



Gender Self Identification

 drishtias.com/printpdf/gender-self-identification

Why in News

Recently, the **Spanish government approved a draft bill that would allow anyone over the age of 14 to legally change gender** without a medical diagnosis or hormone therapy.

- **Currently**, for someone to change their gender in official records, the law first **requires two years of hormone therapy and a psychological evaluation.**
- **'Self-Identification'** has been a **long held demand of trans-right groups** around the world, **including in India**, as prejudice against trans people remains rampant.

Key Points

- **Gender Self-Identification (Concept):**
 - A **person should be allowed to legally identify with the gender of their choice by simply declaring so**, and without facing any medical tests.
 - **Arguments in Favour:**
 - **The current processes for declaring one's desired gender are lengthy, expensive and degrading.**
 - **Trans people face daily discrimination** and it is vital that steps are taken to tackle discrimination and **provide the services and support people need.**
 - **Gender identity is considered to be an inherent part of a person** which may or may not need surgical or hormonal treatment or therapy and **all persons must be empowered to make their decisions affecting their own bodily integrity and physical autonomy.**
 - **Arguments Against:**
 - Gender self-identification **goes far beyond** respecting people's right to believe what they want; to dress or act or express their identity as they want.
 - This is a political and social demand that **affects everybody, but in particular women, gay people and transsexuals.**
 - **The medicalization of gender identity has allowed for vital legal recognition** and transition-related healthcare for some members of the trans community.
- **Countries where Self-ID is Legal:**
 - **15 countries around the world recognise self-ID**, including Denmark, Portugal, Norway, Malta, Argentina, Ireland, Luxembourg, Greece, Costa Rica, Mexico (only in Mexico City), Brazil, Colombia, Ecuador and Uruguay.
 - In **Hungary**, a newly adopted **law effectively bans all content about homosexuality and gender change** from school curriculum and television shows for children under the age of 18.

- **Rules in India:**

- In India, the rights of transgender persons are governed by the **Transgender Persons (Protection of Rights) Act, 2019** and the **Transgender Persons (Protection of Rights) Rules, 2020**.
 - Under the Rules, **an application to declare gender is to be made to the District Magistrate**. Parents can also make an application on behalf of their child.
 - There will be **no medical or physical examination** for procedures for issue of certificate of identity/change of gender.
- In **National Legal Services Authority (NALSA) v. Union of India, 2014** case, the Supreme Court declared transgender people to be a **'third gender'**.
 - The Court interpreted 'dignity' under **Article 21 of the Constitution** to include diversity in self-expression, which allowed a person to lead a dignified life. It placed one's gender identity within the framework of the fundamental right to dignity under Article 21.
 - Further, it noted that the **right to equality (Article 14 of the Constitution) and freedom of expression (Article 19(1)(a))** was framed in gender-neutral terms ("all persons").
- In 2018, the SC also **decriminalised same-sex relationships** (Read down the **Provisions of Section 377** of the Indian Penal Code).

Features of Transgender Persons Act, 2019

- **Definition of a Transgender Person:** The Act defines a transgender person as one whose gender does not match the gender assigned at birth. It includes transmen and trans-women, persons with intersex variations, gender-queers, and persons with socio-cultural identities, such as kinnar and hijra.
- **Certificate of Identity:** The Act states that a transgender person shall have the right to self-perceived gender identity.

A certificate of identity can be obtained at the District Magistrate's office and a revised certificate is to be obtained if sex is changed.
- The Act has a provision that **provides transgender the right of residence with parents** and immediate family members.
- The Act **prohibits discrimination against a transgender person** in various sectors such as education, employment, and healthcare etc.
- Seeks to establish **National Council for Transgender persons**.
- **Punishment:** It states that the offences against transgender persons will attract imprisonment between six months and two years, in addition to a fine.

Source: IE