

Standing Committee Report Summary

The Transgender Persons (Protection of Rights) Bill, 2016

- The Standing Committee on Social Justice and Empowerment (Chairperson: Mr. Ramesh Bais) submitted its report on the Transgender Persons (Protection of Rights) Bill, 2016 on July 21, 2017. The Bill was introduced in Lok Sabha on August 2, 2016 and referred to the Standing Committee for examination on September 8, 2016.
- **Definition of 'transgender persons':** Under the Bill, the definition of a transgender person includes one who is (i) neither wholly female or male; (ii) a combination of female and male; or (iii) neither female nor male. It also requires that such a person's gender not match the gender assigned at birth, and includes trans-men and trans-women, persons with intersex variations and gender-queers.
- The Standing Committee observed that this definition is against global norms and violates the right to self-determined gender identity. It recommended that the definition be modified to cover those whose gender does not match with the gender assigned at birth and include trans-men, trans-women, gender-queers, and other sociocultural identities. Further, transgender persons may choose to identify as 'man', 'woman' or 'transgender' irrespective of sex reassignment surgery (SRS) and hormonal therapy.
- **Process of certification as a transgender person:** As per the Bill, a transgender person must obtain a certificate of identity indicating the gender as 'transgender'. This would be granted by the District Magistrate on the recommendation of a Screening Committee. A revised certificate may be obtained if there is any subsequent change in gender. The Committee recommended that the certificate indicate identity *only* as 'transgender', and not 'male' or 'female'. Consequently, the provision for revised certificate should be removed.
- The Committee also recommended that timelines, guidelines and the right to appeal in relation to the decisions of the Screening Committee be specified.
- **CMO in the Screening Committee:** As per the Bill, the composition of the Screening Committee includes a Chief Medical Officer (CMO). The Committee recommended that the role of the CMO be clearly defined.
- **Definition of 'discrimination':** The Committee noted that while the Bill prohibits the discrimination of transgender persons it does not define the term. It recommended that the Bill include a definition of 'discrimination', similar to that in the Yogyakarta Principles (which are international principles relating to sexual orientation and gender identity). Further, while the Bill prohibits only persons from discriminating against transgender persons, the Committee recommended that this be extended to public and private establishments. It also recommended that a redressal mechanism for those facing discrimination be included in the Bill.
- **Grievance redressal in establishments:** As per the Bill, any establishment with more than 100 persons is required to designate a person as a complaints officer. The Committee recommended that this requirement be extended to all establishments, irrespective of the number of employees. Further, the duties and responsibilities of the complaints officer should be specified.
- **Family:** The Bill specifies that no transgender person shall be separated from parents or immediate family on the grounds of the transgender status, except by a court order, in the person's interest. The Committee recommended that the provision only apply to transgender children.
- **Healthcare:** The Bill states that the centre or state government will make provisions which includes (i) a comprehensive medical insurance scheme for transgender persons; and (ii) pre and post SRS and hormonal therapy counselling. The Committee recommended that the Bill specify that the medical insurance covers SRS, hormonal therapy and other health issues.
- **Offences and penalties:** The Bill specifies a penalty of six months to two years' imprisonment with a fine for committing a variety of offences against transgender persons, such as (i) bonded labour and begging; (ii) denial of access to a public place or residence; and (iii) causing physical, sexual and economic abuse. The Committee recommended that there be graded punishment for different offences, similar to the Indian Penal Code, based on the severity of the offence.
- **Other recommendations:** The Standing Committee recommended the inclusion of certain other provisions in the Bill, such as: (i) defining the term 'persons with intersex variations' to cover those who show variations in their sexual characteristics; (ii) granting reservations under the category of socially and educationally backward classes; and (iii) recognition of civil rights like marriage, partnership, divorce and adoption.

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