



Transgender Rights and Related Concerns

For Prelims: [High Court, Transgender Persons \(Protection of Rights\) Act, 2019](#), [Transgender Persons \(Protection of Rights\) Rules, 2020](#), [Gender Dysphoria](#), [Aadhaar Card](#), [Registration of Births and Deaths Act, 1969](#), [Article 21](#), [Transgender Identity Card](#).

For Mains: Judicial stand on transgenders welfare, Reforms for transgender persons.

Source: [IE](#)

Why in News?

In *Ms. X vs State of Karnataka Case, 2024*, the [Karnataka High Court \(HC\)](#) held transgender people can **change their name and gender on birth certificates**.

- Changing the name and gender on birth certificates of transgenders is **explicitly permitted** under the [Transgender Persons \(Protection of Rights\) Act, 2019](#) and [Transgender Persons \(Protection of Rights\) Rules, 2020](#).

What are the Key Facts of the Ms. X vs State of Karnataka Case, 2024?

- **Background:** The petitioner was diagnosed with [gender dysphoria](#) and she underwent **sex-reassignment surgery** and legally changed her name and gender identity on her [Aadhaar card](#), [driving license](#), and [passport](#).
 - However, her request to **change** the gender and name on her **birth certificate was rejected**.
 - Gender dysphoria refers to **psychological distress** that occurs when a person's sex assigned at birth does not match his gender identity.
- **Legal Objection:** Section 15 of the [Registration of Births and Deaths Act, 1969](#) permits **changes to birth certificates** only if the information is **erroneous** or was entered **fraudulently or incorrectly**.
 - [Registration of Births and Deaths Act, 1969](#) governs the granting of **birth and death certificates**.
- **Violation of Fundamental Rights:** The petitioner argued that the restrictive nature of **Section 15** of Registration of Births and Deaths Act, 1969 violated her [right to life with dignity](#) under [Article 21](#) of the Indian Constitution.
 - She also claimed that documents showing different identities create a **dual identity**, leading to potential **harassment and discrimination**.
- **Transgender Persons (Protection of Rights) Act, 2019:** It states that transgender people can be issued a **"certificate of identity"** as proof of their identity (**Section 6**) which can be revised if they choose to opt for a **sex-reassignment surgery (Section 7)**.
 - The law **explicitly** says the gender of a transgender person **"shall be recorded in all official documents"** per this certificate.
- **Karnataka HC Ruling:** It held that the 1969 Act is a **"general enactment"** and must **comply** with the Transgender Persons (Protection of Rights) Act, 2019 which is a **"special**

enactment”.

- It invoked the legal principle of “**generalia specialibus non-derogant**”, which roughly translates to “**the special shall prevail over the general**”.
- The court ruled that the **Registrar** must accept the **transgender certificate** and issue a **corrected birth certificate** until the 1969 Act is amended.
- General enactments apply broadly, like the 1969 Act, while **special laws** focus on **specific issues**, such as the Transgender Persons Act.
- **Significance:** This judgment emphasizes the **supremacy of laws** specifically **designed to protect the rights of transgender individuals** over general laws.
 - It paves the way for the **recognition of gender identity in all official records** for transgender persons.

Note: In India, the total population of transgender is around **4.88 Lakh** as per **2011 census**.

- The top 3 states with the largest transgender population are **Uttar Pradesh, Andhra Pradesh, and Maharashtra**.

Timeline of Reforms for Transgender Persons

- **Election Commission's Directive (2009):** Registration forms were updated to include an "others" option, allowing transsexual individuals to avoid male or female identification.
- **Supreme Court Ruling (2014):** In **[National Legal Services Authority vs. Union of India case, 2014](#)**, the Supreme Court recognized transgender people as the “**Third Gender**,” emphasizing it as a human rights issue.
- **Legislative Efforts:** **[Transgender Persons \(Protection of Rights\) Act, 2019](#)** was enacted to protect transgender rights.

What are Key Facts About Transgender Persons Act, 2019?

- **Define Transgender:** Transgender person means someone whose **gender does not match with the gender assigned to that person at birth**.
 - It clarifies terms like ‘**person with intersex variation**’ and ‘**transgender person**’ to include **trans men and women**, regardless of surgery or therapy.
- **Non-discrimination:** Prohibits discrimination in **education, employment, healthcare, and public facilities**, and affirms rights to movement, property, and office.
- **Certificate of identity:** Grants the right to **self-perceived gender identity** and requires district magistrates to issue certificates **without medical exams**.
- **Medical care:** Ensures **HIV surveillance**, access to medical care, sex reassignment surgeries, and therapy with insurance coverage.
- **National Council for Transgender Persons:** Established to advise the government and address grievances.
- **Offences and penalties:** Punishes offences like **forced labor, abuse, and denial of rights** with imprisonment (6 months to 2 years) and fines.

What are the Issues Faced by Transgender in India?

- **Social Marginalization:** Transgender individuals **face exclusion from society**, leading to limited opportunities for social participation, **low self-esteem, and isolation**.
 - **Public spaces**, like restrooms and shelters, often **fail to accommodate** transgender people, exposing them to **harassment, assault, and marginalization**.
- **Discrimination in Education:** Transgender individuals face **bullying and exclusion** in education, resulting in **higher dropout rates** and a literacy rate of **46%**, compared to the national average of **74%**.
- **Homelessness:** Rejection by families and **lack of housing options** force many transgender youth to **live on the streets, facing abuse, mental health issues**, and drug use.
- **Transphobia:** Transgender individuals are often subjected to violence, harassment, and

discrimination due to **societal intolerance and transphobia**.

- **Transphobia** refers to **negative attitudes, fear, hatred, or prejudice** against transgender people.

- **Psychological Distress:** Transgender individuals experience significant psychological distress, including **anxiety, depression, and suicidal thoughts**, due to lack of support systems.
- **Public Representation: Negative portrayals** of transgender people in the media and public spaces **perpetuate stereotypes** and fuel societal rejection and violence.

Way Forward

- **Empowerment and Legal Reform:** The government must adopt a **more inclusive approach** in policy-making, ensuring that transgender people are **not excluded** from decision-making processes.
 - This inclusion can help **address their grievances and increase opportunities** for their public participation.
- **Access to Education:** Schools should adopt **anti-bullying and anti-ragging policies** specifically targeting transgender students to reduce instances of exclusion and harassment.
- **Addressing Social Concerns:** The government must ensure that access to essential services such as **free legal aid, supportive education, and social entitlements** is available at the grassroots level.
- **Economic Opportunities:** Providing **liberal credit facilities and financial assistance** will enable transgender individuals to start their own businesses or careers as entrepreneurs.

Combating Transphobia: Public education campaigns should aim to reduce **societal intolerance and raise awareness** about transgender issues, challenging harmful stereotypes and promoting acceptance.

Drishti Mains Question:

Discuss the provisions of the Transgender Persons (Protection of Rights) Act, 2019, in ensuring the rights of transgender individuals in India.

UPSC Civil Services Examination, Previous Year Questions (PYQs)

Prelims

Q. In India, Legal Services Authorities provide free legal services to which of the following type of citizens?(2020)

1. Person with an annual income of less than Rs 1,00,000
2. Transgender with an annual income of less than Rs 2,00,000
3. Member of Other Backward Classes (OBC) with an annual income of less than Rs `3,00,000
4. All Senior Citizens

Select the correct answer using the code given below:

- (a) 1 and 2 only
- (b) 3 and 4 only
- (c) 2 and 3 only
- (d) 1 and 4 only

Ans: (a)

PDF Refernece URL: <https://www.drishtias.com/printpdf/transgender-rights-and-related-concerns>

