

A REPULSIVE STANDPOINT: UNDERSTANDING THE ANTITHESIS OF LIFE VIS-A-VIS THE LGBTQ COMMUNITY

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Abstract- Sexual orientation is about who you're allured to and who you feel drawn to emotionally and sexually. On that basis, there are heterosexuals, homosexuals and bisexuals. On the other hand, gender identity means the conception of a person about his or her own gender. Sexual orientation and gender identity form a sine qua non of identity. Equal protection of law demands the protection of the identity of every individual without discrimination. Judging a person and his character for his sexual orientation is naïve to say the least. Something that is wrong with society is the fact that it is over-judgemental of things that are outside of the norm. From the moment humans are able to establish differences between one thing and another, choices are made as to what is considered better or what makes more sense to the mind. For instance, try and fathom the plight of an innocent teenager whose only fault is that his sexual preference is different from the one prescribed by an orthodox society. Society subconsciously holds a bias against such people. Their actions are viewed from a sensual outlook only. It is not only about the physical needs and demands but the emotional and mental satisfaction as well. It is germane to point over here that the cultural and colonised minds of the people have been entrenched to believe that a different sexual preference is against the word of God and blasphemous. Instead of accepting such people as they are we on the contrary, treat them as third-class citizens. The pathetic ways in which they are subjugated include parents disowning their children, transgenders forced into beggary and sex work, harassment at workplace and educational institutions and not to forget the social stigma they have to face on daily basis. To reiterate, different sexual preferences and gender identities are no legal and moral basis to deny a person his basic human rights.

Index Terms- orientation, identity, character, blasphemous, discrimination.

I. Introduction

In every society some inexplicable dogmas always tend to overshadow the reasoning and common sense. The majority section of the society often tends to decide the generally acceptable social norms which hamper with the personal preferences of miniscule minorities. Sociologically this has been a natural tendency but with the advent of time, a liberal approach has also made its way. It would not be wrong to point out here that the judiciary has been the torchbearer of such an approach. They have emerged to be the guarantors of the human rights by realizing the constitutional vision of interpreting the law with the existing demands and situations. Human rights qualify to be the cardinal principle when it comes to foster and strengthen the spirit of equality.

II. Human Rights: Right To Sexuality

- **Meaning and concept of Human rights-** Human rights can be defined as certain inherent rights to all the human beings around the globe irrespective of their religion, caste, creed, color, sex, nationality, language, region, race and ethnicity or any other ground.¹ Such basic inalienable rights include freedom from slavery, right to freedom of speech and expression, right to humane conditions for work, right to

¹ Available at: <https://www.un.org/en/sections/issues-depth/human-rights/>, Last visited on: October 10,2019

education, political rights and so on. These are the basic freedoms that are deemed to be the natural rights of every person. They exist irrespective of the question whether they are conferred or recognised by the legal or the social system within which an individual dwells.

- **International Conventions-** The concept of human rights has grown through decades of reforms and changes. United Nations has played a pivotal role in the protection and promotion of rights of sexual minorities inclusive of the transgenders. One such milestone in the sphere is the Universal Declaration of Human Rights (UDHR). The objective of the Declaration was the global protection and safeguard of fundamental human rights. Another international development includes the adoption of Yogyakarta Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity. The Yogyakarta Principles sought to bring coherence and clarity to the application of human rights to the issues of sexual orientation and gender identity and the State's human rights obligations.
- **Right to Sexuality-** Right to sexuality is a facet of human rights. The genesis of the right to sexuality lies in the universal principle of "right of choice". *Article 1²* of UDHR emphasis that all human beings are born free and are equal in dignity and rights. This provision is applicable on the members of the society inclusive of the LGBTQ community. *Article 2³* further provides that no person should be subjected to any distinction of any kind on basis of sex, and that encompasses not even on the basis of sexual orientation or gender identity. The United Nations Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, commonly known as UNCAT specifically deals with the protection of individuals who are vulnerable and weak because of discrimination and social order. Para 21 of the Convention focuses on the protection of all persons from torture or ill-treatment, regardless of a person's sexual orientation or transgender identity.⁴

