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ELIXIR OF LIFE:

A NEW FLIGHT TO TRANSGENDER'S EXISTENCE

Abstract

Acquiring freedom does not bestow us the power to go against the will of nature. It is justly said that although a bird can fly with its both wings it needs a tail as well to steer its way throughout the flight. In a similar manner, for freedom or its true spirit to be realized empowerment of transgender is indispensable. Transgender people in India are destitute of social and cultural partaking and there are numerous occurrences where they have been constrained right of entry to education, healthcare and public places leading to the destruction of the Constitutional surety of equivalence before the law and equal fortification of laws. The customary dichotomous gender exemplary is tyrannical, especially for transgendered people whose sense of them as gendered is incongruent with the gender they were consigned at birth. To exhilarate their rights enforcement of '*The Rights of Transgender Persons Bill, 2014*' was like a rain on the desert. A widely hailed judgement i.e. *National Legal Service Authority vs. Union of India*, was passed by the SC that recognized the Rights of Transgender people and held that they should enjoy all the fundamental rights enshrined in the Indian Constitution. Then later in December 2018, came ahead of a discussion of the '*Transgender Persons (Protection of Rights) Bill, 2018*.' The objective of making this paper is to fabricate a modest attempt to highlight the viability of The Transgender Persons (Violation of Rights) Bill, 2016 which is a complete misrepresentation that emerge to strip away the core of the NALSA Judgement. This paper acclimates standards of behaviour, macro-sociological approach, technological approach and a bridge spanning capabilities. Separate courts for their reparation, skill development, and employment will not only do away with the problems of transgendered people but will also be en route to acceptance of alternative sexuality. Taking on acceptable practices of empowerment of transgendered people from egalitarian model, proper implementation of relevant policies will enhance the transgender community in years to come.

Exordium

Lynn Conway was fired by an MNC in 2018. Before her termination, Conway has proved to be a great asset for the company as she invented a new method by which the computer processors make multiple calculations simultaneously and with much ease than before. But what was the reason for her termination? It was because her boss found out that Conway was a transgender.

Conway is one of the transgenders who is ostracized, humiliated and sneered by the society simply for their very existence. These are the community that has long been deemed outcasts, unfit to mingle with. Time and again they have been insulted, isolated and ridiculed, denied basic human rights. Neglected transgender, also known as 'Unix' or 'she-males', have always lived on society's fringes. Every person has gender uniqueness. You do, and so do I. Gender is a ubiquitous societal paradigm that manipulates influence over every single individual in our culture. The customary dichotomous gender exemplary is tyrannical, especially for transgender people whose sense of them as gendered is incongruent with the gender they were consigned at birth.

But this picture was not so worsened off in the primitive era. Their chronological circumstantial can be outlined back to four thousand ages of the Indian folklore, Puranic literature and Vedas.¹ In the ancient times, the transgender community has conventionally engaged, not merely in an imperative community get-together, but also as an advice-giver and artist in courts, communal get-togethers, and societal occasions.² Nevertheless archeologically, the transgender people stimulated a noticeable part in the society, the status quo turned suggestively by the end of the 18th century with the inception of the British rule. What deteriorated it was the rough guide of legislation like Criminal Tribes Act, 1871, with a brutal and vicious cognizance; which considered the entire communal of Hijra people as distinctive criminals as well as addicted to the orderly charge of non-bailable offenses. To add insult to the irretrievable damage caused, Section 377 of the Indian Penal Code was distorted and misused as there was a trend, in the British era, to capture and prosecute Transgender people under Section 377 simply on doubt.³ Throughout the time, this communal has been the matter of endless harassment, domination,

¹ Hijra, encyclopedia.com, available at <https://www.encyclopedia.com/philosophy-and-religion/islam/islam/hijra>, accessed on 13th June 2019

² M. Michelraj, [Historical Evolution of Transgender Community in India](http://www.trp.org.in/wp-content/uploads/2015/10/ARSS-Vol.4-No.1-Jan-June-2015-pp.17-19.pdf), available at <http://www.trp.org.in/wp-content/uploads/2015/10/ARSS-Vol.4-No.1-Jan-June-2015-pp.17-19.pdf>, accessed on 17th June 2019

³ National Legal Services Authority vs Union of India; (2014) 5 SCC 438.

and discrimination in numerous areas counting healthcare, education, employment, social organization, etc.

