



Reclaiming Rights: Transgender Persons Bill and beyond..

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On 26.11.2019, the Transgender Persons (Protection of Rights) Bill, 2019 (“The Bill”) was approved by the *Rajya Sabha*, after having been passed by the *Lok Sabha* on 05.08.2019. The *Rajya Sabha* witnessed an impassioned debate led by Shri Tiruchi Siva, Member of Parliament (“MP”) from the DMK, who moved a motion to refer the Bill to a Select Committee for further scrutiny, in accordance with the demands by the transgender community. He was joined by other leaders of the opposition – Shri Derek O’Brien of the TMC, Rajeev Gowda and Anand Sharma of the INC, who implored Shri Thawar Chand Gehlot – the Minister of Social Justice and Empowerment to concede, in the interest of justice and democracy. The opposition contended that centuries of oppression suffered by transgender persons cannot be corrected by a Bill that is passed in haste but by carefully crafted legislation that reflects the wishes and concerns of the community. The Minister, on the other hand, insisted that the Bill (or to be more accurate, an earlier version of it in 2016) had been examined by the Parliamentary Standing Committee (43rd Report, July 2017) and no further review was needed. Members of the ruling BJP exclaimed that ‘justice delayed is justice denied’ and demanded that the Bill be passed quickly, in the same form as the *Lok Sabha* had done. As a result, the motion for Select Committee was defeated and the Bill was passed without any scrutiny or modification.

I. Nature of debate in Parliament

The spirited nature of the debate on the Bill in Parliament shows that the transgender community has come out of decades of obscurity and neglect and has created a space for itself on the political landscape. The path-breaking judgment of the Supreme Court in *National Legal Services Authority and ors v. Union of India*, (2014) 5 SCC 438 (“*NALSA*”), which conferred equal rights on transgender persons, besides crafting a ‘third gender’ is a possible factor contributing to this. Other marginalized groups such as people living with HIV took longer – over two decades to receive empathy and attention from politicians. Still others, like sex workers are still not relevant politically, despite long years of campaigning and mobilization.

Yet, there is much to be said about the nature of the debate in the House. The deliberations in the *Lok Sabha* were more zeal than substance. Barring a few statements about the need to protect all lesbian, gay, bisexual and transgender persons from discrimination through a comprehensive law, the rest of the remarks were ignorant and insensitive. One MP said that he wishes that no parent has the 'misfortune' of having a transgender child but even if they do, this Bill will offer solace. Taking a jibe at the opposition, another MP warned that if they did not pass the Bill, they will suffer the 'curse' of the transgender community and be worse off than what they are today in terms of the number of seats in the House.

In contrast, the proceedings in the *Rajya Sabha*, which were spread over three days i.e. 20, 21 and 26 November 2019, were more nuanced and reflected a deeper understanding of the issues of the community. Whether it was problems in the Bill or the process of law-making that did not benefit from the presence of a single MP identifying as transgender, the *Rajya Sabha* discussions were affective and inspiring.

II. Contentious issues in the Bill

A number of contentious issues were raised in Parliament, which reflected concerns of the community, civil society and legal experts regarding the Bill.

Confusing definition of "transgender person", conflating identities

In clause 2(i), the Bill defines "persons with intersex variations" separately, but includes them within the definition of "transgender persons" in clause 2(k). By doing so, the Bill conflates sex and gender and invisibilizes intersex persons. There are no provisions addressing the abuse of rights of intersex persons, especially by medical establishments through surgical interventions.

A *Lok Sabha* MP had suggested that a Schedule may be annexed to the Bill listing out all socio-cultural identities to be included in the definition of a 'transgender person'.

'Discrimination' undefined, grievance redressal mechanism unclear

The Bill prohibits discrimination against transgender persons in nine instances, which are exhaustive (clause 3). However, what constitutes 'discrimination' has not been defined.

It is unclear what remedies are available to a transgender person who suffers discrimination i.e. whether they have to contact the complaint officer of an establishment (Clause 11), approach the National Council for redress (Clause 17), file a suit in accordance with Code of Civil Procedure, 1908, or file writ petitions for violation of rights recognized under the law.

The Bill does not lay down the powers of a complaint officer or the National Council, the nature of actions they can take or whether their decisions can be enforced and appealed against.

There is no provision indicating the consequences if a Government or private establishment do not designate a complaints officer, nor are there specific penalties for failure to comply with provisions, or for violating provisions of the Bill.

