

Transgender Persons (Protection of Rights) Bill

Why in news?

\n\n

The Centre has decided to re-introduce the original Transgender Persons (Protection of Rights) Bill, 2016, without the adopting recommendations of the Parliamentary Standing Committee.

\n\n

How has the legislation evolved?

\n\n

\n

- **SC ruling** - In February 2014, the Supreme Court passed a landmark judgement in the **NALSA vs. Union of India case**.

\n

- It recognised that transgender persons have fundamental rights, and paved the way for enshrining the rights of transgenders in law.

\n

- The apex court deemed that individuals had the **right to the self-identification** of their sexual orientation.

\n

- It also called for affirmative action for transgenders in education, primary health care and social welfare schemes.

\n

- **Private Member Bill - Rights of Transgender Persons Bill, 2014**, was introduced as a Private Member's Bill in the Rajya Sabha by Tiruchi Siva.

\n

- It was unanimously passed in the Rajya Sabha but was never debated in the Lok Sabha.

\n

- The Bill passed in the Rajya Sabha had many progressive clauses.

\n

- These include -

\n

\n\n

\n

i. the creation of institutions like the national and State **commissions for transgenders**

\n

ii. setting up **transgender rights courts**

\n

\n\n

\n

- **Government Bill** - Following this, government drafted its own bill, Rights of Transgender Persons Bill, in 2015 and introduced it in the Lok Sabha in 2016

\n

- The remedial measures to prevent sexual discrimination in private member bill were done away with by the government

\n

- **Standing Committee** - As, the bill had many contentious provisions, it was sent to the standing committee on social justice and empowerment.

\n

\n\n

\n

- **Reintroduction** - Ignoring the recommendations of the Standing Committee, the original version of the bill is set to be re-introduced now.

\n

- This legislation seems to undermine their right to life and livelihood instead of safeguarding their interests.

\n

\n\n

What are recommendations of standing committee?

\n\n

\n

- **Definition** - The 2016 Bill identifies transgenders as being “partly female or male or a combination of female and male or neither female nor male”.

\n

- The ambiguity in the definition of the "third sex" lends itself to misinterpretation.

\n

- Section 377 of the IPC that criminalises non-heterosexual sex draws many transgenders into its net.

\n

- This definition is also departure NALSA judgment to identify transgenders outside the male-female binary.

\n

- It is also against the 2014 bill's intention to cleanse society of the **stigma**.
 \n
- The Standing Committee draws attention to this inadequate definition which is founded on a heterosexual worldview.
 \n
- **Identification** - 2016 Bill mandates transgenders to submit themselves to a medical examination for recognition.
 \n
- This will be done by a District Screening Committee comprising of a Chief Medical Officer, a psychiatrist, a social worker, and a member of the transgender community.
 \n
- This is in stark contrast to the 2014 Bill that gives individuals the right to self-identify their sex and gender.
 \n
- **Social protection** - The central **reservation provision** in 2014 Bill of 'earmarking jobs for transgenders' is diluted in the 2016 Bill with 'equal opportunity in all spheres of life'.
 \n
- **Grievance redressal** - Establishments consisting of hundred or more persons is now mandated to designate a complaint officer to deal with any violation of the Act.
 \n
- This comes as a provision to replace the setting up of central and State transgender rights courts as prescribed in the 2014 Bill.
 \n
- Other recommendations like extending civil rights like marriage, divorce, and adoption to transgenders, including transgenders in workplace sexual harassment policies and counselling services to were also omitted by the Centre.
 \n

\n\n

\n\n

Source: The Hindu, The Wire

\n\n

\n



SHANKAR
IAS PARLIAMENT
Information is Empowering