

THE RIGHTS OF TRANSGENDER PERSONS BILL, 2015

	A	
	Bill	
	to provide for the formulation and implementation of a comprehensive national policy for ensuring overall development of the Transgender Persons and for their welfare to be undertaken by the State and for matters connected therewith and incidental thereto.	
	Be it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—	
	CHAPTER I PRELIMINARY	
	1. (1) This Act may be called the Rights of Transgender Persons Act, 2015.	Short title and commencement
	(2) It extends to the whole of India.	
	(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.	
	2. In this Act, unless the context otherwise requires;	Definitions
	(a) 'abuse' includes verbal and physical abuse;	
	(b) 'appropriate government' means;	
	(i) In relation to an establishment of the Central Government, or an establishment, wholly or substantially owned or financed by that Government, or a Cantonment Board constituted under the Cantonments Act, 1924, or a Union Territory without legislature,	

	or the provider of a service which pertains to List 1 in Schedule VII of the Constitution, the Central Government;	
	(ii) In all other cases, the State Government or, as the case may be, the Government of a Union Territory with legislature.	
	(c) ' barrier ' means any factor including attitudinal, cultural, economic, institutional, political, religious, social or structural factors which hampers the full and effective participation, of transgender person in society;	
	(d) ' discrimination ' means any distinction, exclusion or restriction on the basis of gender identity and expression which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field and includes all forms of discrimination, including denial of reasonable accommodation;	
	(e) ' establishment ' means and includes;	
	(i) Departments and Ministries of Government;	
	(ii) Local authorities and authorities or bodies owned, controlled or aided by the Central or State Government;	
	(iii) Any statutory or non-statutory body created, owned, financially or administratively controlled or aided by the Central or State Government or any such body performing public or civic functions and includes Government Companies as defined in Section 617 of the Companies Act, 1956;	
	(iv) Any company, firm, cooperative or other society,	

	association, trust, agency, institution, organization, union, industry, supplier of goods or services, factory or other non-statutory body which is not covered under clause (a) to (c) and provides services as defined in clause (r) section 2;	
	(f) ' exploitation ' means using a Transgender Person to one's own advantage to which one is not otherwise entitled, or to the latter's disadvantage, to which such latter person is not otherwise liable;	
	(g) ' higher education ' means a course of education which can be pursued after completing twelve years of school education;	
	(h) ' human rights ' shall have the meaning assigned to it in Clause (i) of Section 2 of the Protection of Human Rights Act, 1993;	
	(i) ' inclusive education ' means a system of education wherein all students learn together, most or all of the time;	
	(j) ' institution ' means an institution for the reception, care, protection, education, training, rehabilitation or any other service of transgender persons;	
	(k) ' local authority ' means a municipality, a Cantonment Board, a Panchayat or any other authority, established under an Act of Parliament, or a State Legislature to administer the civic affairs of any habitation as defined in or under such Act;	
	(l) ' prescribed ' means prescribed by rules made under this Act;	
	(m) ' public building ' means a building, irrespective of ownership, which is used and accessed by the public at large; and includes its entrance, exit, parking space, footpath and other appurtenant lands;	

	(n) ' reasonable accommodation ' means an accommodation needed to ensure transgender persons the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms;	
	(o) ' registered organization ' means an association transgender persons, or a voluntary, non-governmental or charitable organization or trust, society, non-profit company working for transgender persons, duly registered under an Act of Parliament or a State Legislature;	
	(p) ' rehabilitation ' refers to a process aimed at enabling transgender persons to attain and maintain maximum independence, full physical, sensory, intellectual psychiatric, social and vocational ability, and inclusion and participation in all aspects of life	
	(q) ' services ' means services provided by members of any profession or trade, or provided by any Government, local authority or establishment and includes services relating to banking and finance; education; health; insurance; rehabilitation; entertainment recreation and hospitality; transport or travel; and telecommunications;	
	(r) ' Stigma against Transgender Persons ' refers to devaluing of transgender-identified or gender non-conforming people, and negative attitudes toward and lower levels of status accorded to non-cis-gender identified people and communities.	
	(s) ' Transgender Person ' means a person, whose gender does not match with the gender assigned to that person at birth and includes trans-men and trans-women (whether or not they have undergone sex reassignment surgery or hormone therapy or laser therapy etc.), gender-queers and a number of socio-cultural identities such as — kinnars, hijras, aravanis, jogtas etc. A transgender person should have the option to choose either 'man', 'woman' or 'transgender' as well as have the right to choose any of the options independent of surgery/ hormones.	

