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“TRAVAIL TRAITS OF TRANSGENDERISM IN EMPLOYMENT SECTOR”

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ABSTRACT

“There are two sorts of persons of the third nature, in the form of a woman and in the form of a man. The one in the form of a woman imitates a woman's dress, chatter, grace, emotions, delicacy, timidity, innocence, frailty, and bashfulness.”¹

Even decades later, we must still consider as to whether we are able to disregard Rousseau's warning that “*Man is born free and is everywhere in chain*”. Are we free from societal ideas and perspectives notwithstanding ongoing reformations and innovations? Being at the midst of the

¹ Gosvami Prasad Shastri (ed), The Kamasutra ,1929, (The Chowkhamba Sanskrit Series Office, Vidya Vilas Press Benaras, 1929).

21st century, gender discrimination is still haunting us, and among those gender discriminations, transgender people and the persons of the LGBTQ community has been troubled a lot. Rights and issues suffered by the transgenders is a debatable topic for long. But the real question comes, whether it is a problem of a particular community or the problem of a society as a whole? After 73 years of adopting the Constitution, it is pre-ordained to perceive that “We the People” includes the transgenders also. By keeping an eye on the laws of progressive states, the laws made should be progressive enough to reflect the concept of equality.

Key words; Constitution, Transgenders, Equality, Discrimination, Transgender Persons (Protection of Rights) Act, 2019

I. INTRODUCTION

**“It's not just about one person; it's about thousands of people. It's not just about me; it's about all of us accepting one another. We're all different.” ---
Caitlyn Jenner**

The topic of gender discrimination is a not a recently developed one. The traditional clutches of the gender or gender identities were confined to the thinking that gender is all about man and women only, while we forgot that identity and frequently thrust gender is dominating than identity. Individuals who attempt to question these types of stereotypical norms through their personalities, sexual orientation or other tendencies are rejected and treated as “others” and those individuals who don't fit into the conventional gender classification of male and female is called Transgenders or Third Gender's. The issues of transgenders have a contemporary impact in the present days. Transgender's is not a newly evolved concept but if we trace back to the history, we can find the existence from the very inception of history. A fine illustration of transgenders was depicted by Hindu mythology through Shikhandi. Even in Kamasutra and Veda's the third gender was mentioned (Tritiya Prakriti). Hijras were well known for holding positions in Royal Courts during the Mughal Empire, they entitled the positions of political advisors, administrators, generals. They also occupied influential roles in the Islamic religious institutions. But later during the British era, all these privileges were eliminated through the legislations. Eventually they became vulnerable and were put into the atrocities.

The term “transgender” is derived from a Latin word ‘trans’ means to move or moving, An

umbrella term that refers to all identities or practices that cross over, cut across, move between, or otherwise queer socially constructed sex/gender binaries², it also includes persons whose gender does not match with the gender assigned to that person at birth and includes trans-man or trans-woman (whether or not such person has undergone Sex Reassignment Surgery or hormone therapy or laser therapy or such other therapy), person with intersex variations, genderqueer and person having such socio-cultural identities as kinner, hijra, aravani and jogta³

The experiences shows that they are highly discriminated in employment sectors. If we go through the employment aspect even after the legislative interventions, they are discriminated in private as well as the public sector. The dignity of people's existence, their means of support, and the means of subsistence are directly referred by the right to work. The core of each person's freedom is their ability to labor. It is the duty of the states to guarantee these rights. This makes it important to look into the matter that India lacks a comprehensive framework for all workplace discrimination that might address all types of discrimination. Through an in-depth analysis, we can draw a conclusion that the root causes for all the social exclusion and discriminations occur due to the conventional notion and the society is not ready to accept that individuality of each person makes them who they are and respect for oneself is demonstrated by the uniqueness and their identity, that cannot be put back. The glorious form of individuality happens when "one defines oneself". It's high time to have an introspective analysis that Whether Gender equality means a farce than reality...??

