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5. NHRC Advisory on Transgender Welfare – Ensuring Rights and Dignity- Polity

1. Why in News

1. National Human Rights Commission (NHRC) issued second advisory to Secretaries of 11 Ministries, Registrar General and Census Commissioner, Chief Secretaries of all states/UTs ensuring welfare of transgender persons
2. Based on NHRC's continued engagements identifying persistent, emerging challenges affecting transgender persons
3. Key recommendations include Census inclusion, legal reforms, inheritance rights, education access, healthcare protocols, workplace inclusion, welfare scheme simplification
4. Census 2011 – 4.87 lakh persons opted "other" in gender category

2. Key NHRC Recommendations

Census Inclusion

1. Include distinct categories – 'Intersex', 'Transmen', 'Transwomen' in upcoming Census of India
2. Current "other" category insufficient capturing diversity
3. Accurate data essential for policy planning, resource allocation

Legal Reforms

1. Review Registration of Births and Deaths Act, Juvenile Justice Act, succession laws
2. Ensure recognition of self-identified gender
3. Protect transgender rights throughout legal framework

Equal Rights

1. Ensuring equal inheritance, succession, housing, property rights for transgender, intersex persons
2. Eliminating discriminatory provisions in personal laws, civil codes

Education Access

1. Admission of transgender students in educational institutions based on self-identified gender without medical proof
2. Eliminating barriers, harassment preventing school dropouts

Healthcare Protocols

1. Developing standardized, ethical medical protocols for gender-affirming healthcare
2. Regulation of Sex Reassignment Surgery costs preventing exploitation
3. Access to hormonal therapies, surgical services in public hospitals

Workplace Inclusion

1. Promoting inclusive workplaces through gender-neutral facilities (toilets, changing rooms)
2. Inclusive HR policies (non-discrimination, equal opportunities)
3. Workplace grievance mechanisms
4. Mandatory diversity disclosures by companies

Welfare Scheme Access

1. Simplifying documentation process
2. Enabling self-identification-based enrolment for elderly transgender persons in welfare schemes

3. Establishing transgender-inclusive old-age homes

3. LGBTQIA+

Definition

1. Umbrella term - Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, Asexual, '+' representing other identities
2. Persons not conforming to traditional gender roles, expectations
3. Display sex characteristics not fitting typical male-female binary
4. Gender identities differing from sex assigned at birth

4. India's Position on LGBTQIA+ Rights

Census Data

1. Census 2011 - 4.87 lakh persons opted "other" in gender category
2. Actual numbers likely higher due to stigma, underreporting

Transgender Rights - NALSA v. Union of India (2014)

1. Recognized right to self-identify gender
2. Recognized transgender as "third gender"
3. Upheld fundamental rights (Article 14 equality, Article 15 non-discrimination, Article 21 life-dignity)

Decriminalization - Navtej Singh Johar v. Union of India (2018)

1. Decriminalized consensual homosexual acts
2. Section 377 IPC partially struck down
3. Historic judgment affirming dignity, privacy, equality

Constitutional Provisions

1. Article 14 - Right to equality
2. Article 15 - No discrimination on grounds of sex (interpreted including gender identity, sexual orientation)
3. Article 21 - Right to life and personal liberty (includes dignity, privacy)

Legislation - Transgender Persons (Protection of Rights) Act, 2019

1. Provides legal recognition of transgender identity
2. Prohibits discrimination in education, employment, healthcare, public services
3. Establishes National Council for Transgender Persons
4. Criticized by activists for requiring screening committee for identity certificates (contradicting self-identification principle from NALSA)

5. Challenges Faced by Transgenders

Societal Issues

1. Deep-rooted prejudices leading to ostracization from families, communities
2. Social stigma, discrimination

Lack of Access to Education

1. High school dropout rates due to bullying, harassment, gender-based violence
2. Lack of gender-neutral facilities, supportive environment

Barriers in Employment

1. Widespread discrimination in hiring, workplace
2. Often forced into informal, unsafe, exploitative sectors (begging, sex work) due to lack of opportunities
3. Qualification, skills underutilized

Healthcare Exclusion

1. Lack of gender-affirmative healthcare
2. Discrimination by medical staff
3. Unavailability of hormonal, surgical services in public hospitals
4. High mental health burden due to social rejection, isolation

Violence and Abuse

1. Prone to verbal, physical, sexual violence in public, private spaces
2. Low reporting due to fear, distrust of authorities

Political Underrepresentation

1. Low political visibility, representation in mainstream parties, institutions
2. Lack of policy-making participation hindering articulation of needs

6. Government Initiatives

National Portal for Transgender Persons (2020)

1. Enables online applications for identity certificates
2. Access to benefits, welfare schemes

SMILE Scheme (2022)

1. Support for Marginalized Individuals for Livelihood and Enterprise
2. Provides livelihood, skill training, shelter support
3. Garima Greh centres (residential facilities)
4. Ayushman Bharat TG Plus health coverage

Equal Opportunities Policy

1. Department of Social Justice & Empowerment issued policy ensuring transgender community equal access to employment opportunities

National Council for Transgender Persons

1. Statutory body under Ministry of Social Justice and Empowerment
2. Safeguards, promotes transgender rights
3. Includes 5 transgender community representatives, NHRC-NCW representatives, state government representatives, NGO experts

Transgender Protection Cells

1. District-level cells under District Magistrates monitoring offenses
2. Ensure timely FIR registration, conduct sensitization programs
3. Reinforcing legal protections

Way Forward

1. Implement NHRC recommendations comprehensively
2. Amend Transgender Act 2019 removing screening committee requirement
3. Sensitization programs for police, judiciary, healthcare providers, educators
4. Economic empowerment through skill development, entrepreneurship support
5. Social acceptance campaigns challenging stereotypes

7. Conclusion

NHRC's second advisory on transgender welfare addresses persistent challenges through recommendations including Census inclusion of distinct categories (Intersex, Transmen, Transwomen), legal reforms ensuring self-identified gender recognition, equal inheritance-property rights, education access without medical proof, standardized healthcare protocols, inclusive workplaces with diversity disclosures, and simplified welfare enrolment. Despite landmark NALSA judgment 2014 recognizing third gender and self-identification, Navtej Singh Johar 2018 decriminalizing Section 377, and Transgender Act

2019, challenges persist—societal prejudice, education dropout, employment discrimination forcing informal sectors, healthcare exclusion, violence. Government initiatives include National Portal 2020, SMILE Scheme 2022 (Garima Greh, Ayushman TG Plus), National Council, Protection Cells ensuring India's democratic, human rights commitments translate into dignity, autonomy, opportunity for transgender persons.

Source - <https://newsonair.gov.in/nhrc-issues-second-advisory-focused-on-ten-key-areas-to-ensure-welfare-of-transgenders/>