biological males as "women", in violation of the freedom of speech and expression, including the right not to affirm a

proposition one does not accept, guaranteed under Articles 19(1)(a) and 25(1) of the Constitution.

8. By conflating “sex”, a fixed and immutable biological classification, with “gender identity”, a self-perceived, fluid, non-verifiable and mutable belief, it creates uncertainty as to who qualifies as female for constitutional reservations, educational measures, criminal-law protections, sex-segregated spaces, data collection and administrative eligibility, and invites inconsistent decision-making by authorities. As stated above, this has produced adverse effects for biological females.
9. The Applicant has a strong prima facie case that the Impugned Regulatory Regime is arbitrary, discriminatory and in directed contravention with Articles 14, 15, 16, 19(1)(a), and 25(1) of the Constitution.
10. The operation of the Impugned Regulatory Regime during the pendency of the present writ petition will cause irreparable harm to biological females who may be denied their constitutional protections by biological males professing a “female” gender identity.
11. If the Impugned Regulatory Regime is not stayed, the entire constitutional and statutory architecture for protection of women, which is predicated upon their biological sex (including their physical vulnerability), their historic and continuing disadvantage, and their specific considerations

of bodily privacy, safety, integrity, dignity and personal security, will be defeated.

12. The balance of convenience lies in favour of the Applicant. Suspending the operation of the Impugned Regulatory Regime will not affect the rights of the transgenders persons. Whereas, the continued operation of the Impugned Regulatory Regime will allow biological males to encroach upon the rights of biological females.

13. It is in the interest of justice that the Impugned Regulatory Regime is stayed during the pendency of the present writ petition. No harm will be caused to the Respondents if the Impugned Regulatory Regime is stayed.

PRAYER

14. Wherefore, in the aforesaid premises and in the interest of justice, it is most respectfully prayed that the Hon'ble Court may be pleased to:

- a. Grant ad interim ex-parte stay on the effect and operation of Section 7 of the TP Act.
- b. Grant ad interim ex-parte stay on the effect and operation of Rules 2(i), 6(1), 7(3), 7(5) and 7(6) read with Form 4 of the TP Act.

- c. Grant ad interim ex-parte stay on the effect and operation of Section 18(d) of the TP Act insofar as it criminalises “*verbal and emotional abuse*”.
- d. Grant ad interim ex-parte stay on the effect and operation of administrative practices under the Impugned Regulatory Regime, including the UIDAI’s Standard Operation Procedure of Name & Gender Update Request under Exception Handling Process dated 3 November 2021 which contemplate change of gender in official documents;
- e. Grant ad interim ex-parte stay on the effect and operation of the Opposite Gender Certificates/documents issued under Impugned Regulatory Regime for availing rights, entitlements, protections specifically granted to women; and
- f. Pass such order as this Hon’ble Court may deem fit and proper in the facts and circumstances of the present case and in the interest of justice.

AND FOR THIS ACT OF KINDNESS, THE APPLICANT AS IS
DUTY BOUND SHALL EVER PRAY

FILED BY

Shardul
Suresh Shroff

Digitally signed by
Shardul Suresh Shroff
Date: 2026.10.08 19:57:28
+05'30'

MR. SHARDUL S. SHROFF
ADVOCATE FOR THE PETITIONER

PLACE: NEW DELHI
DATE: 08.10.2026