II. UNWELLING THE TRAVAIL TRAITS IN EMPLOYEMENT

“There are many branches on the tree of life. There is no one way to be, and there is room for everyone to be who they are.”⁴

In the modern industrial set, up workers left themselves to protect their interest. Therefore, it is the duty of the states to give them a helping hand. Even though the rights of transgenders have made inclusive under the societal norms they are discriminated from all the spheres of the life, especially

² Susan Stryker, “The Transgender Issue: An Introduction,” 2, GLQ: A Journal of Lesbian and Gay Studies, 149, (1998).

³ Transgender Persons (protection of Rights) Act, 2019, Section 3.

⁴ Sushma and Seema Agarwal v. Commr of Police, W.P. NO. 7284 OF 2021MAD HC.

in employment areas. The relevance of the dignity of human labor and the need for their protection has been enshrined in Part III⁵ and Part IV⁶ of the Constitution. The sacred thread of social justice has been used to construct India's Constitution. The Preamble's emphasis on social fairness sets the way for the notion of the "right to labour". The right to labour and other essential rights, like the right are adhered. The essence of democracy is ensuring social justice to all the sections of the society. This demands the protection of those who cannot protect themselves.

The **NALSA**⁷ verdict and the **Navtej**⁸ verdict has created greater impact in the societies even after passing *Transgender Persons (Protection of Rights) Act, 2019* the unwilling realities are harder than we think. Transgender employees frequently experience extreme workplace prejudice. This form of discrimination can take many different forms, including disrespectful behavior inside the workplace and untrue rumors about the gender identification of a transgender employee. Even severe forms of harassment and sexual or physical abuse are possible. The major pitfall is with the trans-friendly toilet access. For non-binary people using either the women's or men's toilet room might feel unsafe. With regard to the hiring discrimination unlawful discrimination against worker because of gender reassignment includes less favorable treatment, fewer opportunities from promotion and training or dismissal.⁹

The Kochi Metro Ltd. during 2017 announced that the first group of 23 trans people. It was quiet despairing that after two years of recruitment the trans work force has dropped from 43 to 11 and many quiet jobs after two months of joining. The unprecedented issues faced by them were due to adequacy of gender specific washrooms, accommodation problems, commuting cost, unfriendly approaches of the passengers, lack of satisfaction of the work environment.¹⁰ Adam Harry¹¹, recently received a temporary victory when the Directorate General of Civil Aviation (DGCA) asked him to reapply for the medical evaluation necessary

⁵ Indian constitution, Articles 16,19, 23, 24

⁶ Indian constitution, Articles 39, 41, 42, 43, 43A, 54

⁷ National Legal Services Authority v. Union of India and others, (2014) 5 SCC 438

⁸ Navtej Singh Johar v Union of India, AIR 2018 SC 4321.

⁹ Michelle Dietert & Dianne Dentice, Gender Identity Issue and Workplace Discrimination: The Transgender Experience", 14, Journal of Workplace Rights,123, 2009.

¹⁰ Sibi K I, "Major Concerns of Transgender Employees in Kochi Metro Train Service Work Environment", 4, Journal of Emerging Technologies and Innovative Research, 717, 2017.

¹¹ Harry, A south African Private Pilot License holder, was accepted into Rajiv Gandhi Academy for Aviation Technology in Thiruvananthapuram under the Welfare Program for Transgender by Government of Kerala

for continuing his training to become an airline pilot. Two years earlier, he had been informed that hormone therapy for gender transition made him unfit to fly.