Right to self-perceived gender identity -lost sight of

On one hand the Bill enshrines the right to be recognized as a transgender person and the right to self-perceived gender identity (clause 4), but on the other hand, it delineates a procedure for receiving an identity certificate as a transgender person or as male or female (clauses 5, 6, 7).

Gender identity is intrinsic to one's personhood, and can only be determined by that person's psychological and emotional state, not by any external criteria or authority. The requirement of obtaining an 'identity certificate' amounts to insult, indignity and humiliation, especially since no such condition exists for cis-gender persons.

A plain reading of clause 6(1) indicates that the District Magistrate ("DM") *shall* issue such certificate once an application is made, so they may not have the discretion to refuse to do so. However, there is no time limit for the process, no appeal or review process, nor an enforcement mechanism in case a certificate is not issued.

The proviso to clause 5 states that in the case of a minor, a parent/guardian has to apply for an identity certificate. This completely overlooks the reality that most parents are not supportive of gender non-conforming behavior and will, in all likelihood, not make such an application. It also neglects the notion of 'mature minor', which has been recognized in other jurisdictions to allow minors to access healthcare services, without parental consent.

Contrary to *NALSA* which held that self-identification of gender may be as male, female or transgender, the Bill requires a person to first obtain a certificate as 'transgender' and then seek a 'revised' certificate of gender identity as 'male' or 'female' by submitting 'proof' of having undergone SRS (clause 7). This violates the Supreme Court's direction that any insistence on sex-reassignment surgery for declaring one's gender is immoral and illegal. (*NALSA*, para 135.5).

No certificate, no rights?

According to clause 6(3) of the Bill, the identity certificate shall confer rights upon transgender persons and be a proof of recognition of identity.

The Bill is silent on whether those who have already changed their identity documents or have self-attested affidavits identifying as male or female can claim rights under this law, or other government welfare schemes and programs meant for transgender persons. There is no

mention of whether persons who do not/cannot get identity certificates as prescribed, will be 'protected' or conferred rights by this law.

No recognition of families or kinship by choice

The Bill fails to recognize how transgender persons have traditionally lived with their community as their own family. Biologically related families are often a site of violence and abuse against children and adults who do not conform to gender stereotypes. By restricting the ability of a transgender child to leave their natal family, except through court intervention, the Bill condemns such children to abusive environments (clause 12). The Bill also renders community members and social workers who may provide shelter and support to transgender children vulnerable to prosecution.

Additionally, the Bill does not include 'household' as an 'establishment' (clause 2(b)) which leaves unaddressed harassment, violence and discrimination occurring within a household against gender nonconforming and transgender persons.

Misplaced emphasis on 'rehabilitation'

The only alternative for transgender children and adults facing abuse at their natal home is institutionalized rehabilitation by a court order (clause 12(3)). It is unclear whether such institutionalization can happen only at the behest of a transgender person, or if the court can direct otherwise. Clause 12(3) effectively allows involuntary detention of adults in rehabilitation centers.

National Council for Transgender Persons - a mere figurehead

The National Council was criticized as being top-heavy and not having adequate representation from the transgender community. The functions of the Council are too general, and the minimum meetings to be held, quorum for meeting and decision-making are not specified. There are no Councils at the State or District level, hindering approachability and accessibility.

There is no provision for establishment of State Welfare Boards, even though they have been instrumental in facilitating access of transgender persons to social schemes and benefits such as housing, income assistance, education, employment and healthcare.

Offences and penalties - a mockery of lived experiences

The term 'sexual abuse' (clause 18(d)) is not defined in the Bill, nor in the Indian Penal Code, 1860. The criminalization of persons who "tend to do acts" is confusing, given that a person either does an act causing abuse, or does not.

Transgender persons are disproportionately vulnerable to sexual abuse and violence by state and non-state actors. However, the maximum penalty for all offences under this Bill is 2 years imprisonment, in stark contrast to the maximum penalty for similar offences in the Indian Penal Code, 1860 (“IPC”), which are in the range of 3 years imprisonment to life imprisonment (see IPC offences such as voluntarily causing grievous hurt, assault or criminal force to women with intent to outrage her modesty, sexual harassment, assault or use of criminal force to woman with intent to disrobe, rape, sexual intercourse by a person in authority).

