

ONLY COMPETITION IAS

DAILY
Editorials &
Articles



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UPSC 360°

The Hindu & Indian Express Unwrapped – Daily Current Affairs Mastery for UPSC CSE (Clear that it's based on The Hindu editorials / news analyses – very aspirant-friendly)



THE HINDU

The Indian EXPRESS

Significance

The crisis in Myanmar is significant due to its impact on regional stability, democratic decline, and humanitarian disaster. It intensifies great power rivalry, challenges ASEAN effectiveness, and affects India's security and connectivity interests, making it a key geopolitical concern in the Indo-Pacific region.

Transgender Persons (Protection of Rights) Amendment Act, 2026

Introduction: A Defining Constitutional Moment

- ❖ The challenge to the Transgender Persons (Protection of Rights) Amendment Act, 2026 before the **Supreme Court of India** marks a **critical moment in India's constitutional evolution**. Filed by leading activists **Laxminarayan Tripathi** and **Zainab Javid Patel**, the petition raises *profound questions about identity, dignity, autonomy, and the limits of State power*.
- ❖ This issue transcends a mere statutory dispute. It fundamentally asks *whether the State can define who a person is, or whether identity is an inherent and inviolable aspect of human existence*.

I. Historical and Legal Evolution: From Invisibility to Recognition

1. Pre-2014 Scenario: Legal Vacuum and Social Marginalization

- ❖ Transgender persons were *legally invisible*, with no formal recognition in official documents. They faced *systemic discrimination* in employment, healthcare, and education. Many were pushed into *informal and vulnerable sectors* such as begging and sex work.
- ❖ The absence of legal identity resulted in *denial of basic rights*, including access to voting, housing, and welfare schemes.

2. Landmark Judgment: NALSA v. Union of India

Key Doctrinal Contributions

- ❖ Recognized *“third gender”* as a legal category
- ❖ Declared *gender identity as a Fundamental Right under Article 21*

Expanded Interpretation of Fundamental Rights

- ❖ *Article 14* ensures equality for all persons, including transgender individuals

- ❖ *Article 19(1)(a)* protects gender expression as a form of free speech
- ❖ *Article 21* guarantees the right to life with dignity, including identity

Core Principle

- ❖ Self-identification of gender is integral to personal autonomy

3. Transgender Persons Act, 2019

- ❖ The 2019 law attempted to institutionalize the principles laid down in the NALSA judgment.

Key Features

- ❖ Prohibition of discrimination
- ❖ Legal recognition of identity
- ❖ Provision of welfare measures

Limitations

- ❖ *Bureaucratic hurdles* in obtaining identity certificates
- ❖ *Weak enforcement mechanisms*
- ❖ *Inadequate penal provisions*

II. The 2026 Amendment: Detailed Analysis of Key Provisions

1. Deletion of Self-Perceived Gender Identity

What Changed

- ❖ The provision recognizing *self-identified gender* has been removed.

Why It Is Problematic

- ❖ Direct contradiction of the NALSA judgment
- ❖ Converts a fundamental right into statutory silence

Constitutional Impact

- ❖ *Violates Article 21* by undermining autonomy and dignity
- ❖ *Weakens judicial precedent*

Analytical Insight

- ❖ This marks a shift from a rights-based approach to a control-based approach

2. Mandatory Medical Certification

Provision

- ❖ Legal recognition of gender is now dependent on *approval by a medical board*.

Issues

- ❖ *Pathologizes identity* by treating it as a medical condition
- ❖ *Violates bodily autonomy*
- ❖ Creates barriers for *rural and economically weaker populations*

Constitutional Conflict

- ❖ *Article 21* guarantees control over one's body
- ❖ *Article 14* prohibits arbitrary classification

Global Context

- ❖ Several countries follow a *self-identification model* without requiring medical proof.

3. Compulsory Re-Certification After Surgery

Provision

- ❖ Individuals undergoing gender-affirming surgery must apply for a *new identity certificate*.

Concerns

- ❖ Makes surgery indirectly necessary for recognition
- ❖ Undermines the principle that gender is not dependent on biological transformation

Legal Issue

- ❖ Transforms a voluntary choice into a mandatory obligation and intrudes into private decisions.

4. Medical Surveillance Mechanism

Provision

- ❖ Hospitals are required to report *gender-affirming procedures* to the government.

Risks

- ❖ Violates the *right to privacy* recognized in Justice K.S. Puttaswamy v. Union of India
- ❖ Raises concerns about *data misuse and stigmatization*

Ethical Concern

- ❖ State monitoring of identity-related procedures reflects a surveillance-oriented approach

5. Problematic Definition of Transgender

Issue

- ❖ The definition includes persons forced into identity through coercion.

Impact

- ❖ Blurs distinction between victims of crime and authentic identity holders
- ❖ Creates stigma and confusion

Constitutional Issue

- ❖ Leads to arbitrary classification, violating Article 14

6. Criminalization of Identity Expression

Concern

- ❖ Outward expression of transgender identity, such as dress or behavior, may be penalized.

Impact

- Restricts *freedom of expression under Article 19*
- Creates *fear and invisibility*

7. Inadequate Protection Against Violence

Issue

- ❖ The amendment does not enhance punishment for crimes against transgender persons.

Implication

- Reflects *institutional neglect*
- Undermines *protection of bodily integrity*

III. Core Constitutional Questions

1. Can Parliament Override a Fundamental Right

The NALSA judgment recognized gender identity as part of **Article 21**.

Parliament cannot dilute judicially recognized fundamental rights through ordinary legislation.