The labour laws in India are very much binary for gender recognition. **Discrimination (Employment and Occupation) Convention, 1958** imposes an obligation on ratifying States to declare and pursue a national policy that aims to promote equality of opportunity and treatment in respect of employment and occupation. India being a ratifying state needs to address lot of grey areas to provide benefits in an egalitarian view as the cisgenders. The Form 'D' of the **Equal Remuneration Act, 1976**, which requires the employees to maintain a register for entering their gender information, where the biological sexes have been limited to man and women only. It is noted that all the labour laws which prohibits discrimination between men and women have to be extended to the transgender's also and transgender empowerment must be made by controlling their own lives as they wish.¹²

III. SEX REASSIGNMENT AND GENDER DISCRIMINATION AT WORKPLACE

“I am what I am, so take me as I am”- Johann Wolfgang

Gender discrimination at workplace is not a new concept. Sex change have also made impact on the employment sphere, there is greater chances of discrimination towards the employees who have changed the assigned gender at birth¹³. In **Voyles v. Ralph Davies Medical Centre**¹⁴, A women staff of a medical Centre informed the director that she wished to undergo sex conversion surgery. Shortly thereafter, she was discharged from service on the ground that such a change might have a potentially adverse effect on the patients receiving and co-workers looking after those patients. By invoking the provisions of **Civil Rights Act 1964**¹⁵, it is an unlawful employment practice "*to fail or refuse to hire, or to discharge, any individual or otherwise to discriminate against any individual because of such individual's sex*". The court held that the Act did not

¹² Madhu Damodaran Animya Singh, Transgender Persons & Labour Laws, <https://www.simpliance.in/blog/transgender-persons-and-labour-law/>, last visited (May 2, 2023)

¹³ Iona M. Turner, "Sex Stereotyping Per Se: Transgender Employees and Title VII", 95, California Law Review, 563,2007.

¹⁴ Voyles v. Ralph Davies Medical Centre, 403 F. Supp. , 403 F. Supp. 456 (1975).

¹⁵ Title VII of the Civil Rights Act 1964 prohibits employment discrimination based on race, color, religion, sex (including pregnancy, sexual orientation, and gender identity), or religion.

embrace any transsexual discrimination, or any permutation or combination thereof spoke of discrimination on the basis of sex and made no mention of change of sex or of sexual preference. Although gender identity discrimination is not expressly prohibited by the federal law, The Equal Employment Opportunity Commission has stated that employers who violates Title VII of the Civil Rights Act, 1964 forbids sex discrimination. This opinion was given in relation to **Bostock v. Clayton Country**¹⁶, where a transgender woman was turned down for a job with the federal government after it was discovered she had undergone a transition. In **Richards v. U.S. Tennis Association**¹⁷, Renee Richards, a ranked male tennis player in the men's age group of 30 and older, underwent sex change surgery to become a woman. Following the procedure, it was aimed to complete in the US opens women's singles division. The tennis association required her to take and pass a chromosomal test before granting her such authority. This was deemed by the court to be "*grossly unfair, discriminatory, inequitable and in violation of her rights*"¹⁸.

IV. LAW v. REALITY

The identity is pivotal to one's being. Life bestows honor on it and freedom of living, as a facet of life, expresses genuine desire to have it. identity is the filament of life. Identity is equivalent to divinity. Social exclusion, identity seclusion and isolation from the social mainstream are still the stark realities faced by individuals today and it is only when each and every individual is liberated from the shackles of such bondage and is able to work towards full development of his/her personality that we can call ourselves a truly free society.¹⁹ Gender identity refers to each person's deeply felt internal and individual experience of gender, which ,ay or not correspond with the sex assigned at birth, including the personal sense of the body which may involve a freely chosen, modification of bodily appearance or functions by medical, surgical or other means and other expressions of gender, including dress, speech and mannerisms.²⁰ Every citizen has a right to take part in the conduct of public affairs , equal access to all levels of public service and implementation in public functions without discrimination on the basis of sexual orientation or gender identity.²¹

¹⁶ Bostock v. Clayton Country, 2020 WL 314668¹⁶Richards v. U.S. Tennis Association, 400 N.Y.S. 2d 267 (1977)

¹⁷ Kusum, "Legal Implications of Sex Change Surgery", 25, JILI Institute, 86, 1983.

