

TRANSGENDER: A NON-EXISTENT GENDER

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ABSTRACT

One's identity is equivalent to divinity. Every person in the society deserve to be respected, irrespective of their personality. Here arises the question that whether sexual orientation alone is to be protected or both orientation and choice are to be accepted. Somewhere by not recognising the identity of these people it can be said that traditional society is resembling some features of absolutism.

Keywords: Transgender, Public Participation.

INTRODUCTION

LGBT stands for lesbian, gay, bisexual and transgender and along with heterosexual wherein "LGB" in the term describes about sexual orientation and "T" talks about gender identity.

One's sexual orientation and gender identity is the matter of concern so it should not be abused at any cost. Kaul, J, in his concurring opinion, referred to the decision in Mosley v. News Group Newspapers Ltd. to highlight that the emphasis for individual's freedom to conduct his sex life and personal relationships are their own wish, subject to the permitted exceptions, countervails as per the public interest.

"K.S. Puttaswamy and another v. Union of India and others wherein the majority, speaking through Chandrachud, J., has opined that sexual orientation sexual identity is an essential component of rights guaranteed under the Constitution".

Thus, Transgender is an umbrella term for those whose gender identity and/or gender expression differs from the sex they were given at birth.

CONCEALING THE IDENTITY IN THE ABSENCE OF PUBLIC PARTICIPATION

Public participation is a process that directly engages the public in decision making and rule making which gives full consideration to public inputs. Public participation in constitution-making processes is more specific, directed.

The idea of being transgender goes as far back to 1503 BC to the Egyptians, it was believed that their second queen to rule would wear male clothing, a beard, in order to create signify that she was a king instead of a queen and after that few hundred years later to Rome during 203-222 AD, it was documented that the emperor of that time, Elagabalus, would wear makeup, having eccentric habits, and even acting like a female prostitute, and even reported to give a large sum of money to the doctor who could give him female genitalia. The issue of transgender' is not simply a present issue but the identity of these people was criticised and mythological stories and history reveals their struggle to establish their identity.

The transgender are very less in number thus they are the most neglected part of the society or they themselves are self-segregate from the society which is nothing but their identity is not recognised or they themselves conceal their identity to save from humiliation which in turn curtails them from enforcing their basic fundamental rights.

THE STRUGGLE FOR IDENTITY RECOGNITION

Many transgender and gender-variant people not only experience stigmatization as a result of living in a gendered culture into which they often do not easily fit but also experience discrimination, harassment, sometimes lethal violence and denial of basic human rights. So the major problems faced by these individuals is the non-recognition of their gender identity in many parts of the world. Those who reveal their sexual identities or deviate from their gender norms face social rejection, economic marginalization and violence", Said Laxmi Narayan Tripathi on an event in Delhi organized to mark protest against Apex Court Judgment recriminalizing homosexuality. The main factors which led to hatred of these people is moral religious beliefs and political belief of a dominant group which itself resembles the characteristic of monarch tyranny. These pressures act likes absolute monarchy which led to non-concealment of the true identity. It has been observed by Albertyn & Goldblatt:-

"The challenge of achieving equality within this transformation project involves the eradication of systemic forms of discrimination and material disadvantage based on race, gender, class and other forms of inequality. It also entails the development of opportunities which allow people to realise their full human potential within positive social relationships."

Thus, the people of this community is facing discrimination in every sphere of their life, be it in India or abroad and still the cries for this discrimination goes unheard since so long.

Though in many countries the right to equality is legally recognised right yet the people of this community are denied with. Whereas equality not only imply recognition of individual dignity but also includes within its sphere ensuring of equal opportunity to advance and develop their human potential and social, economic and legal interests of every individual and the process of transformative constitutionalism is dedicated to this purpose. So the identity recognition issue can be summarised as under:

Life is a struggle
For transgender community.
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So they themselves banish them
From the society.
|
That results in isolation of this community
To avoid any hazards.
|
Which curtails them from actively participating
In any public affairs or public related issues.

CONCLUSION

In actual practices the traditional culture of many states have somewhere failed to recognise this community and because of this they have to face many problems in freely carrying out their rights given by a statue. This traditional culture is somewhere trying to take shape of absolute monarchy which is indirectly curtailing the implementations of legal rights of this transgender community in many countries. Though legally, transgender have been given the identity but still they are not being accepted in the society and remains the neglected part.