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GRIST

INDIAN PARLIAMENT PROPOSES RIGHTS FOR TRANSGENDER INDIVIDUALS

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Transgender persons in India would gain some rights, including protection from employment discrimination, under a [bill](#) passed 5 Aug 2019 by the Lok Sabha, India's lower house of parliament. Introduced in July, the bill follows a 2014 supreme court ruling that called on the central and state governments to protect transgender individuals as a third gender ([Nat'l Legal Servs. Auth. v. Union of India](#), (2014) 5 SCC 438). India's transgender community has criticized the bill on grounds that it doesn't adequately respond to the court's ruling.

FEATURES OF THE BILL

Definition of transgender. The bill defines transgender as a person whose gender doesn't match the sex assigned at birth, including trans men and women, persons with intersex variation, gender-queers, and persons with sociocultural identities like "kinnar" and "hijra." The bill would allow individuals to self-identify but doesn't detail what rights this would protect.

Recognition of identity. Transgender individuals could apply to a court for a certificate of identity that can be later modified if the individual undergoes gender reassignment. The bill doesn't clarify if courts could refuse to grant applications and if appeals would be allowed.

Prohibition of discrimination. Every establishment would need to assign a compliance officer to handle complaints relating to violations of the act, which would bar discrimination based on gender identity in:

- Employment, including but not limited to recruitment, promotion and other related issues
- Education and healthcare
- Access to or enjoyment of goods, facilities and opportunities available to the public
- Right to move; reside, rent or occupy property; or hold public or private office
- Access to a government or private establishment that cares for or has custody of transgender persons

Healthcare. The government would have to provide welfare schemes and programs that “facilitate and support livelihood for transgender persons including their vocational training and self-employment.” Along with access to HIV centers and gender-reassignment facilities, transgender individuals would have comprehensive medical insurance schemes covering medical expenses, gender-reassignment surgery, hormonal therapy, laser therapy or any other health issues.

National Council for Transgender Persons. A new council would advise the central government on the impact of policies and legislation on transgender people and address their grievances. The council’s membership would include key ministers, state governments, representatives from the transgender community and five experts from nongovernmental organizations.

Limited penalties. Certain actions against transgender persons could lead to fines and imprisonment for six months to two years. The bill has no provisions for victim compensation.

RELATED RESOURCES

- [Transgender Persons \(Protection of Rights\) Bill 2019](#) (Ministry for Social Justice and Employment, 15 Jul 2019)
- [Nat’l Legal Servs. Auth. v. Union of India](#), (2014) 5 SCC 438

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