¹⁸ Navtej Singh Johar v Union of India, A.I.R. 2018 SC 4321.

¹⁹ National Legal Services Authority v. Union of India and others, (2014) 5 SCC 438

²⁰ Yogyakarta Principle 25.

²¹ National Legal Services Authority v. Union of India, A.I.R 2014 SC 1863

The Transgender Persons (Protection of Rights) Act, 2019²² provides that, it is the duty of the appropriate Government shall take the following measures in relation to transgender persons, namely- ; to provide for medical care facility including sex reassignment surgery and hormonal therapy²³; medical expenses by a comprehensive insurance scheme for Sex Reassignment Surgery, hormonal therapy, laser therapy or any other health issues of transgender persons²⁴. If the right to health under Article 21 is given in its true meaning then how can we justify the suicide of the trans activist Ananaya Kumari.²⁵? The exclusion of transgenders in the provision of rations during the Lockdown²⁶ shows the strange silence of the authorities to them.

Transgender Act, 2019 has been enacted after 5 years of the NALSA verdict. When the SC has widened its wings to shield to the transgenders the legislature failed to do so. The NALSA verdict incorporated certain progressive measures by including reservation policies for the transgender community with regard to education and public employment. The legislative attempt towards providing reservation to transgender has fallen short due to the absence of any provision pertaining to reservation in the Transgender Persons (Protection of Rights) Act, 2019.

It also noted that transgender persons have been systematically denied their right to access public places and have not been afforded their rights under special provisions of the Constitution i.e., Articles 15(4) and 16(4), which are for the advancement of socially and educationally backward classes. However, the Court did not spell out how transgender persons should be accommodated under the existing reservation scheme. In order to work this out, a first step would be to clarify whether a transgenderreservation quota would be treated as a vertical or horizontal scheme.²⁷ In February 2021 the Union Minister of Social Justice and Empowerment Thawar Chand stated such reservation proposal maynot be available in the near future. This is a gross violation of the NALSA judgement and a great agony when the legislature is shutting its eye towards the most oppressed community.

Judiciary has been always a helping hand for the citizens when they are denied justice. With

²² Navtej Singh Johar v. Union of India, A.I.R 2018 SC 4321

²³ Transgender Persons (protection of Rights) Act, 2019, Section 15 (b)

²⁴ Transgender Persons (protection of Rights) Act, 2019, Section 15 (g)

²⁵ Ananya Kumari is a transgender candidate to contest in the State Assembly election, who committed suicide due to the distresses of her Sex Reassignment Surgery done at Private hospital in Kerala.

²⁶ Kabeer C Alias Aneera Kabeer vs. State of Kerala, WP(C). NO.9890 OF 2020(S), The Kerala High Court took up a PIL moved for the welfare of the transgendercommunity amid the COVID-19 lockdown, which has raised concern that transgender persons are being excluded in the provision of rations during thelockdown.

²⁷ Sakshi Parashar, "INCLUSION OF TRANSGENDER COMMUNITY WITHIN SOCIALLY AND EDUCATIONALLY BACKWARD CLASSES: EXAMINING THE DEEPER CONCERNS", 2, JILI, 118, 2017.

respect to the transgender community our country witnessed two revolutionary approaches in the year 2014 and 2018. In **National Legal Services Authority v. Union of India**²¹ the petition was filed by the National Legal Services Authority of India (NALSA) to legally recognize persons who fall outside the male/female gender binary, including persons who identify as “third gender”. The Court had to decide whether persons who fall outside the male/female gender binary can be legally recognized as “third gender” persons. It deliberated on whether disregarding non-binary gender identities is a breach of fundamental rights guaranteed by the Constitution of India. This was a landmark decision where the apex court legally recognized “third gender”/transgender persons for the first time and discussed “gender identity” at length. The Court recognized that third gender persons were entitled to fundamental rights under the Constitution and under international law. Further, it directed state governments to develop mechanisms to realize the rights of “third gender”/transgender persons.

