

Transgender persons from Tamil Nadu and Pondicherry protest against the Transgender (Rights of Persons) Bill of 2018

December 21, 2018, Chennai:

Just as men and women, gender minorities such as transwomen and transmen are also segments of the human population. This has been established by modern science. At present, owing to lack of understanding and acceptance by our families and social structures, we find ourselves abandoned and have no alternative but become a community that claps and seek alms in public places.

“Pursue learning even if you are begging to meet your needs”
- Vettriverkai by Athiveera Rama Pandiyan (1922)

While transgender people have the potential to excel in many fields such as education, literature, medicine, engineering, to name a few, the abject indifference of the government has suppressed our potential. All this has led to a series of struggles across India for the past few years, agitating for reservation in education, employment and politics. In the course of this we have faced much oppression.

As a result of our advocacy, the Supreme Court ruled (via the NALSA verdict) on April 15 2014 on the matter of our rights, directing the Centre and states to ensure reservation for transgender persons in education and employment. In 2015, Rajya Sabha MP Tiruchi Siva presented a private member's bill on transgender rights that contained many salient features.

After that, the Central Minister of Social Justice and Empowerment, Thawar Chand Gehlot, presented the Transgender Persons (Protection of Rights) Bill 2016, that had no mention of reservations and declared that the already-shunned members of the community would be criminalized for begging.

This resulted in several protests by transgender communities around the country. Then we presented our demands to the Parliamentary Standing Committee, which also accepted our demands and made some recommendations to the government on our behalf. Ignoring all these demands, the Transgender (Rights of Persons) Bill 2018 was passed in the Lok Sabha on 17/12/2018 with 27 amendments of the previous version.

On December 21, 2018, thousands of transgender persons from Tamil Nadu and Pondicherry came together at the Chennai Press Club, to protest against the draconian Transgender bill 2016 and claim their rights. In doing so they have joined the others from other parts of the country in expressing their discontent with the government's attempt to pass an irrational law affecting the lives of so many across the country.

During the press meet, transgender persons put forth their request to the Rajya Sabha MPs of all political parties to stop this bill from being passed. If left unchecked, this bill is likely to become a law affecting all their lives. Though this bill was originally constituted to protect the rights and interests of a marginalised group of individuals in India, the present version of this bill does not appear to fulfil this objective. Several of these problematic aspects of the bill were discussed during the press meet. These included:

1. Reservations: Reservation and laws for the protection of transgender persons in education and employment should be implemented. This is an essential feature of the Supreme Court NALSA verdict and the Tiruchi Siva Bill, and needs to be restored.

2. Criminalization of Begging: Under the garb of protecting transgender persons, the clause around criminalization may be used against them. Transgender persons present in different public spaces are already being arrested under the laws against begging. It has been a tradition for individuals from the Hijra, Kinnar, Thirunangai communities to seek alms at festivals and celebrations. Also, unlike the other (cis) gender persons, it is not easy for transgender persons to secure other employment opportunities.

3. Self-identification: Provisions should be made for individuals of any gender to be able to self-identify one's gender in all their identification documents including educational certificates. District screening committee should be eliminated. The present Bill requires a Screening Committee to verify if a person may identify as transgender, and further requires proof of surgery for them to identify within the binary as female or male. According to NALSA vs. Union of India verdict, no individual should be required to go through surgical procedures or hormone treatment to assert one's legal gender identity. Similarly, as declared by this verdict, any proof such as surgery or certificate from mental health professionals beyond self-identification is in violation of Articles 19 and 21.

4. Penalties for sexual violence upon all transgender persons: These should be equal in severity to existing penalties for sexual violence against women, while penalties for physical, verbal, emotional and economic abuse should be similarly commensurate with the punishments for such acts under existing laws.

5. Residence: Restricting transgender persons to stay within the biological family or in rehabilitation centres assigned by the government completely ignores the violence perpetrated by families and such homes on many transgender persons. This provision violates the Constitutional Rights of trans persons to freedom of residence. Thirunangai/Aravani/Hijra community elders, who adopt young transgender children provide shelter, medical care, and gender-affirming inheritance and burial norms: these persons should be brought within the definition of family.

6. Access to healthcare: The communities, both transwomen and transmen, require free access to gender affirming medical procedures such as surgery, hormone therapy and monitoring, full insurance coverage, choice of m/f/separate wards and toilets for trans people in hospitals.

7. Need for transgender rights commissions: National and State Trans Rights Commissions need to be constituted with appropriate powers, with majority transgender members from a variety of gender and other identities, to tackle atrocities, grievances and welfare/benefits.

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