

Transgender rights should not depend on a screening

When the ministry of social justice and empowerment proposed to institute district screening committees in the Transgender Persons (Protection of Rights) Bill 2016, its aim was to issue a certificate of identity to a transgender person, which in turn would “confer rights and be a proof of recognition of his identity as a transgender person”. Such an identity card would also no doubt enable access to social welfare schemes that transgender persons were entitled to under the far-reaching Nalsa judgment of 2014.

However, the conventional wisdom of such a move belies its discriminatory impulse. Rights are not conferred after screening for appropriateness. Fundamental rights are guaranteed to every citizen from the moment of their birth, irrespective of their identity. Second, if the purpose of such a screening committee is to prevent ‘fake’ transgender persons from claiming welfare—dividing an already thin slice of pie even further must be done with utmost care—this anxiety cannot be addressed by taking away the right to self-determination of gender identity. Self-determination is the underlying spirit of the Nalsa judgment, not least because other genders—men and women—requires only the word of the person to assert them. If the Parliament passes a law that is more concerned about keeping people out than expanding the net of inclusion, such a law is only doomed to create more trouble than alleviate existing problems.

If the bill that is expected to be tabled when the Budget session resumes on March 5 does away with screening committees, it must come up with an equally progressive alternative that ensures that the assertion of a transgender person alone is enough, without them having to depend on the satisfaction of any bureaucrat, medical officer or psychologist, or any other person in a committee. By all means, create committees to examine how welfare schemes can be made more trans inclusive, and to study how the absence of class, caste, and educational privileges affect transgender persons, as well. This would be a far more effective way of ensuring that schemes reach the people who actually need them. Give committees teeth so that such entitlements are disbursed not only on paper but in practice.

Transgender persons have been historically discriminated against, by state and people alike. It is the job of the bill to protect their rights, not determine the rights based on an identity card.

END

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