

Redraft the Trans Bill and Trafficking of Persons Bill 2018

BAPSA strongly condemns the draconian Transgender Persons (Protection of Rights) Bill and The Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2018.

The landmark NALSA judgment on April 2014, by Justice K S Radhakrishnan, identified a third gender beyond gender binaries. On the 06-09-2018, the colonial penal law 377 was read down by the Supreme Court of India; the verdict (Navtej Singh Johar vs. UoI) came as a positive constitutional sanction to the queer persons, where on the other hand the struggle for transgender rights still continues. The recent Transgender Persons (Protection of Rights) Bill, 2018, which was supposed to be a revised version of the TG Bill 2016, was recently passed on the Lok Sabha on the 17th December overlooking the recommendations and suggestions made by various trans rights activists, NGOs, academics, sex workers unions and more in India and discrediting all protests and struggles made by the trans persons. BAPSA, along with the trans persons in India, believes that the Bill came as an assault of trans right rather protection.

The Bill takes away transgender persons right to self-determination of their gender. The idea that a screen committee will be there to certify a trans person of their gender display that transgender is reduced to clinical proofs by the Indian Brahminical state; where medical interventions like sex reassignment surgery, hormonal treatment would be, supposedly, the only marker of one's trans male/female identity and this violates the NALSA judgment. Prohibition of self affirmation of gender would lead to the non-consensual stripping down of trans persons in front of the screening committee which should be understood as continuation of violence rather the protection of rights.

Beside this beggary still remains criminalized and the special clause for the trans persons for 'organised begging' where the punishment for the 'offence' is imprisonment for 10 years as per The Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2018. Trans communities like *Hijra* and *Jogoppa* etc have been traditionally begging, their lives will be measurable with such measures. The Bill also has not proposed any definition of begging or forced labour. In The Trafficking Bill, the state has missed the demarcation line between sex trafficking and consensual sex work, and, thus criminalizes both. Such ignorant, indifferent and irresponsible criminalization of the occupations which have been the major sources of livelihood for the trans persons has happened without ensuring horizontal reservation or any affirmative action for the trans persons in education, employment, healthcare etc. The public spaces where trans bodies are hyper-sexualized, trans identity is dehumanized how can the state guarantee the survival and living of trans persons with dignity and all basic human rights without reservations?

The TG Bill also fails to recognize non- biological families within trans communities like *Kothi*, *Jogta*, *Aravani*, *Hijra* and many more. When many stories of oppression on the trans persons from their very biological families have been well noted, this bill forces the trans persons to live with their natal families by criminalizing their occupations. The universal conventional definition of family which doesn't go beyond heterosexual cis-gender imagination of family by blood and relatives, we must not forget it protects and promotes the caste system by mandatory endogamy in India. When trans families go beyond the idea of blood lineage and crushes Brahminical patriarchy, the non-identification and invisibilisation of trans families, we believe, as the continuation and safeguarding of Brahminism by the state.

In the TG Bill the punishments around discriminations and violence, e.g. sexual violence, are reduced for trans persons which is not the same for cis- gender persons. This is also a clear violation of Right to Equality.

BAPSA demands the govt. to re-draft The Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2018 and take down the regressive Transgender Persons (Protection of Rights) Bill, 2018. We also request everyone to join the 'STOP THE TRANSGENDER BILL' protest on the 28th December 2018, @Jantar Mantra, New Delhi.

26 December 2018