Transgender Rights: An endeavor by the government

*“The term ‘transgender’ is used in a wider sense, in the present age. Even Gay, Lesbian, bisexual are included by the descriptor ‘transgender’... the grammatical meaning of ‘transgender’ is across or beyond gender. This has come to be known as an umbrella term which includes Gay men, Lesbians, bisexuals, and crossdressers within its scope.”*⁴

2014 landmark judgment by the Hon’ble Supreme Court in the case of *NALSA vs UOI* was one of the critical moments for the transgender community in India as it was all due to this judgment that the third gender is now being legally recognized in India, though the concept of transgender community in itself is not new. The court also criticised the central and state administration for not taking appropriate measures to progress their situation in the social order and address their grievousness earnestly.⁵ The resultant action by the central government was ‘*The Rights of Transgender Persons Bill, 2014*’ & ‘*The Transgender Persons (Protection of Rights) Bill, 2016*’ which gave a little hope in the minds of transgender, but proved to be of no use.

In 2018 another bill cropped up in front of the parliament. However, while delivering the judgment in *NALSA vs UOI*, Justice K.S Radhakrishnan observed that “*Recognition of transgenders as the third gender is not a social or medical issue but a human right issue.*”⁶ But in contravention of this judgment, 2016 bill talked about the “Recognition of the identity of Transgender persons” which lead to the arousal of question that why there is a need for a certificate of recognition of transgender community? Do the common folks need a similar certificate for proving their gender? It is nothing but a certificate to show that they are different from the rest of the society which gives further impetus to the society to think that these transgender persons are separate living beings. These transgenders shall be protected by the government only by making them feel that they are not different from the rest of the society members. This bill is not implemented yet and hasn’t come into force in India.

Shifting Gender Dynamics in Modern Structure of India

This research paper scrutinizes certain gender egalitarianism theories by way of underlying empirical studies laying emphasis on whether the social order agree to accept the third gender,

⁴ National Legal Services Authority, (2014) 5 SCC 438.

⁵ *Id.*

⁶ *Id.*

in what way society comprehend their behavior, whether society catches their attire humiliating or not and what are the teething troubles that trans-community are fronting in the society currently. On the basis of submissions made by the communal folk subsequent are the certain all-inclusive complaisant which are undeniably imperative in shifting gender dynamics in the so-called modern structure of India.

✓ *Standards of Behaviour*

Recognition by the public is the foremost stride in the direction of the community's empowerment and for that people must accept as true that Transgender people are humans like them. Behaviour is the dynamic module of hominoid capacity, in which, it fit in the action of rational and emotions. If transgender people develop emotional state for another transgender we must accept this occurrence in the similar manner as we accept of common folks. We shall not have abhorrence concerning a transgender liking another transgender. There are certain principles of behavior that transgender people expect from the society. Common folk contemplates that there is a flaw in trans-community conversely, it is not them having imperfections but there is a flaw in our minds in relation to trans- community. They are nothing, but a "third gender". What if status quo would have been completely overturned? Then this paper would have debated standards of behavior that common folk would have expected from transgender. Working with the law officials is no doubt imperative but let's not overlook the personal level, for the reason that what we do personally ensures an impact in the immense portrait. Henceforth understanding the sensitivity of this matter common folk should have constructive conduct towards them. There is an imperative requisite to annihilate a gender rule. The rules of our culture articulate us in what way one has to behave appropriately, how menfolk have to dress, a voice in a solid masculine manner, whereas women are to be feminine and soft. There's not much room for individualism around. Those of you who don't apt the above categories, just keep right on pompously being your selves. Therefore one must elude compliments or recommendation constructed on stereotypes about transgender persons, or about in what manner men and women should look or act. Making a big deal out of a pronoun slip-up may perhaps be awkward and often appeals unwelcome attention to the transgender person. If somebody is uncertain regarding pronoun that transgender person uses, request courteously without making a big deal about it. It is rightly said by Linda Thompson that "*Being transgender, like being gay, tall, short, white, black, male, or female, is another part of the*

human condition that makes each individual we have no control. We are who we are in the deepest recesses of our minds, hearts, and identities.”⁷

