



Legal Definition of Woman by the UK Supreme Court

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Why in News?

The United Kingdom (UK) Supreme Court (SC) has ruled that the legal definition of a "woman" under the UK's Equality Act, 2010, is based on [biological sex](#), marking a significant decision in the ongoing debate over gender identity.

What is the UK Supreme Court Ruling on the Legal Definition of a Woman?

- **Biological Sex as the Defining Factor:** The court clarified that the definition of sex in the Equality Act 2010 is **"binary" and based on biology**.
 - This means that individuals **not born as biological females cannot obtain the legal protections afforded to women** under the Act by changing their gender with a Gender Recognition Certificate.
 - The court excluded [transgender women](#) from this definition of women for equality purposes.
 - Trans woman individuals remain protected under the Equality Act under the **category of 'gender reassignment'** and continue to be recognized as a vulnerable minority
- **Implications:** **The ruling allows institutions offering women-only services like shelters, prisons, and changing rooms to legally exclude transgender women based on biological sex.**
 - In employment and equal pay cases, biological sex will determine legal standing, meaning trans women may not be valid comparators and will guide UK courts in applying sex-based protections going forward.

Biological Sex and Gender

- Biological sex refers to a person's **physical characteristics** such as chromosomes and reproductive organs, typically identified as **male or female** based on the presence of X and Y [chromosomes](#). While males usually have **XY chromosomes** and females have **XX chromosomes**.
- In contrast, Gender is a social construct, shaped by **societal roles, behaviors, and stereotypes**.
 - Expectations, like men being stoic and muscular or women being nurturing and petite, are learned over time and **may not align with an individual's true identity or expression**.

How Has the SC of India Addressed Gender and Sexuality?

- **National Legal Services Authority v. Union of India (2014):** The SC affirmed the right of individuals to **self-identify their gender**, acknowledging that gender identity goes beyond **biological sex**, and includes the right to be recognized as male, female, or transgender.
- **Puttaswamy Case (2017):** The Court's affirmation of the **right to privacy** included **sexual orientation** as a fundamental right, emphasizing that discrimination based on sexual orientation violates human dignity and equality.
- **Navtej Singh Johar vs. Union of India (2018):** The SC **decriminalized homosexuality** by reading down Section 377 of the Indian Penal Code (now **Bharatiya Nyaya Sanhita**), which had previously criminalized **consensual same-sex relations**.

International Norms About Gender and Sexuality

- **Yogyakarta Principles:** It defines gender identity as a deeply felt internal experience that may or may not align with the **sex assigned at birth**.
 - The SC of India referenced the **Yogyakarta Principles** in the landmark **Navtej Singh Johar judgment (2018)**, which decriminalized same-sex relationships.
- **Malta's Legal Framework: Malta's Gender Identity, Gender Expression, and Sex Characteristics Act** recognizes gender identity based on **self-determination**.
- **European Human Rights Standards:** The Council of **Europe's Istanbul Convention** defines gender as socially constructed roles and attributes, emphasizing that gender is not solely determined by biological sex.

Drishti Mains Question:

Q. Analyze the distinction between biological sex and gender identity. Evaluate the role of judicial interpretations in advancing gender rights in India.

UPSC Civil Services Examination, Previous Year Questions (PYQs)

Mains

Q. Examine the scope of Fundamental Rights in the light of the latest judgement of the Supreme Court on Right to Privacy. **(2017)**