The Court interpreted ‘dignity’ under Article 21 of the Constitution to include diversity in self-expression, which allowed a person to lead a dignified life. It placed one’s gender identity within the framework of the fundamental right to dignity under Article 21. Further, it noted that the right to equality (Article 14 of the Constitution) and freedom of expression (Article 19(1)(a)) was framed in gender-neutral terms (“all persons”). Consequently, the right to equality and freedom of expression would extend to transgender persons. It drew attention to the fact that transgender persons were subject to “extreme discrimination in all spheres of society” which was a violation of their right to equality. Further, it included the right to express one’s gender “through dress, words, action, or behavior” under the ambit of freedom of expression.

Under Articles 15 and 16, discrimination on the ground of “sex” is explicitly prohibited. The Court held that “sex” here does not only refer to biological attributes (such as chromosomes, genitalia and secondary sexual characteristics) but also includes “gender” (based on one’s self-perception). Thus, the Court held that discrimination on the ground of “sex” included discrimination on the basis of gender identity. Thus, the Court held that transgender persons were entitled to fundamental rights under Articles 14, 15, 16, 19(1)(a) and 21 of the Constitution. Further, the Court also referred to core international human rights treaties and the Yogyakarta Principles to recognize transgender persons’ human rights. This is a landmark decision because it is the first to legally recognize non-binary gender identities and uphold the fundamental rights of transgender persons in India. The judgement also directed Central and State governments to take proactive action in securing transgender persons’ rights.

Navtej Singh Johar v. Union of India²², “History owes an apology to the members of this community and their families for the delay in providing redress for the centuries of ignominy and ostracism.” It was held that the main objective behind retaining *section-377* is to protect women and children from being abused and harassed by carnal intercourse but consensual carnal intercourse which is performed by the LGBT community is neither injurious to children nor women. Moreover, non-consensual acts have already been referred to as an offence under *section-375* of IPC which implies that *section-377* is redundant and discriminative towards one section of the society and is therefore violative of *Article 14* of the Indian Constitution rendering it unconstitutional.

Our Constitution being liberal, it is not possible that right of choice will be absolute. Therefore, some restrictions have been imposed on the principal of choice. However right of choosing a partner for intimate relations is completely a matter of personal choice which cannot be restricted. Whereas *section-377* of the Indian Penal Code restricts the right of LGBT community of choosing a partner for sexual matters and is therefore irrational and arbitrary. Public order, decency and morality are the grounds which can impose reasonable restriction on the fundamental right of expression. Any act done in affection by the LGBT community in public does not disturb the public order or moral values until it is decent enough and is not obscene. However, *section-377* is again unconstitutional in the sense that it does not connect with the criteria of proportionality and is violating the fundamental right of expression of LGBT group.

It doesn't matter how minuscule is the LGBT section, they also have the right to privacy which includes physical intimacy. Their choice of partner might be different, but it does not mean they will be prosecuted for that. *Section-377* does curtail their human dignity and their personal choice, therefore violating their right to privacy which is covered under *Article 21*. The Supreme Court declared that *section-377* is unconstitutional as it violates *Articles 14, 15, 19* and *21* of the Indian Constitution.

V. CRITICAL REFLECTION OF THE TRANSGENDER PERSONS (PROTECTION OF RIGHTS) ACT, 2019

Law acts as the representation for the social transformation and has become an instrument for the progress of our society. Law has been rebuilt towards this purpose around the concept “non-discrimination”, which absorbs the entire sections of the legal logic. The first move in the

legislature was initiated by Tiruchi Siva, Member of Parliament introduced a private member bill in the Lok Sabha, and which was unanimously passed by the Council of States but was never debated in the Lok Sabha.