2. Doctrine of Basic Structure

The Constitution's basic structure includes:

- *Dignity*
- *Liberty*
- *Equality*

Any law violating these principles may be struck down.

3. Judicial Supremacy vs Legislative Authority

- Legislature enacts laws
- Judiciary ensures constitutionality

Conflict arises when legislation contradicts judicial interpretation

IV. Comparative and International Perspective

Progressive Models

- Argentina recognizes *self-identification without medical intervention*
- Malta follows a *rights-based approach*

- Ireland allows *legal self-identification*

India's Position

- ❖ The amendment risks placing India behind evolving global human rights standards

V. Ethical Dimensions

Autonomy

- ❖ Identity is deeply personal and must be self-determined

Dignity

- ❖ Denial of identity amounts to denial of existence

Justice

- ❖ Substantive equality is required rather than mere formal equality

Non-Maleficence

- ❖ The law should not cause harm, yet the amendment risks increasing stigma

VI. Critical Evaluation

Arguments Supporting the Amendment

- Provides *administrative clarity*
- Prevents *misuse of identity claims*
- Establishes a *uniform legal framework*

Arguments Opposing the Amendment

- *Violates fundamental rights*
- Expands *bureaucratic control*
- *Undermines judicial authority*
- Creates *exclusionary barriers*

VII. Way Forward

Legal Reforms

- Restore *self-identification principle*
- Remove *mandatory medical certification*

Institutional Measures

- *Sensitize officials*
- Strengthen *grievance redressal mechanisms*

Social Measures

- Promote *awareness and inclusion*

- Encourage *community participation*

Governance Approach

- Adopt a *rights-based framework*
- Ensure *strong data protection safeguards*

Conclusion: The Battle Between Identity and Authority

This case is not merely about transgender rights. It represents a *test of constitutional morality*. The final verdict of the **Supreme Court of India** will determine whether India upholds *the right to be oneself* or affirms *the power of the State to define identity*.

UPSC CSE & State PCS Relevance

Prelims

- Key terms: NALSA Judgment (2014), Transgender Persons Act 2019 & 2026 Amendment, Self-identification vs Medical Board certification, Articles 14, 15, 19, 21.
- Facts: Passed March 2026; Presidential assent 30 March 2026; Petition filed 3 April 2026 by Laxmi Narayan Tripathi & Zainab Patel; Narrowed definition excluding trans-men/women/genderqueer.

GS-2 (Polity & Governance, Social Justice)

- Fundamental Rights vs Legislative Power; Judicial Review; Rights of marginalised communities; Implementation of Supreme Court judgments; Centre-State and institutional mechanisms (National Council for Transgender Persons).

GS-1 (Indian Society)

- Social empowerment, vulnerable sections, gender identity and inclusion.

Essay / Interview

- "Identity, Autonomy and State Power: The Evolving Jurisprudence on Gender Rights in India."
- "Can Parliament Dilute Judicially Recognised Fundamental Rights? Lessons from the Transgender Amendment Act, 2026."
- "Balancing Protection and Autonomy: Challenges in Framing Inclusive Laws for Marginalised Communities."

MCQs

1. Consider the following statements regarding the Transgender Persons (Protection of Rights) Amendment Act, 2026:
 1. It removes the provision for self-perceived gender identity for legal recognition.
 2. It mandates certification by a Medical Board for issuing a transgender identity certificate.
 3. It was challenged in the Supreme Court by Laxmi Narayan Tripathi and Zainab Patel.

Which of the statements given above is/are correct?

- (a) 1 only
(b) 1 and 2 only

(c) 2 and 3 only

(d) 1, 2 and 3

Answer: (d)

2. The landmark Supreme Court judgment that recognised gender identity as part of Article 21 and upheld self-identification is:

(a) Navtej Singh Johar case

(b) NALSA v. Union of India (2014)

(c) Puttaswamy case

(d) Supriyo case

Answer: (b)

3. Which of the following is NOT a key change introduced by the 2026 Amendment?

(a) Narrowing the definition to specific socio-cultural and intersex categories

(b) Mandatory reporting of gender-affirming surgeries by hospitals

(c) Granting absolute right to promotion for transgender employees

(d) Introduction of graded penalties for coercion into transgender identity

Answer: (c)

4. The petition challenging the 2026 Amendment was filed under which Article of the Constitution?

(a) Article 226

(b) Article 32

(c) Article 19

(d) Article 14

Answer: (b)

5. The 2026 Amendment Act received Presidential assent on:

(a) 24 March 2026

(b) 25 March 2026

(c) 30 March 2026

(d) 3 April 2026

Answer: (c)

Mains Questions

1. "The Transgender Persons (Protection of Rights) Amendment Act, 2026 represents a shift from self-determination to state-verified identity." Critically examine the key provisions of the Act and their implications for fundamental rights in light of the NALSA judgment. (15 marks / 250 words)

2. Discuss the constitutional validity concerns raised against the 2026 Amendment to the Transgender Persons Act, with reference to Articles 14, 19, and 21. How does this case test the balance between legislative power and judicially recognised rights? (15 marks / 250 words)
3. "Laws aimed at protection of vulnerable groups must prioritise dignity and autonomy over excessive regulation." Analyse this statement in the context of the Transgender Amendment Act, 2026 and global best practices. (10 marks / 150 words)
4. **Essay (250 marks)** "The Right to Be Oneself: Identity, Autonomy, and the Limits of State Power in a Constitutional Democracy – Lessons from India's Transgender Rights Jurisprudence."

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