	(t) ' violence ' means the intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community, that either results in or has a high likelihood of resulting in injury, death, psychological harm, mal development, or deprivation.	
	3. The appropriate Government and local authorities shall, subject to the provisions of this Act and any other law for the time being in force, take the following necessary steps to secure for transgender persons:—	Guiding Principles
	(a) respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons; (b) non-discrimination; (c) full and effective participation and inclusion in society; (d) equality of opportunity; and (e) accessibility. (f) Inclusive approach	
	4. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.	Act to have overriding effect
	CHAPTER II TRANSGENDER IDENTITY	Identification of Transgender Persons
	1. Transgender should be declared as the third gender, and a Transgender Person 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.	

	<p>2. Certificate that a person is a transgender person should be issued by a state level authority duly designated or constituted by respective the State/UT on the lines of Tamil Nadu Aravanis Welfare Board, 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.</p> <p>3. The certificate issued should be acceptable to all authorities for indicating the gender on official documents like ration card, passport, birth certificate, aadhaar card, etc.</p>	
	<p>CHAPTER III RIGHTS AND ENTITLEMENTS</p>	
	<p>5. A harmonious reading of the Constitutional provisions as well as the provisions of the Citizenship Act, 1955 and the General Clauses Act, 1897 Act would show that in fact there is no conflict or limitation imposed on the concept of 'person' by any of these laws and a Transgender Person would undoubtedly fall within the definition of 'person'. It is evident that the Constitution of India guarantees right to equality and non-discrimination for all including transgender persons.</p>	<p>Constitutional protection</p>
	<p>6. (1) The appropriate Government shall take all necessary steps to ensure that transgender persons enjoy the right of equality guaranteed by Article 15 of the Constitution of India on an equal basis with others.</p>	<p>Equality and Non-Discrimination</p>
	<p>(2) The appropriate Government shall take all necessary steps to ensure reasonable accommodation for the transgender persons.</p>	

	7. The appropriate Government and local authorities shall take all necessary measures to ensure that transgender children enjoy human rights on an equal basis with other children and also ensure that they have the right to freely express their views on all matters affecting them on equal basis with other children.	Transgender Children
	8. (1) The appropriate Government shall take necessary steps to ensure that Transgender Persons enjoy the right to life with dignity and to personal liberty guaranteed by article 21 of the Constitution of India on an equal basis with others.	Right to life and Personal Liberty.
	(2) No person shall be deprived of his personal liberty only on the ground of being a transgender.	
	9. (1) All Transgender Persons shall have the right to live in the community with choices equal to others.	Right to live in Community
	(2) The appropriate Government and local authorities shall take appropriate measures to ensure full enjoyment of the right mentioned in sub-section (1) of section 7 by:— (a) ensuring that Transgender Persons have access to a range of in-house, residential and other community support services, including assistance necessary to support living and inclusion with community; and (b) making community services and facilities for the general population available on an equal basis to Transgender Persons.	
Right to Integrity	10. Every Transgender Person has a right to respect for his or her physical and mental integrity on an equal basis with others.	
	11. The appropriate Government and local authorities shall take all appropriate administrative and other measures to protect persons from being subjected to torture, or cruel, inhuman or degrading treatment or punishment.	Protection from torture or cruel, inhuman or degrading treatment of punishment
	12. (1) The appropriate Government and local authorities shall take all appropriate administrative, social , educational and other	Protection from abuse, violence and