Right to Sexuality in simple terms can be defined as the basic human right to decide one's sexual orientation and determine the sexual identity without any discrimination, coercion, force or violence and the protection of the same by the judiciary. It is also the freedom from the pressure to remain silent and invisible. Sexuality is an indispensable part of a person and core of his identity. It is what completes him as a human being. But the people belonging to the LGBTQ community have to fight for their rights as they do not choose their partners in the prescribed dogmatic way. Moreover, the mental health is inextricably connected with the sexuality of the person. The psychological and physical built-up which forms the bodily integrity should be in conformity with each other to maintain the mental and sexual health of the person. The expression of his true or natural sense gives him the fullest opportunity to develop personality and potentiality to the highest level possible. Thus, the right to sexuality not only means the freedom of choice but also covers within its ambit the right to life, right to live with human dignity, social and cultural rights, right to privacy, healthcare and educational rights, etc.

III. **Key Concepts And Terminology**

- **Sexual Orientation-** Sexual orientation refers to the sexual preference of an individual. It is the physical, psychological, emotional and romantic attraction of one person towards the other. It also defines how human beings physically relate and communicate with others. On this basis, there are various types of orientation-
 - a. **Heterosexuals-** These are those people who are attracted to a person of opposite sex i.e. males drawn towards females and vice versa.

² Article 1- All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

³Article 2- Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

⁴ National Legal Services Authority v. Union of India and Others, (2014) 5 SCC 438

- b. Homosexuals- Those people who are attracted to a person of the same sex are homosexuals. In simple words gays and lesbians. They are the ones who challenge the traditional norms of heterosexuality.
- c. Bisexual- Those people who feel attraction towards both the sexes.
- d. Pansexual- Those individuals who have to capacity to form enduring relations with any person irrespective of the gender identity of that person.
- e. Asexuals- Those people who are not interested in any of the sex.
- **Gender Identity**- Gender identity in a simple sense means the person's perception about himself and the internal feeling of being a male, female, transgender or other identified category. At times, the sex assigned at birth is not in conformity with the intrinsic feelings of the person. It may be due to problems in genital anatomy leading people to resort to modification of the body by medical or surgical means.⁵ Gender, thus cannot be restricted to the binary framework and includes an array of identities.
- **Transgender**- The term transgender has been exhaustively described as an umbrella term that includes within its ambit a wide range of identities not limited to pre-operative/post-operative transsexual people. Thus, the members of transgender community include Hijras, Kinnars, Eunuchs, Kothis, Aravanis, Jogtas, Jogappas, Shiv-Shakthis etc.⁶

IV. **Historical Background Of The LGBTQ Community**

- **Ancient India:**

India has been renowned for its rich heritage and culture with vast religious and traditional diversity. The concept of transgender or as we Indians know as "hijras" is not a novel one. Vedic scriptures are inundated with the information related to every aspect of society including those related to transgenders and homosexuals. They have been a part of recorded history for centuries. In the structure of Vedic society, they had their place and position and formed an integral part of society as a whole.⁷ Puranic and Vedic literature underlined the value, reason and purpose of their existence. More so, the precise categorization of individuals based on their nature/ prakriti has been done.⁸ Males or pums-prakriti, females or stri-prakriti, and third gender or tritiya-prakriti.

Kamasutra and the Hindu and Jains temples of Khajuraho monuments explicitly celebrate homosexuality and acceptance for diverse views. Hindu mythology, thus has established the idea of sexuality and transgenders and extensively dealt with the issues of sexuality.

Instances of the roots of the community can be traced in folk lore, legends and stories. The ancient tale of the creation of earth involves Shiva, the God of destruction taking the form of Ardhanarishvara. This form of Shiva is worshipped by this community. When Brahma's mind created a woman, he was seduced and wanted to possess his own daughter. Shiva watched the great father lusting after his daughter and chasing her all over the cosmos. In order to mitigate the sin, Shiva castrated himself and merged with his wife Parvati, the mother earth which reflects the existence of a man and a woman in one body.