The provision is demeaning and trivializes the violence suffered by transgender persons. It violates the right to equal protection of laws under Article 14 of the Constitution – as noticed by the Court in *NALSA*. It may also be seen as encouraging or condoning sexual violence against transgender persons.

Civil rights and entitlements under other laws -missing

The Bill is silent on civil rights such as marriage, civil partnership and adoption, as well as rights to succession, inheritance and property. The *NALSA* judgment had specifically noted the widespread discrimination suffered by transgender persons due to the binary notion of gender in laws relating to marriage, divorce, adoption, inheritance, succession, taxation and welfare.

No reservations in educational institutes or public employment

The Bill provides for inclusive education and non-discrimination in education and employment. (Clauses 3, 9 and 13). However, these provisions are meaningless if transgender persons cannot access such institutions at all. The Supreme Court in *NALSA* had directed the Centre and the State Governments to take steps to treat transgender persons 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. (para 135.3). The Bill does not provide for such recognition or reservation.

The Bill fails to address violation of rights of the community

A few MPs noted that the violence and harassment directed at transgender persons is not just an affront to individual rights, but reflects societal prejudice and contempt towards the community as a whole. In this context, remedies may be cast along the lines of the **Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989**, which responds to rights violations against persons by virtue of their membership or association to a group.

III. The Minister’s Reply

On behalf of the Government, the debate in the *Lok Sabha* was answered by the Minister of State for Social Justice and Empowerment-Shri Rattan Lal Kataria, whose remarks were cursory

and insubstantial. In the *Rajya Sabha*, questions and criticisms leveled at the Bill were responded to by the Minister and Leader of the House – Shri Gehlot, who stated that the Bill takes care of everything and if there is anything missing, the Government will try to address that through delegated legislation i.e. statutory Rules, which will be framed once the Bill is passed. The Minister avoided most of the issues or gave evasive replies. The most pronounced silence was on the issue of reservations, even though it was raised by nearly every MP taking part in the debate.

The only question to which the Minister gave a specific answer was that of disproportionate penalties for sexual violence, where he stated that the phrase ‘sexual abuse’ in clause 18 (d) of the Bill does not refer to rape but to harassment. He assured the House that if a transgender person is subjected to rape, the offence will be registered under the Indian Penal Code, 1860 (“IPC”) and the punishments provided in section 376 will apply.

IV. Problems with the Minister’s response

As discussed above, the Bill is hardly comprehensive and overlooks a number of issues that are of import to the community.

In terms of making provisions in the Rules, it is common knowledge that Rules framed under a statute, have to be within the four walls of that statute and can neither contradict nor go beyond it. Thus, while issues like time-frame for issuing a certificate of gender identity by the District Magistrate can be prescribed in the Rules, the Rules cannot change the requirement to go through the certification procedure twice over – one for transgender and second for male or female or for that matter undo the mandatory condition of producing an SRS certificate for recognition as male or female. These perverse measures are etched in the law and will apply, unless scrapped by Court or amended by Parliament.

Similarly, with respect to the National Council, the Rules cannot confer ‘powers’ to investigate or adjudicate complaints, as was demanded by some of the MPs.

The Minister’s reply in relation to the penalty for sexual violence was equally baffling. The statement that crimes of sexual assault and rape against transgender persons will be dealt with under other laws, is problematic as section 375 of the IPC, confines the offence to cases where the victim is a ‘woman’. Till date, there is no clarity on whether the provision includes persons other than cis-gender women, although cases of non-consensual sex against transgender women have come up before Courts. In one case, the Chhattisgarh High Court granted bail to the accused on various grounds including the medical report which stated that the complainant was transgender and did not have a ‘fully developed’ vagina after SRS.¹ In another case, the

¹ *Shivam Santosh Dewangan v. State of Chattisgarh*, 2016 CriLJ 2819.

Uttarakhand High Court, while dealing with a petition of a transgender woman who had complained of rape, relied on *NALSA* to declare that the Petitioner is entitled to be treated as a woman, which is her self-identified gender.² The Court however, did not make any observations on the correctness of the FIR or the charge-sheet, where the Police had noted an offence under section 377 [‘unnatural sex’] and not section 376 [‘rape’] of the IPC.

Last year, the Supreme Court dismissed a PIL, which had asked the Court to read the expression ‘woman’ in section 375 to include transgender and male victims of rape, by observing that it is for Parliament to change the law.³ Another PIL, which sought offences of rape, outraging of modesty, voyeurism and stalking in the IPC to be read in a gender-neutral manner was also dismissed on the ground that such a decision has to be made by the Parliament and not the Court.⁴

In view of the above, the Minister’s assurances of the law providing equal protection to transgender and cis-gender persons are unconvincing.