	measures to protect Transgender Persons, both within and outside the home, from all forms of abuse, violence and exploitation.	Exploitation
	(2) Any police officer who receives a complaint or otherwise comes to know of abuse, violence or exploitation towards any Transgender Person shall inform the aggrieved person of:	
	(a) the right to apply for protection under sub-section (2) of section (b) the particulars of the nearest organization or institution working for the rehabilitation of Transgender Person who have been subject to abuse, violence or exploitation; (c) the particulars of the Executive Magistrate having jurisdiction to provide assistance to aggrieved persons;	
	(3) The appropriate Government shall take all appropriate measures to prevent abuse, violence and exploitation against Transgender Persons by, inter alia providing information and raising awareness on: (a) taking cognizance of incidents of abuse, violence and exploitation; (b) the legal remedies available against such incidents; (c) steps to be taken for avoiding such incidents; (d) pocedure for reporting such incidents; and (e) steps required for the rescue, protection and rehabilitation of Transgender Persons who have been victims of such incidents.	
	(4) Necessary amendments in IPC to cover the cases of sexual assault on Transgender Persons.	
	(8) Criminal and disciplinary action against delinquent police official in cases of violation of human rights of Transgender Persons.	
	13. (1) No child who is a transgender shall be separated from his or her parents on grounds of being a transgender except on an order of competent Court, if required in the best interest of the child.	Right to Home and Family

	(2) Where the immediate family is unable to care for a transgender child, the competent Court shall make every effort to place such child within his or her extended family, or within the community in a family setting.	
	Explanation—‘Family’ means a group of people related by blood, marriage or adoption to the Transgender Person.	
Freedom of Speech etc.	14. The appropriate Government and local authorities shall take steps to ensure that Transgender Persons are able to enjoy the rights regarding freedom of speech, etc., provided by Article 19 of the Constitution of India, on an equal basis with others.	
	CHAPTER IV EDUCATION	
	15. The appropriate Government and local authorities shall ensure that all educational institutions funded or recognized by them, provide inclusive education, and inter alia,—	Duty of Educational Institutions to provide Inclusive Education to Transgender Students
	(i) admit transgender students without discrimination and provide them education as also opportunities for sports, recreation and leisure activities on an equal basis with other;	
	(ii) provide reasonable accommodation of the individual's requirements;	
	(iii) provide necessary support in environment that maximize academic and social development, consistent with the goal of full inclusion;	
	(iv) monitor participation, progress in terms of attainment levels, and completion of education, in respect of every transgender student.	
	(v) Government should provide scholarship/entitlements, fee-waiver, free textbooks, free hostel accommodation and other facilities at subsidized rates for students belonging to this	

	group.	
	(vi) All the educational institutions/universities should establish an anti-discrimination cell to monitor any form of discrimination against the transgender community.	
	16. The Appropriate Government and local authorities shall ensure participation of Transgender Persons in adult education and continuing education programmes on an equal basis with others.	Adult Education for Transgender Person.
	CHAPTER V SKILL DEVELOPMENT & EMPLOYMENT	
	17. (1) The appropriate Government shall formulate schemes and programmes to facilitate and support employment of Transgender Persons especially for their vocational training and self-employment.	Vocational training and Self-Employment
	(2) The appropriate Government shall institute mechanisms for provision of loans at concessional rates to Transgender Persons for self-employment ventures, and for marketing of their products.	
	18. (1) 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.	Non Discrimination in Employment
	(2) Any Transgender Person, if eligible for any post which is filled, shall have the right to appear for selection and hold the post if selected.	
	(3) Establishment of Helpline for Career Guidance and Online Placement Support.	

	<p>CHAPTER VI</p> <p>SOCIAL SECURITY, HEALTH, REHABILITATION & RECREATION</p>	
Social Security	<p>19. (1) The appropriate Government shall promulgate necessary schemes and programmes for empowerment of this community and to enable them to live independently in the community.</p>	Schemes and programmes for empowerment
	<p>(2) the schemes under sub-section (1) of section 17 shall inter-alia provide:—</p> <p>(a) Scholarships to transgender students;</p> <p>(b) Pension to Transgender Persons subject to criteria as may be prescribed;</p> <p>(c) Financial assistance to the parents of Transgender children;</p>	
	<p>(d) Assistance for Skill Development training to Transgender Persons.</p> <p>(e) Facilities for Transgender Children who have no families or have been abandoned, or are without shelter or livelihood;</p> <p>(f) access to safe drinking water and appropriate and accessible sanitation facilities especially in urban slums and rural areas.</p> <p>(g) safe and hygienic community centres with decent living conditions in terms of nutritious food, sanitation, health care and counselling;</p>	
	<p>20. (1) The appropriate Government and local authorities shall take necessary measures to provide transgender persons:—</p> <p>(a) separate HIV Sero-surveillance Centres since they face several sexual health issues;</p> <p>(b) sex reassignment surgery, free of cost;</p> <p>(c) barrier-free access in the hospitals and other healthcare institutions and centres;</p>	Health care facilities
	<p>(2) To fulfil its obligation under this Section, the appropriate Governments shall make schemes and programmes with</p>	