Another reference to the deities and demi-gods in the mythology includes Bahuchara Mata, a Hindu goddess who has been a patroness of this community.

⁵The Yogyakarta Principles, 2007, Available at: http://data.unaids.org/pub/manual/2007/070517_yogyakarta_principles_en.pdf, Last visited on: October 21,2019

⁶Ibid at 4

⁷ Dr. Vasumathi T. & Geethanjali M., Transgender Identity As Hidden in Vedic Literature And Society; Available at: [http://www.ijhssi.org/papers/vol7\(1\)/Version-1/K0701016265.pdf](http://www.ijhssi.org/papers/vol7(1)/Version-1/K0701016265.pdf), Last visited on: October 17,2019

⁸ Ibid at 7 (Svetasvatara Upanisad, Galva 108)

Moreover, the epic Ramayana talks about the transgender community. When Lord Rama was leaving for the forest upon being banished from the kingdom for 14 years, he asked all the 'men and women' to return to the city. The hijras alone did not feel bound by this direction and decided to stay with him. Impressed with their devotion, Rama sanctioned them the power to confer blessings on people on auspicious occasions like childbirth and marriage, and also at inaugural functions which, it is believed set the stage for the custom of badhai in which hijras sing, dance and confer blessings.⁹

Mahabharata also gives a record of the transgenders. Shikhandini was born to king Drupada and fought the Kurukshetra war for the Pandavas. She was born as a female, but changed her sex and turned into a eunuch named Shikhandi. Hence, became the cause of Bhishma's death in the battle.¹⁰ Another instance in the epic can be found of Lord Krishna taking the form of a female in the Mahabharata war and getting married to Arjuna's son Aravan. He spent a night with Aravan as a married couple. On Aravan's death the next day, Krishna mourned as a widow. The hijras of Tamil Nadu calls themselves as Aravanis.¹¹

Hence, gender and sexuality have diverse portrayal in ancient Hindu mythology.

- **Mughal Period:**

Mughal empire, throughout their rule, recognized transgenders as a part of their subjects. Generally, they were the guards in the harems i.e. private Muslim households of queens and concubines. There have even been records of them guarding holy places of Mecca and Madina and other Islamic religious institutions. Besides this, they had eminent and high positions as political advisors, ministers, administrators, generals.¹²

- **British Colonialism:**

A majority section of the population is under the impression that it was the Islamic invasions that created the stigma around the subject. But in reality, it was the onset of British colonialism in India in the 18th century which transformed the situation drastically. Every possible step was undertaken to eradicate the long prevalent existence of the community for the reason that they challenged the western ideas of sex and gender. It is for the same reason that the British administration actively took measures to criminalize this community. This resulted in the denial of basic human and civil rights to this community.

Atrocities inflicted upon them is evident is the legislation of 1871. The Criminal Tribes Act deemed the entire community as 'criminals' and natural offenders. Section 26 of the Act denied them the right to life and liberty. They were restricted to appear in public places when dressed like women and were prohibited from dancing, singing and playing music in open streets. Hence, their actions and activities were under strict check and vigil.¹³

This set the foundation of the development of stigma towards this age-old section of the society.

Though, in August 1949 the act was repealed yet the seeds of unacceptance were sown during this rule in India. The community which was once treated with great respect lost it in the present scenario.

⁹ Ibid at 4

¹⁰ Available at: <http://ritsin.com/mahabharat-shikhandi-indian-mythology.html/>, Last Visited on: October 3,2019

¹¹ Available at: <https://www.speakingtree.in/allslides/when-krishna-became-a-bride-for-just-one-night>, Last Visited on: October 15,2019

¹² Laxmi Narayan Tripathy, In the Supreme Court of India at New Delhi Civil Original Jurisdiction i.a. No. of In writ petition (Civil) P-400, 2013, Available at: <https://docs.google.com/file/d/0B0FtTnxqjV47Mk9jeFhMS2VTaXQ2MEhLeTU0aXZabkIwbENJ/edit>, Last visited on: October 19,2019

¹³ Ibid at 12

V. Analysis Of The Issue In Relevance To Indian Laws

Years of British rule in India gave the legislative system of the country. One such enactment of the legislation includes the Indian Penal Code, 1860.

