

ABSTRACT

TRANSGENDER EQUALITY IN INDIA: A SHALLOW CONSTITUTIONAL SIM

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In the era of human rights, pondering over gender equality generally frames two kinds of genders in human beings' mind i.e. male and female. We have restricted ourselves to biological terminologies avoiding the socio-cultural concept of 'gender' which comprises of male, female and transgender. Since ancient times, transgenders are discriminated and condemned. Fundamental Rights, the gem of the Constitution are bestowed to all the citizens of the country including transgenders. However, the legislature wholeheartedly has never catalysed the need of extending these basic rights to all 'transgenders', though they are 'citizens' of the country. Recently, the judiciary has tried to equip the transgenders with the basic rights so that they can stand at par with the other citizens. The essence of the rights should not be only determined in the Courts but its existence is also mandatory in legislation. The Transgender Person (Protection of Rights) Act, 2019 is not perceived as a welcome legislation and has been often referred to as a "toothless tiger" because of its plagued lacunae. It is argued that this Act is of mere theoretical significance with no potent sanctity and implementation. We are the witnesses of the paradigm shift in judiciary regarding attitude towards transgenders and atrocious behaviour with them. The third gender community in India stands in need of similar progress in our laws. This paper tries to analyse the loopholes in the current legislation pertaining to transgenders and the main objective of the study is to articulate and analyse framework for protecting and assuring a dignified life to the disfavoured and victimized transgenders.

Research methodology

The method of research followed is doctrinal research based on primary as well as secondary sources. The analysis of various legislations and judicial verdicts, along with books, research articles and several other online sources has been done to add credibility to the assertions made in the paper.