Transgender Persons (Protection of Rights) Bill

Why in news?

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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.

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How has the legislation evolved?

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- **SC ruling** - In February 2014, the Supreme Court passed a landmark judgement in the ***NALSA vs. Union of India case***.
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- It recognised that transgender persons have fundamental rights, and paved the way for enshrining the rights of transgenders in law.
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- The apex court deemed that individuals had the **right to the self-identification** of their sexual orientation.
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- It also called for affirmative action for transgenders in education, primary health care and social welfare schemes.
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- **Private Member Bill** - **Rights of Transgender Persons Bill, 2014**, was introduced as a Private Member's Bill in the Rajya Sabha by Tiruchi Siva.
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- It was unanimously passed in the Rajya Sabha but was never debated in the Lok Sabha.
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- The Bill passed in the Rajya Sabha had many progressive clauses.
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- These include –
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i. the creation of institutions like the national and State **commissions for transgenders**
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ii. setting up **transgender rights courts**
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- **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
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- The remedial measures to prevent sexual discrimination in private member bill were done away with by the government
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- **Standing Committee** – As, the bill had many contentious provisions, it was sent to the standing committee on social justice and empowerment.
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- **Reintroduction** - Ignoring the recommendations of the Standing Committee, the original version of the bill is set to be re-introduced now.
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- This legislation seems to undermine their right to life and livelihood instead of safeguarding their interests.
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What are recommendations of standing committee?

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- **Definition** - The 2016 Bill identifies transgenders as being “partly female or male or a combination of female and male or neither female nor male”.
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- The ambiguity in the definition of the "third sex" lends itself to misinterpretation.
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- Section 377 of the IPC that criminalises non-heterosexual sex draws many transgenders into its net.
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- This definition is also departure NALSA judgment to identify transgenders outside the male-female binary.
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- It is also against the 2014 bill’s intention to cleanse society of the **stigma**.
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- The Standing Committee draws attention to this inadequate definition which is founded on a heterosexual worldview.
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- **Identification** - 2016 Bill mandates transgenders to submit themselves to a medical examination for recognition.
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- 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.
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- This is in stark contrast to the 2014 Bill that gives individuals the right to self-identify their sex and gender.
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- **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'.
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- **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.
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- This comes as a provision to replace the setting up of central and State transgender rights courts as prescribed in the 2014 Bill.
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- 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.
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Source: The Hindu, The Wire

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