V. Options ahead...

Transgender activists have denounced and rejected the Bill in no uncertain terms. Appeals have been made to the President of India to withhold assent from the Bill or send it back to Parliament for re-consideration. In the event that this does not happen and the Bill becomes law, the community can consider various options to stop or reduce its pernicious effects. The strategies are not mutually exclusive and can be pursued alongside each other.

(a) Engage in the framing of Rules

Laws do not automatically come into force after the President’s assent. The concerned Government has to notify the date on which the law comes into force, which may be different from the date on which it receives the President’s approval. Laws that delegate substantial aspects of implementation to what is ‘prescribed’ by Rules are usually brought into force *after* the Rules are drafted. Recent examples of this can be seen in the ***Mental Healthcare Act, 2017***, which received the President’s assent on 7.4.2017 but was brought into force on 29.5.2018 together with the Central Rules made thereunder as well as the ***HIV and AIDS (Prevention and Control) Act, 2017*** which was assented to on 20.4.2017 but came into force on 11.9.2019 after the promulgation of Central Rules. It may well be that in this case too, the Central Government postpones the notification of the date of coming into force under Clause 1 (3) to until after Rules are framed under clause 22 of the Bill.

² *X v. State of Uttarakhand*, AIR 2019 Utr 138.

³ <https://www.dailypioneer.com/2018/india/sc-declines-to-entertain-pil-to-make-rape-gender-neutral-offence.html>

⁴ <https://www.thenewsminute.com/article/should-rape-laws-india-be-gender-neutral-experts-weigh-75834>

Transgender activists may consider engaging in the exercise of the drafting of Rules especially since they deal with the procedure and documentation to be adopted by the District Magistrate for issuing the certificate of gender identity as transgender and as male or female. While this will not undo the egregious provisions of the Bill, it may temper their detrimental effects and prevent more intrusive practices from being introduced. It will also enable activists to buy time and firm up other legal strategies that they may wish to pursue.

Importantly, State Governments too are empowered to frame Rules for their own States. Local activists may wish to work with their Governments and develop good practices or 'Model' Rules, albeit within the confines of the law. Given the diversity and heterogeneity of the community, it is possible for some to engage with Rule-making and others to continue opposing the Bill, with the common vision of strengthening transgender persons' rights.

(b) Constitutional challenge

Many activists have announced that they will challenge the law in Court, should it be enacted in its current form. Once the Bill becomes an Act and is challenged before a Court, it's constitutionally can be tested on the grounds of whether it violates fundamental rights and/or if Parliament had the legislative competence to enact it. The latter question may not arise in this case as Entry 97 in List I (Union List) of the Seventh Schedule of the Constitution allows Parliament to make law on "*any other matter not enumerated in List II (State List) or List III (Concurrent List).*" Since the subject [transgender persons] is not mentioned in any of the lists, Parliament has legitimately exercised its residuary powers of legislation under Article 248 of the Constitution.

A more solid basis to challenge the law is invoking fundamental rights guaranteed under the Constitution. Fortunately, over the last few years, the content and substance of these rights has been expanded and infused with sexual orientation and gender identity ("SOGI") principles not just in *NALSA* but also by the Supreme Court's judgments in *Puttaswamy*,⁵ *Shafin Jahan*⁶ and *Navtej Johar*.⁷ Of particular importance is the *doctrine of non-retrogression* adopted in *Navtej Johar*, which forbids the State from taking measures that deliberately lead to retrogression on

Under the Bill, Rules are required to lay down:

- **the procedure for obtaining certificate of gender identity** [transgender and 'male or 'female'] (clauses 5,6,7)
- **welfare measures to be taken by the Government** (clause 8)
- **facilities to be provided by every establishment** (clause 10)
- **functions to be performed by the National Council for Transgender Persons** (clause 17)

⁵ *KS Puttaswamy v. Union of India*, (2017) 7 SCC 155.

⁶ *Shafin Jahan v. Asokan K.M. and Ors.*, (2018) 16 SCC 368.

⁷ *Navtej Johar v. Union of India*, (2018) 10 SCC 1.

the enjoyment of constitutional rights or, in other words, roll-back the rights previously enjoyed by citizens.