After the historic approach of the honorable Supreme Court in the NALSA case the Transgender Person Bill (Protection & Rights) was introduced by Thaawarchand Gehlot Minister of Social Justice and empowerment. The bill was strongly opposed by the opposition was referred to the Standing Committee and was passed on 17th December 2018 in the Lok Sabha. The Transgender person Bill 2016 was vehemently opposed by the transgender community as it violated their right to self-identity which is a fundamental right under the Constitution of India. Subsequently, the government tabled the Transgender Persons (Protection of Rights) Bill, 2016 (Bill No. 210 of 2016), on 2 August 2016²⁸.

After the Navtej Singh Johar²⁹ judgement in 2018, the Minister of Social Justice and welfare another *Transgender Persons Bill (Protection & Rights) Bill, 2019* which later became an Act as it received president assent on 5th December 2019 and has been effect since 10th January 2020. Sec. 3 of the Act, 2019 defines a transgender person as “a person whose gender does not match with the gender assigned to that person at birth and includes trans-man or trans-woman (whether or not such person has undergone Sex Reassignment Surgery or hormone therapy or laser therapy or such other therapy), person with intersex variations, genderqueer and person having such socio-cultural identities as *kinner, hijra, aravani and jogta*. The definition is not absolute because the intersex variations are sometimes considered under the term transgender.³⁰

“The Constitution is a dynamic document, having the primary objective of establishing a dynamic and inclusive society”³¹. The egalitarian constitutional view has been upholding by the judiciary through its revolutionary interpretations and now it’s in the hand of the society to implement the true essence of the spirit of the Constitution by upholding the true spirit of inclusiveness and diversity. In 2019 the much need first transgender legislation came into force.

Self-determination Challenge- The Act guarantees to transgender persons the “right to be

²⁸ Ministry of Social Justice and Welfare, “Transgender Persons (Protection of Rights) Bill, 2016”, available at <https://www.prsindia.org/billtrack/transgender-persons-protection-rights-bill-2016> , last accessed on (May 2, 20223)

²⁹ Navtej Singh Johar v Union of India, AIR 2018 SC 4321.

³⁰ Dr. Shannu Narayanan, “Envisaging Inclusiveness through Transgender Persons Rights Law in India”, 4, IJLMH, 410, 2021

³¹ National Legal Services Authority v. Union of India and others, (2014) 5 SCC 438

recognized as such, in accordance with the provisions of this Act³².” The statement “in accordance with the provisions of this Act then where stands self-perceived gender identity? Such recognition will be contingent upon the application to a District Magistrate, “in such form and manner, and accompanied with such documents, as may be prescribed³³.” It is required that the Magistrate “to issue a certificate of identity following the procedures as may be prescribed”³⁴. It is only upon such recognition that the transgender person shall have the right to their “self-perceived gender identity. This provision could sometimes lead to bureaucratic discrimination because there is no provision of appeal is provided if the magistrate denies the certificate, adhering to this concern the Karnataka High Court in **Christna Lobo v. The State of Karnataka**, ruled that a transgender person does not have to get a District Magistrate’s certificate to request a name and gender change on their documents, even if they make the request after the coming into effect of the Transgender Persons (Protection of Rights) Act, 2019, so long as they have their identity recorded prior to the Act becoming operational.³⁵

Non-Discrimination Challenge-Section 3 of the Act sets out the non-discrimination provisions against the trans gender persons; it prohibits discrimination against the trans individuals in various domains, such as provisions of services, education, health care, housing etc. The Act only imposes certain set of standards to be followed and there is no remedy or redressal mechanism provided for the violation of the same.

However, the Act provides no penalty or remedy for the breach of these provisions. While imposing obligations upon private individual to behave in certain discriminatory ways against other private individuals, there must exist an enforcement mechanism to make those obligations meaningful. A second set of challenges flow from section 18 of the Act, which prescribes punishment up to two years imprisonment for a series of offences against the transgender individuals, similar offences in other contexts like bonded labor rape have fair more severe penalties as to realize the deterrence. Since the transgender community is already particularly susceptible to these sorts of coercion and violence, its outrightly discriminatory to form the punishment lighter under this Act.

