

Section(s)	What does it contain?	What does it violate?	Why?
4, 5, 6	Recognizes the right to be identified as 'transgender' and sets in place procedure to obtain such recognition	Articles 19(1)(a) and 21, <i>NALSA</i> , Yogyakarta Principles	<p>NALSA recognized that the right to self-identify one's gender is an integral part of the right to free expression, life, dignity and autonomy under Articles 19(1)(a) and 21.</p> <p>NALSA specified that one can self-identify as transgender, female or male. The 2019 Act only recognizes the right to self-identify as transgender (not female/male) and thereby violates Articles 19(1)(a) and 21.</p> <p>Further, Sections 5 and 6 conflict with NALSA as they make gender self-identification contingent on medical and psychological documentation.</p> <p>As per the precedent set by NALSA, the right to gender self-identification is a fundamental right flowing from Articles 19(1)(a) and 21 and, hence, cannot be made contingent on medical procedure.</p>
7	Requires persons to undergo medical surgery in order to obtain recognition as transgender	Articles 19(1)(a) and 21, <i>NALSA</i> , <i>Puttswamy</i> , <i>Navtej Johar</i>	<p>Further, the Supreme Court has recognized the rights to bodily integrity, autonomy and privacy in <i>NALSA</i>, <i>Navtej Johar</i> and <i>Puttaswamy</i>. Requiring persons who are seeking to identify as transgender to undergo medical surgery, violates these rights.</p> <p>Since the provision does not distinguish between children and adults, it denies the decisional autonomy of adult transgender persons. Thereby, it violates the rights to privacy and life.</p>
12	Compels transgender persons to either live with birth family or in rehabilitation centres	Articles 19 and 21	<p>The Petitioners emphasise that many in the transgender community live in alternative family structures, which this provision threatens to do away with.</p> <p>The Petitioners contend that this provision has the potential to 'target and attack' alternative family structures developed by the transgender community.</p>
18(a)	Criminalises any act which 'compels' or 'entices' a transgender person into forced/bonded labour (6 months – 2 years imprisonment with fine)	Article 14	<p>The provision does not define 'forced or bonded' labour. It is vague and arbitrary, and therefore violates Article 14 under the doctrine of void for vagueness.</p> <p>Under the provision, the maximum penalty for sexual abuse against a transgender person is only 2 years. Whereas, the Indian Penal Code, 1860 sets the penalty for sexual abuse against a woman between 3 years and life imprisonment (Section 376).</p>
18(d)	Criminalises any act that harms or endangers the life, safety, health or well-being of a transgender persons, including sexual abuse.	Article 14	<p>The Petitioners contend that such a distinction on the basis of gender identity violates the fundamental right to equality under Article 14.</p>