Several parts of the law can be challenged on the grounds of violating fundamental rights under Articles 14, 15, 19 and 21 of the Constitution. These include provisions related to gender identity certificates and revised certificates, which violate the right to dignity, autonomy and expression and impose unfair burden on transgender persons as compared to cis-gender persons. Lacunae in anti-discrimination provisions are susceptible to constitutional scrutiny as well. Court-ordered rehabilitation may also be challenged if it is involuntary or against the wishes of the person concerned. Disproportionate penalties under clause 18 may be assailed for violating the right to equality and equal protection of law, though clause 20 specifies that the transgender law “shall be *in addition to, and not in derogation of other laws*”, implying that protection under laws will continue to apply. The position in relation to sexual offences as well as other laws that specify the gender of the accused and the victim as male or female, is however different, as explained above.

Omissions or ‘missing rights’, however, may not be a ground to challenge the law as in such cases, Courts tend to defer to the legislative prerogative and wisdom of the Parliament.

Non-compliance with NALSA as a ground for judicial review?

A significant chunk of the criticism against the Bill is its failure to comply with the directions in *NALSA*. However, it is important to remember that Courts cannot direct Parliament to enact a particular law or amend an existing law or Rules in a particular way. The power to enact a law is a plenary, constitutional power which is vested in the Parliament and State Legislatures under Articles 245 and 246 of the Constitution. The *NALSA* judgment cannot be seen as a directive to Parliament to pass a certain kind of law for transgender persons.

Moreover, the directions in *NALSA* were given in the absence of any law on the ‘subject’ of transgender persons. It is common knowledge that Courts can give both general and specific directions when there is no legislation or to fill in gaps in an existing legislation, in order to uphold the fundamental and statutory rights of concerned persons. Once the law is enacted or amended, as the case may be, and takes care of the concerns before the Court, the ‘field’ is occupied by the said legislation and judicial directions pale into insignificance.

A precedent may be seen on the issue of sexual harassment of women at the workplace, where in the absence of any law dealing with sexual harassment, the Supreme Court issued guidelines for redressal of complaints in *Vishaka v. State of Rajasthan and ors.*, (1997) 6 SCC 241 (“*Vishaka*”). The Court made it clear that the guidelines would be binding and enforceable until suitable legislation is enacted by Parliament. After the **Sexual Harassment at Workplace (Prevention, Protection and Redressal) Act, 2013** (“POSH Act”) came into force, cases of sexual

harassment at the workplace are dealt with under the law and not as per *Vishaka* guidelines. At the same time, *Vishaka* has not been rendered *void*; it continues to guide the interpretation of the POSH Act and be followed in cases where the workplace in question is not subject to the provisions of the Act.

There are two important differences to note here. Firstly, unlike *Vishaka*, *NALSA* does not say that the directions of the Court are subject to any law being passed by the Legislature. Secondly, the POSH Act is in conformity with *Vishaka*, while the Transgender Persons law departs significantly from *NALSA*, especially in terms of the Court's directions on recognition of gender identity. It is also silent on the direction to extend reservations to transgender persons in education and public employment.

Notwithstanding these differences, a challenge based solely on non-compliance with *NALSA* directions is unlikely to be effective. Accordingly, provisions in relation to legal recognition of gender identity can be challenged for violating Articles 14, 19 and 21, but it is difficult to imagine the Court striking down the Transgender law for failing to provide affirmative measures such as reservations. This, despite the fact that the direction in *NALSA* for treating transgender persons as socially and educationally backward classes of citizens and extending facilities and opportunities is grounded in Articles 15 and 16 of the Constitution. For doing so, would mean that the Court is directing the Legislature to pass a certain kind of law, which is not permissible.

(c) Other legal options

In this context, it may be worthwhile to explore other legal interventions for enforcing reservations as well as rights in other spheres, where the Bill is silent.

Contempt proceedings – opportunity lost?