✓ **Macro-Sociological Approach**

Macro-Sociological Approach is a building-up of confluent procedure ascending from the heart of society. Nearly 60%-70% of transgender folks have been abandoned by their kin, consequently, they lost the opportunity to get a decent education and thus are not worthy of good employment and means of support as an upshot, most transgender people resort to prostitution and begging.⁸ When we do comprehend confrontation, it's often something that can be resolute through edification and dialogue. One of the things we realize in transgender rights advocacy is that society just not acquainted with a lot of transgender folks and what it means to be transgender. One of our most operative advocacy tools is education. Education often denotes to the act of learning and learning transpires from many different perspectives. This approach reconnoiters education as a methodology-learning from the inward voyage, how we edify ourselves and the communal at large. Empowerment of transgender individuals is a battle of education. Education inculcate society with innumerable principles like respecting others as mate notwithstanding of gender or culture and to live tranquility. There is crucial requisite to fabricate constructive circumstances so that transgender people can have access to education. Virtuous education should be accessible at free of cost or even at a lesser rate. Libraries should be built up in remote zones where the transgender folks can read and write. It must be noted here that education should not be constrained to one aspect i.e. hypothetical education, rather a comprehensive sex-education platform should be incorporated as part of the school prospectuses that modifies the hetero-sexist bias in learning and provides judgement free information as well as foster a liberal viewpoint with regard to matters of sexuality, together with orientation, distinctiveness, and behaviour of all sexualities. Henceforward providing affordable education can have a massive constructive influence on the trans-community.

⁷ Transgender Quotes, googleweblight.com, available at: <https://googleweblight.com/i?u=https://www.brainyquote.com/quotes/keywords/transgender.html&grqid=-UuZELTE&hl=engine>, accessed on 25th June 2019.

⁸ Express Web Desk, Only education can empower transgenders: Activist kalki Subramaniam, The Indian express, January 3, 2017, available at: <http://indianexpress.com/article/india/only-education-can-empower-transgenders-activist-kalki-subramaniam-4457111/>, accessed on 22nd June 2019.

✓ *Bridging Spanning Capabilities*

Parental sustenance and acceptance are considered imperative for the empowerment of the transgender people. Supporting family, friends and allies in transgender person's life can meaningfully affect trans-children optimistic attitude on their existence and their self-esteem, conversely, refusing to accept one's child as they are and behaving in an unpleasant, punitive or disrespectful manner, communicates to your child a lack of value or worth. The biggest fear of coming out as transgender is the fear of rejection, fear of being getting isolated, so if your child opens up to you about their gender identity, love them unconditionally and show them that they can count on you to be there. No child should ever be disgraced, humiliated or condemned for expressing an alternative individuality. Arguing with your child or let go his apprehensions will probably only push away them from you. Whatsoever the core reason of your child's gender preoccupation, summon up that this emotional state is very significant to them. Take note responsively to your child's feeling as it may also give you vital facts about what they are going through so that parents can get them the help that they need. Letting your child be acquainted with that they can discuss these matters with their parents without fear of judgment is likely to be much more valuable, contrariwise, don't shy away from parsimoniously and serenely express your opinions or concerns. Your child needs to perceive your beliefs and apprehensions. When we talk about "family" we are not addressing only to mother and father, but also counting extended family or one's preferred family made up of close friends. Taking a stand on their child's behalf convey a pronounced sagacity of liberation and empowerment in them. Admiration within the family is the imperious stride. A concrete approach to exhibiting enduring sustenance and acceptance for your child is to bear absolutely no deleterious remarks about your child. Trans identifying teens often lack the sense of where they acceptable in the large realm. Connecting them with the comprehensive world-through travel, occupation, time in nature, time with kinsfolk, extracurricular activities etc. is an influential educative to the likely self-absorption of the trans teens. The most crucial mechanism paternity can do is to let their children exactly who they are. Stay open about this journey both your child and your own, by signifying to them that you are a companion in this process.

✓ *Technological Approach*

A former showgirl, Ross carved a new path for herself by teaching herself how to build websites. She then ran a creative design agency for 10 years before starting Transtech without

*any investments, donors or grants through a quick fundraiser, she was able to raise money to do a 12-week pilot cycle of Trans Tech's apprenticeship program.*⁹

Technology has absolutely leveled the playing field for someone like Ross and for the advocacy of the entire trans-community, the technological methodology is certainly imperious. In the present time, we need to build up tech environs that emphasizes on enhancing technical skills and employ members of the trans-community through apprenticeships in graphic design, coding, software's, web development, teleworking prospects as well as administrative expertise which will empower them to be in the certain environment and being able to complete. Then further internet has shaped so many new techniques for folks, together with trans-community, to associate. The world of blogs provides a walk for people to be heard and beliefs to be shared with others. Thus through is, tech means trans-community can share their perspectives with others. Trans storytelling turns out to be an approach to let trans-people feel valued and heard. It's a way to bring closeted trans-folks and other folks together by painting worlds where other trans-people are out there, living their lives and getting by. Then further comes the imperative role of media. Media reportage of the transgender community can have a farfetched bearing in what way society perceive them and how they sense regarding the requisite for transgender folks egalitarianism. Many people hit the books about transgender persons from viewing goggle-box or reading stories in the newsprint. One mode we can stimulus exactly how the social order visions and apprehends their stories is to engross the media's coverage of transgender concerns.