- **Indian Penal Code, 1860** - Section 377¹⁴ of the code which now stands partly abrogated originally laid down that whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to 10 years, and shall also be liable to pay a fine. But the section remains in force relating to sex with minors, non-consensual sexual acts, and bestiality.

The issue of Section 377 was first raised by NGO Naz Foundation in the year 2001. The High Court of Delhi in the case of *Naz Foundation v. Govt. of NCT of Delhi*¹⁵ gave its verdict decriminalising sex between consenting adults of the same gender and holding the penal provision as “illegal” and “unconstitutional”.

However, the decision was overturned by the two-judge Supreme Court bench in *Suresh Kumar Koushal v. Naz Foundation*.¹⁶ The United Nations human rights chief Navi Pillay voiced her disappointment at the re-criminalization of consensual same-sex relationships in India, calling it “a significant step backwards” for the country.¹⁷

Later on in the year 2017, in *K.S. Puttaswamy (Retd.) and Anr. v. Union of India*¹⁸, the court held that the rationale behind the Suresh Koushal (2013) Judgement is incorrect. The judgement held that sexual orientation is an essential component of identity. Equal protection demands protection of the identity of every individual without discrimination.

The judgement of 2017 paved the way for one of the most historic landmark judgement in relation to Section 377. The five-judge constitutional bench of the Supreme Court in the case of *Navtej Singh Johar v. Union of India*¹⁹ heard the petitions which sought to invoke the right to sexual privacy, dignity, right against discrimination. The constitutionality of Section 377 was challenged. The Apex Court in its ruling, unanimously stated that consensual sexual acts between adults cannot be a crime and the provision of Section 377 was held irrational, arbitrary and incomprehensible.

- **Constitution of India**- The Grundnorm of the country lays down a complete structure for the protection of the human rights of every individual in the country. The concepts of social, economic and political justice incorporated in the Preamble, are designed to flower the citizen’s personality to the fullest. The right to sexual orientation and gender identity also flows from India being a democracy. The role of the judiciary is not only to decide the disputes but to uphold the rule of law and ensure access to justice to the marginalized sections of society like the LGBTQ community.
- **Article 14 and Transgenders**- According to the provision of Article 14, the state shall not deny to any person equality before the law or the equal protection of the laws within the territory of India. The essence of this Article lies in the basic structure of the constitution. The equality clause does not speak of mere formal equality but embodies the concept of real and substantive equality. It aims at striking down any inequalities and is thus an essential ingredient of social and economic justice.²⁰
The Hon’ble Supreme Court in *National Legal Services Authority v. Union of India*²¹ (popularly known as the “transgender’s case”) held that the word “person” as contained in Article 14 is not restricted to

¹⁴ Unnatural Offences-Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with 1[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation-Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section.

¹⁵ 2009 SCC OnLine Del 1762: (2009) 111 DRJ 1 (DB)

¹⁶ (2014) 1 SCC 1: (2013)c4 SCC (Cri) 1

¹⁷ Available at: <https://news.un.org/en/story/2013/12/457672-un-human-rights-chief-dismayed-india-re-criminalizes-same-sex-relationships>, Last Visited on: October 29,2019

¹⁸ (2017) 10 SCC 1

¹⁹ (2018) 10 SCC 1

²⁰ Secretary, H.S.E.B. v. Suresh, AIR 1999 SC 1160

²¹ AIR 2014 SC 1863

binary genders i.e. males and females, but includes even trans-genders. Hence, even the third gender is entitled to equal protection of laws and legal equality in all spheres as enjoyed by any other citizen of this country. Discrimination on the basis of sexual orientation and gender identity undermines the concept of equality before law and equal protection of law, therefore, violates Article 14 of the Constitution of India.

- **Article 15²² and 16²³ and Transgenders** – Both the articles secure right against discrimination to every citizen on specifically listed grounds, including on the basis of ‘sex’. Thus, it can be inferred that gender bias and gender-based discrimination in any manifestation would entail the violation of basic rights.