The Central Government has not complied with the direction to “*take steps to treat them [transgender persons] as Socially and Educationally Backward people and extend all kinds of reservation in cases of admission in educational institutions and public employment.*” One may recall that a few months after the *NALSA* judgment, the Government had filed an application before the Supreme Court to clarify “*certain issues of interpretation in relation to the NALSA judgment.*”⁸ One of the directions on which a clarification/modification was sought by the Central Government related to the treatment of transgender persons as socially and educationally backward classes of citizens. Through the application, the Government requested the Court to clarify whether the direction of the Court is that transgender persons *suo moto* be treated as Other Backward Classes (“OBC”) or whether the Government was required to follow

⁸ Interlocutory Application No. 4 of 2014 in Writ Petition (Civil) No. 400 of 2012 before the Supreme Court of India. (On file with authors)

the procedure laid down under the National Commission for Backward Classes Act, 1993. The application further asked the Court to make clear if transgender persons belonging to Scheduled Castes, Scheduled Tribes and OBC will also be treated as 'socially and educationally backward classes', in terms of the judgment in *NALSA*, which according to the Government would pose problems in implementing the scheme of reservations.

The said application came up for hearing on 30 June 2016 and the only question pressed before the Court was whether gay, lesbian and bisexual persons are to be considered transgender under the *NALSA* judgment. The Court dismissed the application by stating that the judgment was amply clear and required no clarification.⁹

Thereafter, the Central Government was expected to comply with the aforesaid directions as given in the *NALSA*. This was not done.

The Contempt of Court Act, 1971, defines 'civil contempt' as: "*willful disobedience to any judgment, decree, direction, order, writ or other process of Court or willful breach of an undertaking given to a court.*"¹⁰ The Supreme Court has clarified that if there are difficulties in complying with the orders of the Court, the party is expected to approach the Court for extension of time or clarification, if called for. In this case, the Government did approach the Court for a clarification in terms of the order in *NALSA* on treating transgender persons as socially and educationally backward classes and providing reservations, which was declined. The complete inaction on the part of the Government after the dismissal of its clarification application may amount to contempt. Unfortunately, neither the Petitioners in *NALSA* nor the Court initiated any proceedings in this regard.¹¹ Though one may consider the case as one of 'continuing contempt' and try and overcome the constraints under section 20 of the Contempt of Court Act, it is unlikely that any positive outcome will emerge from such proceedings at this stage. In any event, the intent in contemplating remedies in the nature of contempt is not to punish erring authorities but to put pressure on the Government to act.

Litigation to enforce directions under NALSA

Since the judgment in *NALSA*, transgender persons and others have been approaching various High Courts for enforcement of specific rights or generally, for implementation of the directions under *NALSA*. Some petitions have resulted in progressive decisions affirming the right to equality in employment,¹² education¹³ and more recently, marriage.¹⁴ Others have simply led to

⁹ Order dated 30 June 2016 in I.A No. 4 of 2014 in Writ Petition (Civil) No. 400 of 2012, *National Legal Services Authority v. Union of India and ors*, Supreme Court of India.

¹⁰ See section 2(a) and (b), the Contempt of Courts Act, 1971.

¹¹ See procedure laid down in the Rules to regulate proceedings for contempt of the Supreme Court, 1975.

¹² *K. Prithika Yashini v. Chairman, Tamil Nadu Uniformed Services Recruitment Board*, 2015 SCC Online Mad 11830.

¹³ *S. Tharika Banu v. Secretary to Govt.*, 2017 SCC Online Mad 10220.

'directions' to the Government to implement the 'directions' in *NALSA*.¹⁵ Such petitions can continue to be filed, even after the introduction of the Transgender Law, especially on 'missing rights'. Transgender persons can also litigate or file suits for enforcing claims of inheritance, succession and other civil rights, independent of this law.

Using rights to reclaim rights...

The transgender community is determined to resist, contest and diminish the damage inflicted by the Bill. One of the armories in this battle are fundamental rights, as enunciated in the Constitution and elaborated in *NALSA*, *Puttaswamy and Navtej* and a host of other judgments. At the same time, evolving human rights jurisprudence is indispensable for claiming rights and entitlements above and beyond the Bill. Expanding rights is thus, both a means and an end and should continue to inform interventions in the years to come. The constitutional foundation for protection of rights is only growing and will be instrumental in securing full and equal citizenship for transgender persons.

¹⁴ *Arun Kumar and another v Inspector General of Registration and others*, WP(MD)No.4125 of 2019 and WMP(MD) No.3220 of 2019, Madurai Bench of Madras High Court, 22.04.2019.

¹⁵ See *Jamshed Ansari v. UPSC & Anr.*, 2016 SCC Online Del 6208; *Atri Kar v. The Union*, 2017 SCC Online Cal 3196; *Rano and ors. V. State of Uttrakhand and ors.*, W.P. (Criminal) No. 1794 of 2018 before the Hon'ble High Court of Uttrakhand.