The Act sets out certain obligations for all the establishments for prohibiting discriminatory

³² Transgender Persons (protection of Rights) Act, 2019, sec 4.

³³ Transgender Persons (protection of Rights) Act, 2019, sec 5.

³⁴ Transgender Persons (protection of Rights) Act, 2019, sec 6.

³⁵ CHRISTNA LOBO V. THE STATE OF KARNATAKA, WRIT PETITION NO:8024 OF

approaches³⁶ against the transgenders at employment through equal opportunity, requirements, benefits, wages etc. Designating and appointing complaint officer to enquire into complaints filed by transgender employees and submit reports of the enquiry within the timelines. Also, it will be beneficial to revamp and amend their existing human resource policies and make efforts towards training and sensitizing their employees.³⁷ The post NALSA era opened the doors of various employment opportunities, though there exist, many hurdles towards inclusiveness in the corporate world. However, there are various corporate entities³¹ who have made sexual orientation and gender diversity a new normal through their policies.³⁸ The various inclusive policies are (i) Equal opportunity policy (ii) Same-sex partnership benefits (iii) Gender-neutral adoption leave.³⁹

VI. CONCLUSION

*“Law cannot be law unless it imbibes within itself the ideals of justice and equity. Any Enactment devoid of the object of substantive fairness can never beautified the grounds of meeting procedural fairness alone.”*⁴⁰ Transgender people are constantly subjected to many sorts of social oppression. Discrimination is so pervasive and pronounced that it affects even basic needs like healthcare, work, and education, making social inclusion a challenge. It is highly necessary to take actions to address the unfortunate situation and promote social inclusion for the people in this neighborhood from both a legal and social perspective. Social inclusion will undoubtedly be a gradual process that calls for collaboration between the government, society, and individuals. To ensure that laws and regulations work as a stimulant for their development rather than a barrier to it in the future, it is necessary to take cautious moves in the right direction. Article 15(3) of the Constitution Provides empowers the Parliament to legislate special laws for women and children by considering them as vulnerable groups. If women are considered to be vulnerable, then transgenders are the most highly discriminated and vulnerable groups. This social situation demands a need for inserting an anti-discrimination clause to the Constitution of India for the protection of the transgenders.

³⁶ Transgender Persons (protection of Rights) Act, 2019, Section 3 (b), (c)

³⁷ DR. SHANNU NARAYAN, Envisaging Inclusiveness through Transgender’s Persons Rights Law in India, 4, IJLMH, 413, 2021.

³⁸ R Mitra and V Doctor, “Passing in Corporate India: Problematizing Disclosure of Homosexuality at the Workplace”, 321, Springer International Publications, 2016)

³⁹ *Supra n 37. at 414.*

⁴⁰Former Chief Justice N.V. Ramana while delivering a speech at Desai Memorial Lecture.

The paper further suggests that there needs an anti-discrimination policy to be enacted separately either by way of legislation or as a public policy guideline. The employer of each workspace with transgender should bear the responsibility for their protection of them rather than vesting it at the shoulders of the government. Both private and public enterprises should provide transgender friendly atmosphere and must ensure that they are not discriminated in any way. The proper government authorities should ensure that the enterprises accommodating transgender employees have the adequate necessities like separate toilet facilities, working atmosphere, whether proper wages and salaries are provided for them, whether they are treated equally with other employees etc.

Persons who identify as transgender and persons with different sexual orientations experience intolerance, discrimination, and social isolation. The reasons for this isolation range from personal to the most prevalent social incomprehension. While the judiciary has made a great effort to eliminate the stigma associated with the third gender, it is now our time to understand the full significance of this decision and give it priority in its implementation. Throwing money at hijras in an effort to drive them away not only degrades these people even curs are treated better by the love of mankind but also the fundamental tenants of humanity. Such behaviors will only force the transgender community to toil and struggle in the same pit of humiliation that they have been experiencing for years.

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