



DAILY EDITORIAL ANALYSIS

TOPIC

**TRANSGENDER RIGHTS &
TRANSFORMING SOCIETY**

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Context

- US President Donald Trump's government **now recognises only two genders, male and female excluding the Transgenders.**

Recent Global Developments

- UK Supreme Court Ruling (2024) – Gender and Equality Act:** The UK Supreme Court held that for the purposes of the Equality Act 2010, only two biological sexes — male and female — are recognised in certain legal and sporting contexts.
 - Implication:** Transwomen athletes (biological males identifying as women) can be excluded from female-only sporting categories, to ensure fairness and safety.
- Hungary – Ban on Pride Parade:** The Hungarian government has banned LGBTQ+ Pride events, citing concerns over public order and morality.
- Russia – Ban on Legal Gender Change:** Russia has banned legal gender change, meaning individuals can no longer change their gender markers on official documents.
 - Ban extends to gender reassignment surgeries.
- These developments **reflect a conservative pushback** against transgender and LGBTQ+ rights in parts of the World.

LGBTQIA+

- LGBTQIA+** is an umbrella term for **lesbian, gay, bisexual, transgender, queer, intersex, and asexual persons**, with '+' representing other identities that are not specifically included in these letters.
- Notably, LGBTQIA+** persons do not conform with traditional gender roles and expectations, display sex characteristics that do not fit the typical male or female binary, and their gender identities that differ from the sex they were assigned at birth.

India's Position on LGBTQIA+ Rights

- Decriminalisation: Navtej Singh Johar v. Union of India (2018)** decriminalised consensual homosexual acts (Section 377 partially struck down).
- Transgender Rights:** NALSA v. Union of India (2014) recognised the right to self-identify gender.
 - It recognises **transgender as the "third gender"** upholding their fundamental rights.
- Constitutional Provisions:** Article 14 – Right to equality, Article 15 – No discrimination on grounds of sex and Article 21 – Right to life and personal liberty.
- Legislation:** The Transgender Persons (Protection of Rights) Act, 2019 provides legal recognition of transgender identity.
- Marriage & Adoption:** Same-sex marriage are not yet legal as 2023 Supreme Court judgment refused to legalize it but urged legislature to deliberate.
- Recent rulings from various high courts have generally been progressive –**
 - the right to be known as parents rather than father and mother on their child's birth certificate (Kerala),
 - the right of a transgender woman to file a complaint of cruelty against her husband and in-laws (Andhra Pradesh),
 - and the right to form a chosen family (Madras).

Challenges Faced by the Transgenders

- Societal Issues:** Trans persons face deep-rooted societal prejudices, leading to **ostracisation from families and communities.**
 - Discrimination** in public spaces, including transport, healthcare centres, and government offices.

- **Lack of Access to Education:** High school dropout rates due to bullying, harassment, and gender-based violence.
 - ♦ Few educational institutions have policies for trans inclusion or gender-neutral facilities.
- **Barriers in Employment:** Trans persons face widespread discrimination in hiring and the workplace.
 - ♦ Often forced into informal, unsafe, and exploitative sectors, like begging or sex work, due to lack of opportunities.
- **Healthcare Exclusion:** Trans persons face lack of gender-affirmative healthcare, discrimination by medical staff, and unavailability of hormonal and surgical services in public hospitals.
 - ♦ High mental health burden due to social rejection and isolation.
- **Violence and Abuse:** Prone to verbal, physical, and sexual violence both in public and private spaces.
 - ♦ Police harassment and custodial violence are frequent, with little legal redress.
- **Political Underrepresentation:** Low political visibility and representation in mainstream parties and institutions.
 - ♦ Lack of policy-making participation hinders the articulation of their needs.

Arguments in Favour of Recognising Third Gender

- **Human Dignity and Identity:** Denial of third gender recognition violates individual dignity and self-respect.
 - ♦ Recognition empowers individuals to live authentically without fear or shame.
- **Social Inclusion and Mainstreaming:** Legal recognition is the first step toward social inclusion.
 - ♦ It enables access to education, employment, healthcare, housing and public services.
- **Correcting Historical Injustice:** Recognition provides an opportunity to address historical marginalisation and grant them their rightful space in society.
- **International Best Practices:** The UN Human Rights Council, Yogyakarta Principles, and United Nations Development Programme (UNDP) advocate for the legal recognition of gender diversity as part of human rights obligations.
- **Promotes Gender Justice and Equality:** Ensures that all gender identities are treated equally under the law.
- **Ethical and Moral Responsibility:** From an ethical standpoint, empathy, compassion, and justice demand that society recognises and respects all identities.
- **Social Protection and Welfare Access:** Trans and non-binary individuals are often economically marginalized.
 - ♦ Recognition allows governments to target affirmative action policies, design welfare programs, reduce poverty and health disparities in these communities.

Arguments Against

- **Conflict with Traditional Binary Norms:** Many societies operate on a binary gender framework (male/female), often rooted in religious, cultural, or legal traditions.
 - ♦ Recognition of a third gender is seen as disruptive to established social structures.
- **Risk of Misuse or Ambiguity:** Some opponents claim that self-identification (without medical or psychological assessment) may be misused for accessing benefits, reservations, or quotas.
 - ♦ Evading gender-specific obligations like military service.
- **Lack of Consensus on Definition:** Critics argue that the concept of a “third gender” is too broad or vague, this lack of definitional clarity may hinder the targeted design of laws or welfare schemes.
- **Cultural and Religious Opposition:** In conservative societies, especially in parts of Africa, and the Middle East, recognition of third gender is seen as a violation of religious norms and “natural” gender roles.

- **Impact on Gender-Specific Spaces and Rights:** Critics raise concerns that third-gender inclusion may undermine women's safety in gender-segregated spaces (like prisons, restrooms).
 - ♦ Distort competitive fairness in sports if based on self-declared identity.
- **Question of Prioritisation:** In developing countries, the focus should be on basic needs like poverty, health, and education. Gender identity recognition is seen as elite or Western-driven, not urgent for broader society.

Way Ahead

- While recognising the third gender is a step toward inclusivity and human dignity, opponents globally raise concerns based on cultural norms, administrative feasibility, social ethics, and legal coherence.
- However, many of these concerns stem from **lack of awareness, fear of change, or institutional inertia, rather than objective harm.**
- Recognising the third gender is not just about identity — **it is about dignity, inclusion, and justice.**
- It helps **societies evolve toward equality and respect for diversity**, in line with universal human rights standards and global constitutional values.

Source: HT

Mains Practice Question

[Q] Examine the social, economic, and political marginalisation of the transgender community in India. How can affirmative action and welfare policies address this issue?

