

Bill No. XXV of 2024

THE GENERAL CLAUSES (AMENDMENT) BILL, 2024

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further to amend the General Clauses Act, 1897.

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

- 1.** (1) This Act may be called the General Clauses (Amendment) Act, 2024.
(2) It shall come into force at once.

Short title and
commencement.

- 10 of 1897. 5 **2.** In section 3 of the General Clauses Act, 1897 (hereinafter referred to as the ‘principal Act’),—

Amendment of
section 3.

(i) after clause (62), the following new clause shall be inserted, namely:—

“(62A) “transgender person”, with its grammatical variations and cognate expressions, shall have the same meaning as assigned to it in clause (k) of section (2) of the Transgender Persons (Protection of Rights) Act, 2019;” and

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40 of 2019

Amendment of
section 13.

(ii) clause (62A) shall be renumbered as '(62AA)'.

- 3.** For sub-section (1) of section 13 of the principal Act, the following shall be substituted, namely,-

“(1) words importing the masculine gender shall be taken to include females and transgender persons; and”.

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STATEMENT OF OBJECTS AND REASONS

The General Clauses Act, 1897 (Act No. 10 of 1897) has been a cornerstone of our legal framework, providing a foundation for the interpretation and application of statutes promulgated in the country. It is the Interpretation Act of India and has often been called the "Law of all laws". The General Clauses Act, 1897 has been expressly made applicable for the interpretation of the Constitution as well by virtue of clause (1) of article 367. It makes provisions as to the construction of General Acts and other laws of all-India application. The Supreme Court had pointed out in *the Chief Inspector of Mines and Anr. v. Lala Karam Chand Thapar, Etc (1961)* that the purpose of the General Clauses Act is to place in one single statute different provisions pertaining to interpretations of words and legal principles which would otherwise have to be specified separately in many different acts and regulations. Whatever the General Clauses Act says, whether as regards the meanings of words or as regards legal principles, has to be read into every statute to which it applies.

Sub-section (1) of section 13 of the Act provides that, in all Central Acts and Regulations, unless there is anything repugnant in the subject or context, words importing the masculine gender shall be taken to include females. However, this narrow interpretation no longer aligns harmoniously with our present-day comprehension of gender and justice. It has become imperative for our legal structure to evolve in tandem with societal progress, ensuring that it is all-encompassing and just for all its citizens.

It must be noted that queerness is a natural phenomenon which is known to India since ancient times. In fact, historically, Hijra or transgender persons had played a prominent role in Indian society. However, with the onset of colonial rule, the situation changed drastically, and since then, the transgender community in India has been marginalized and discriminated against, socially, economically and politically.

The Supreme Court, in its judgment dated 15th April, 2014 in *National Legal Services Authority Vs. Union of India and Ors.*, unequivocally pronounced that the State is obliged to acknowledge individuals who exist beyond the traditional male-female binary, designating them as 'third gender persons,' and affirming their entitlement to all constitutionally guaranteed rights. The directive further called upon the Union and State Governments to confer legal recognition upon the self-identified gender of transgender persons. While the dictum laid down by the Apex court represented a significant stride forward, there remains a compelling imperative for a comprehensive legal recognition with the aim of empowering the transgender community.

The landmark judgment of the Supreme Court in 2018 in *Navtej Singh Johar & Ors. v. Union of India* played a pivotal role in safeguarding the rights of the LGBTQ community. This seminal judicial pronouncement resulted in the decriminalization of consensual homosexual acts among adults and a resolute affirmation of the dignity and rights of LGBTQ individuals. The Supreme Court, in essence, ruled that LGBTQ individuals are to be recognized as equal citizens, underlining that any form of discrimination rooted in sexual orientation or gender is impermissible and in violation of the law and the fundamental rights enshrined in the Constitution.

While the Parliament subsequently enacted the Transgender Persons (Protection of Rights) Act, 2019, to protect the rights of the transgender community and provide welfare measures for their betterment,

the members of this community continue to confront various manifestations of violence, oppression, contempt, and ridicule on a daily basis. They continue to face economic, social and political oppression in both visible and invisible ways.

In *Supriyo @ Supriya Chakraborty & Anr. v. Union of India* (2023), while examining the question of incorporating gender-neutral provisions within the Special Marriage Act, 1954, the Supreme Court, while adhering to the doctrine of separation of powers, observed against judicial legislations and placed the responsibility on the Parliament to fill the vacuum in due course of time vis-à-vis the transgender community.

Including the transgender community in the General Clauses Act would ensure that they are not discriminated against while interpreting or applying any laws enacted in the country. It would be a significant as well as a symbolic step towards recognizing their rights and promoting inclusivity. In light of the observations of the Supreme Court and international human rights norms, Parliament has a unique responsibility to affirm the rights of every individual, regardless of their sexual orientation, gender identity, or expression. In a democratic and diverse nation like India, fostering inclusivity and non-discrimination is not just a legal responsibility but a moral and ethical imperative as well. Recognizing the rights of transgender persons within the General Clauses Act, 1897, is thus a pivotal step toward dismantling the societal barriers and stigma that have hindered their full participation in all aspects of life.

As such, by addressing this matter, a powerful message can be sent that India stands firmly on the side of equality and justice for all its citizens. Ultimately, passage of this legislation would be a vital step towards fulfilling the promise of a just and compassionate society where social justice prevails.

Hence, this Bill.

JOHN BRITTAS

ANNEXURE
EXTRACTS FROM THE GENERAL CLAUSES ACT, 1897
[10 OF 1897]

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13. In all Central Acts and Regulations, unless there is anything repugnant in the subject or context,— Gender and number.

(1) words importing the masculine gender shall be taken to include females; and

(2) words in the singular shall include the plural, and vice versa.

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RAJYA SABHA

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further to amend the General Clauses Act, 1897.

(Dr. John Brittas, M.P.)