With respect to Article 15(2) the makers of the Constitution had the objective of curbing the menace of untouchability and social stigma concerning the minority sections of the society. The applicability of this section can be extended to even the transgender community.

Article 16 not only prohibits discrimination on the basis of sex in the sphere of public employment but also imposes an obligation on the State to ensure that every citizen of the land is treated on equal footing in the matters of recruitment, employment and appointment by the State. Hence, the state is meant to be a model employer.

- **Article 19 and Transgenders-** Art 19(1)(a) states that all citizens shall have the right to freedom of speech and expression subject to certain restrictions contained in Art 19(2). Freedom of speech and expression has been considered as a basic and indivisible right for the democracy of the country.²⁴ In *Secretary Ministry of I. & B. v. Cricket Association Bengal*²⁵, the Apex Court referred to the David Feldman book “Civil Liberties and Human Rights” which regarded self-expression as a significant instrument of freedom of conscience and self-fulfilment. The means of expression can be by the words of mouth, writing, printing or by visual representations such as gestures or signs. The right innately incorporates the freedom to express one’s sexuality and gender identity. This sexuality can be expressed through dressing style, behaviour, appearance, mannerism and conduct as well. Hence, values of self-identity and personal integrity of the transgender community lie at the core of Article 19(1)(a).

²² 15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth-

- (1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them
- (2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to
 - (a) access to shops, public restaurants, hotels and palaces of public entertainment; or
 - (b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public
- (3) Nothing in this article shall prevent the State from making any special provision for women and children
- (4) Nothing in this article or in clause (2) of Article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes

²³ 16. Equality of opportunity in matters of public employment-

- (1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State
- (2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect or, any employment or office under the State
- (3) Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory prior to such employment or appointment
- (4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State
- (5) Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

²⁴ Govt. of A.P. v. P.L. Devi, AIR 2008 SC 1640

²⁵ AIR 1995 SC 1236

- **Article 21 and Transgenders-** Article 21 reads as no person shall be deprived of his life or personal liberty except according to procedure established by law. Right to life does not mean the mere animal existence of a person and demands for a quality life.²⁶ Different attributes of right to life include the right to live with human dignity²⁷, right to reputation and right to livelihood, etc. irrespective of the sexuality or gender identity of the person. Article 21 also guarantees the protection of “personal autonomy”.²⁸

Right to privacy as provided by right to personal liberty accrues to every person on account of being a human being. The Apex court delivering the Privacy Case judgment in *KS Puttaswamy v. Union of India*²⁹ stated in the most unambiguous terms that sexual Orientation is an essential attribute of privacy. Discrimination against an individual on the basis of sexual orientation is deeply offensive to the dignity and self-worth of the individual. Equality demands that the sexual orientation of each individual in society must be protected on an even platform. The right to privacy and the protection of sexual orientation lie at the core of the fundamental rights guaranteed by Article 14,15 and 21 of the Constitution.

But the people of the country fail to uphold the decision of the court in its spirit and letter.

VI. **The Plight Of The Community**

Both the legislative and judicial organs of the country have extensively worked in promoting the equality and uplifting of this section of the society. The judiciary gave a new dimension to the provisions of the Constitution by laying down a new constitutional jurisprudence. Creative interpretation by the courts gave the basis for securing human rights to every citizen of the country.

But there is still a long way to go for the LGBTQ community to be completely accepted and integrated into India’s society.

Seldom, the society realises or bothers to realise the predicament of the LGBTQ community. Neither the society understands the trauma, mental agony and pain which such people go through nor appreciate the innate emotions of the members of this community, especially of those whose mind and body disown their biological sex. Indubitably, the community has to face discrimination and denial of equality in matters of access to education, healthcare, employment, public places, licences, etc. In the sea of intolerance, they are side-lined and treated as “untouchables”. The multifarious oppression includes:

- **Homophobia-** According to Merriam-Webster’s Dictionary, homophobia is the irrational fear of, aversion to, or discrimination against homosexuality or homosexuals.³⁰ It means prejudice against homosexuals or homosexuality. The exhibition of homophobia can range from verbal to violent acts. