

## Rights & wrongs — on Transgender Persons Bill

It will be a travesty of its avowed objectives if the proposed legislation to protect the rights of transgender persons is not sufficiently rooted in a rights-based approach. News that the Centre has brushed aside a parliamentary standing committee's report and plans to introduce the Transgender Persons (Protection of Rights) Bill without changes is a disappointment. The process of recognising the rights of the community and seeking to protect it by legislation gained momentum in 2014, when the Supreme Court gave a landmark verdict in the NALSA case. The court recognised the community as a third gender entitled to the same rights and constitutional protection as other citizens. It called for an end to discrimination based on gender against those who do not conform to the gender assigned to them at birth. Besides this negative right against discrimination, the court ruled that transgender persons had a positive right to make decisions about themselves, express themselves and participate in community life. It directed the government to accord them 'socially and educationally backward' status so they could benefit from affirmative action. In 2014, a private member's Bill moved by DMK MP Tiruchi N. Siva was passed in the Rajya Sabha. In the Lok Sabha, the government introduced its own Bill, which was referred to the Standing Committee on Social Justice and Empowerment.

The Standing Committee, in its July 2017 report, suggested some modifications and additions to the draft. In particular, it disagreed with the definition of 'transgender' in the draft Bill and wanted modifications to bring it in line with global norms. The Committee felt that the definition violated the principle that transgender persons have a right to self-identification of their gender. Activists and experts have also rightly pointed to the absence of any reference to the implications of criminal and civil laws that are based on the traditional gender binary. While provisions on equality and non-discrimination would promote equal opportunity, in the process the real benefit of reservation in jobs should not be denied. Social legislation should not be merely benevolent; rather, it should be imbued with an approach that extends to the marginalised sections the freedom, dignity and autonomy that other citizens enjoy. In the domain of legislation, disagreements over drafts are natural. It is up to the government of the day to adopt an inclusive approach towards divergent opinions and come up with the best law possible. Ignoring the opinions of experts and parliamentary committees does not help the process. The Centre should revisit its draft and incorporate the inputs of the standing committee and an expert panel that submitted a report in 2014.

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