Empowering Transgender: An Insight Outlook

"Seldom, our society realizes or cares to realize the trauma, agony and pain which the members of Transgender community undergo, nor appreciates the innate feelings of the members of the Transgender community, especially of those whose mind and body disown their biological sex."- K.S. Radhakrishnan, J¹⁰

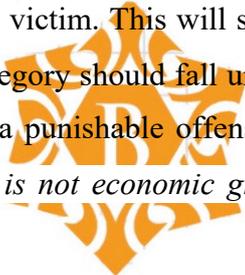
✓ Separate Courts for their Reparation

The requirements of legitimate enactment are not as comprehensive as required. The recommendation of the Expert Committee, the Bill must make provision for an all-inclusive

⁹ Melissa Jun Rowley, *The Startup That's battling To Open Tech to Transgender people*, *Fast Company*, November 2, 2015, available at <http://www.fastcompany.com/3042123/the-startup-thats-battling-to-open-tech-to-transgender-people>, accessed on 20th June 2019.

¹⁰ National Legal Services Authority, (2014) 5 SCC 438.

anti-outrages Bill that influences out the human rights of Transgender people to gender manifestation of any categories as well as penalizes discrimination and violence against people based on gender identity. The violence carried out against Transgender people array from rape, stripping, disfiguring the genitals, imprisonment etc. In addition to the same, it's recommended that oral abuse can be made punishable as a crime or lead to stern penalties accountable on the outcome it has had on the individual. An anti-discrimination Bill must empower Transgender people to take legitimate stroke against any usage of discrimination come across in chasing their education, employment, in receipt of the right of entry to accommodation, access to health care, access to washroom space, access to public transport, etc. Furthermore, sexual assault, the sexual nuisance as well as domestic violence laws must turn out to be comprehensive: The gender of the survivor of sexual attack and provocation circumstances should comprise all people notwithstanding of gender. Under the present laws, only womenfolk can file cases of sexual assault. Section 375 of the IPC necessitates an amended in order to create it sexual category neutral with reference to the victim. This will safeguard that even if the assailant is mannish, the victim of any sexual category should fall under the purview of this Bill. It need also take account of marital rape as a punishable offense. It is apt here to quote "*The true measure of development of a nation is not economic growth; it is human dignity*"- Justice Krishna Iyer¹¹



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Conclusion

For decades, the word gender equality has concentrated on the equivalent conduct of men and women. This day and age, all genders are starting to emanate into focus. There is an imperative requisite to construct an environment that's comparable to the workforce devoid of all the nuisance and judgment, a place where people know how to respect your gender uniqueness. Let's not build castles in the air about having a world of only trans-people. Let's envision a world in which we all can co-exist and where there is just talent that identifies talent. The biggest misconception about members of the trans-community is that they are mentally unstable and can only be showbiz, nonetheless, noteworthy trans figures across segments are providing that this dogma is false. Acquiring a skill marks you undeniable. Laxmi Narayan Tripathi, Padmini Prakash, Kalki Subramaniam are some of the prominent transgender who is undeniable because of their skills. Jyoti Mondal Mahi, a new name added in the list of prominent transfigures. She believed that she was appointed because she was a social worker

¹¹ State of Karnataka vs Rangnatha Reddy, AIR 1978 SC 215.

and not for the reason that she is a transgender person.¹² She is the first transgendered person to be appointed as judge of a Lok Adalat in the country. ‘Empowering Transgender, Empowering Humanity’ is indeed the mainstream of the progressive nation. Efficacious empowerment of transgender models as well as safekeeping of transgender-people right as envisaged in this research paper were not the antipode goal line but are the harmonious arrangements. Empowering trans-community calls for the indispensable role of youth in creating awareness, educating and raising generations. It’s high time that here and now we recognize the dynamic potential of the transgender people and respect them for what they are. A more compassionate, egalitarian and humane social order needs to be generated to advocate Trans-community to realize their self-esteem and provide a realm of opportunities for them to nurture.



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¹² Sumanat Ray Chaudhuri, In another first, Bengal gets a transgender Lok Adalat Judge, Hindustan Times, July 18, 2017, available at <http://m.hindustantimes.com/kolkata/west-bengal-gets-a-transgender-lok-adalat-judge/story-PoFwwMctcQtQ8UFJiT13MK.html>, accessed on 15th June 2019.