	participation and involvement of Transgender Persons and care-givers that inter alia makes provision for coverage of medical expenses and therapeutic intervention by a comprehensive insurance scheme for transgender persons.	
	21. (1) The appropriate Government and local authorities shall undertake or cause to be undertaken services and programmes of rehabilitation, particularly in the areas of health, education and employment for all Transgender Persons.	Rehabilitation of Transgender Persons
	(2) The service and programmes shall be designed so to begin at the earliest possible stage and to be based on a comprehensive assessment of issues faced by Transgender Persons.	
	(3) For purposes of sub-section (1) of section 19, read with sub-section (2), the appropriate Government and local authorities shall, subject to fulfilment of financial and other norms, and availability of budgetary allocation, grant financial assistance to non- governmental organizations.	
	(4) The appropriate Government and local authorities, while formulating rehabilitation policies, shall consult the non-governmental organizations working for the cause of Transgender Persons.	
	(5) Without prejudice to the generality of sub-section (1) of section 19, the appropriate Government shall by notification formulate schemes to provide aid to Transgender Persons.	
	22. The appropriate Government and local authorities shall take suitable measures to promote and protect the right of all transgender persons to have a cultural life and to participate in leisure and recreational activities on an equal basis with others.	Leisure Culture and Recreation.

	<p>23. Those Transgender Persons who by birth do not belong to Scheduled Caste or Scheduled Tribe may be declared as Backward Class and be entitled for reservation under the existing ceiling of OBC category.</p> <p>Provided that those Transgender Persons who by birth belong to Scheduled Caste or Scheduled Tribe would be entitled for reservation under their respective categories as per the existing Rules.</p> <p>Provided that Transgender Persons are not to be prevented from competing for seats which are not reserved for them.</p>	Reservation in Employment
	<p>CHAPTER VII</p> <p>DUTIES AND RESPONSIBILITIES OF APPROPRIATE GOVERNMENT</p>	
	<p>25. (1) The appropriate Government shall conduct, sponsor, encourage, support or promote on a regular and continuous basis information campaigns and sensitization programmes to ensure that the rights recognized in this legislation are respected, protected and promoted.</p>	Awareness Raising
	<p>(2) The campaigns shall aim at enabling both state and civil society to comprehend transgenderism as an integral part of the human condition, to recognize the capabilities and contributions of transgender persons, and to combat the stereotypes, prejudices and harmful practices which impede the participation of transgender persons on an equal basis with others;</p>	

	<p>(3) Without prejudice to the general awareness raising obligation in sub-section (1) of section 25, such programmes, campaigns and workshops shall inter-alia,—</p> <p>(a) Promote values of inclusion, tolerance, empathy and respected for diversity;</p> <p>(b) advance recognition of the skills, merits and abilities of transgender persons and of their contributions to the workforce, labour market and professional fee;</p> <p>(c) Foster respect for the decisions made by Transgender Persons on all matters related to family life, relationships, bearing and raising children;</p> <p>(d) Provide orientation and sensitization at the school, college, university and professional training level on the human condition of transgenderism and the rights of Transgender Persons; and</p> <p>(e) Provide orientation and sensitization on transgenderism and rights of Transgender Persons to employers, administrators and co-workers.</p>	
	<p>CHAPTER VIII MISCELLANEOUS</p>	
	<p>27. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds, from time to time, for carrying out the purposes of this Act.</p>	
	<p>28. The provisions of this Act or the rules made there under shall be in addition and not in derogation of any other legislation, rules, orders or instructions which provides any entitlement or benefit to Transgender Persons.</p>	
	<p>29. No suit prosecution or other legal proceeding shall lie against any person for anything which is done in good faith or intended to be done under this Act or any rule there made under.</p>	

	30. (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.	
	31. (1) Subject to the Other Provisions of this Act, the appropriate Government may, by notification, make rules for carrying out the provisions of this Act.	
	(2) Every rule made by the Central Government under this Act 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.	
	(3) Every rule made by the State Government under this section 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.	
