



Rights of LGBTIQ+ Persons

For Prelims: ILO, United Nations, IPC, Fundamental Rights

For Mains: Issues Related to Transgenders, Social Empowerment

Why in News?

Recently, [International Labour Organisation \(ILO\)](#) released a document on “Inclusion of LGBTIQ+ persons in the world of work”. It provides certain **recommendations to ensure equal opportunities and treatment** for LGBTIQ+ persons at work.

- LGBTIQ stands for Lesbian, Gay, Bisexual, Transgender, Inter-sex and Queer.
- The plus sign **represents people with diverse SOGIESC** who identify using other terms. In some contexts, LGB, LGBT or LGBTI are used to refer to particular populations.
 - SOGIESC stands for sexual orientation, gender identity, gender expression and sex characteristics.

What is the International Labour Organization?

- It is the only tripartite [United Nation \(UN\)](#) agency. **It brings together governments, employers and workers of 187 member States** (India is a member), to set labour standards, develop policies and devise programmes promoting decent work for all women and men.
 - Received the [Nobel Peace Prize](#) in 1969.
- Established in 1919 by the [Treaty of Versailles](#) as an affiliated agency of the [League of Nations](#).
- Became the first affiliated specialized agency of the UN in 1946.
- **Headquarters:** Geneva, Switzerland

What are the Recommendations?

- **National Policy and Labour Law Review:**
 - National policy and labour law review will allow **governments to assess their country's work policy environment** for LGBTIQ+ persons.
 - This will **allow the identification of concrete steps** for improving the legal and policy environment, ending discrimination and exclusions, and complying with international instruments.
 - Around the world, LGBTIQ+ persons face harassment, violence and discrimination on the basis of sexual orientation, gender identity, gender expression and sex characteristics.
 - Discrimination has an economic cost not just to LGBTIQ+ persons and their families but also to enterprises and national economies.

- **Launch Social Protection Programmes:**
 - It recommended member countries, employers' organisations and representatives of workers to launch social protection programmes to remove barriers that LGBTIQ+ persons face in the society.
- **Facilitate Consultation:**
 - In addition to **social dialogue with employers' and workers' organizations**, consultation with LGBTIQ+ communities are crucial.
 - This will **allow the identification of barriers faced by LGBTIQ+ persons** when entering the labour market and accessing government schemes, including those on social protection.
- **Work with Small and Medium Industry Associations:**
 - To address gender and sexual identity discrimination and stigma, **the International Labor Organization encouraged governments to work with small and medium sector associations**, sectoral unions, and informal economy workers' associations.
- **End Sexual Discrimination at Workplaces:**
 - **Encouraging employers' organisations to end sexual discrimination** at workplaces, it makes business sense to work on LGBTIQ+ inclusion in the workplace.
 - Studies have shown that **diversity in the workplace, including LGBTIQ+ persons, is better for business.**
 - It **signals a creative environment** that creates the right conditions for economic growth.
 - **Employers' organisations can provide policy guidance to their members**, undertake advocacy and raise awareness on including LGBTIQ+ persons in workplaces, promote social dialogue and collective bargaining, and facilitate learning and sharing of good practices among members.
- **Organise and Exercise the Right to Freedom of Association:**
 - ILO has asked **unions to help LGBTIQ+ workers organise** and exercise their right to freedom of association.
 - Workers associations can also ensure that **issues affecting LGBTIQ+ workers are represented in collective bargaining agreements** with employers and in workplace policies and other tools.
 - **Many LGBTIQ+ workers**, particularly those in smaller workplaces, may feel isolated without visible LGBTIQ+ peers or allies.

What is the Status of LGBTIQ+ Community in India?

- **National Legal Services Authority Vs. Union of India (2014):** The SC observed that "recognition of transgenders as a third gender is not a social or medical issue, but a human rights issue".
- **Navtej Singh Johar vs. Union of India (2018):** The SC **decriminalised homosexuality** by striking off parts of Section 377 of the **Indian Penal Code (IPC)** which were held violative of **Fundamental Rights** of LGBTQ Community.
 - The SC held that **Article 14 of the Constitution guarantees equality before law** and this applies to all classes of citizens thereby restoring 'inclusiveness' of LGBTQ Community.
 - It also upheld the pre-eminence of **Constitutional morality** in India by observing that equality before law cannot be denied by giving precedence to public or religious morality.
 - The SC stated that the '**Yogyakarta Principles on the Application of International Law in Relation to Issues of Sexual Orientation and Gender Identity**' should be applied as a part of Indian law.
 - **Yogyakarta Principles recognise freedom of sexual orientation** and gender identity as part of Human Rights.
 - They were outlined in 2006 in Yogyakarta, Indonesia by a distinguished group of International Human Right experts.
- **Tussle Over Same Sex Marriages:** In **Shafin Jahan v. Asokan K.M. and others (2018)** case, the SC observed that choice of a partner is a person's fundamental right, and it can be a same-sex partner.
 - However, in February, 2021, the Central Government opposed same-sex marriage in Delhi High Court stating that a marriage in India can be recognised only if it is between a "biological man" and a "biological woman" capable of producing children.

- **Transgender Persons (Protection of Rights) Act, 2019:** The Parliament has passed the [Transgender Persons \(Protection of Rights\) Bill, 2019](#) which has been criticised for its poor understanding of gender and sexual identity.

[Source: TH](#)

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