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The Transgender Persons (Protection of Rights) Bill, 2019

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The Parliament passed the Transgender Persons (Protection of Rights) Bill, 2019.

Key Features

- **Definition of a transgender person:** The Bill 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:** A transgender person may make an application to the District Magistrate for a certificate of identity, indicating the gender as 'transgender'.
- **Prohibition against discrimination:** The Bill prohibits discrimination against a transgender person, including denial of service or unfair treatment in relation to:
 - Education, employment, healthcare.
 - Access to or enjoyment of goods, facilities, opportunities available to the public.
 - Right to movement, right to reside, rent, or otherwise occupy property.
 - Opportunity to hold public or private office.
 - Access to a government or private establishment in whose care or custody a transgender person is.
- **Health care**
 - The Bill also seeks to provide rights of health facilities to transgender persons including separate HIV surveillance centres, and sex reassignment surgeries.
 - It also states that the government shall review medical curriculum to address health issues of transgender persons, and provide comprehensive medical insurance schemes for them.
- It calls for establishing a **National Council for Transgender persons (NCT)**.
- **Punishment:** It states that the offences against transgender persons will attract imprisonment between six months and two years, in addition to a fine.

Concerns

- The Bill does not have any provision for self-determination of gender. The transgender community has questioned the certificate of identity.
- It fails to address the lack of an effective mechanism to enforce the legal prohibition against discrimination on the ground of gender identity.
- It does not make provision for affirmative action in employment or education despite the Supreme Court’s mandate in **National Legal Services Authority NALSA v. Union of India (UOI) case (2014)**.
- The Bill sets out lighter sentences for several criminal offences, such as “sexual abuse” and “physical abuse”, when they are committed against transgender people.

Pros and cons

SALIENT FEATURES	COMMUNITY’S RESPONSE
<ul style="list-style-type: none"> • Definitions do not differentiate between transgenders, transsexuals, intersex persons and genderqueer 	<ul style="list-style-type: none"> • Community differentiates between transgender, transsexual and intersex persons and dismisses the 'one-solution fits all' idea
<ul style="list-style-type: none"> • Prohibition against discrimination in education, employment, healthcare, public facilities etc. Also prevents forced labour 	<ul style="list-style-type: none"> • Lack of enforceability dilutes provision. Lived experiences riddled with discrimination
<ul style="list-style-type: none"> • Certificate of identity can be obtained at the DM’s office and a revised certificate is to be obtained if sex is changed 	<ul style="list-style-type: none"> • Shuns provision as impinging on their right to self-determination. Fear it’ll lead to bureaucratic discrimination
<ul style="list-style-type: none"> • Government welfare measures and provisions of healthcare, including HIV surveillance centres, and sex reassignment surgeries 	<ul style="list-style-type: none"> • Step forward but medical community lacks knowledge of transgender bodies
<ul style="list-style-type: none"> • Transgender persons may only change their first name 	<ul style="list-style-type: none"> • Prefer to take Guru's name since many have severed ties with their birth family
<ul style="list-style-type: none"> • Setting up of a National Council for Transgender persons (NCT), including various Ministers and five transgender persons 	<ul style="list-style-type: none"> • Desire greater representation in decision making that affects them directly

Source: IE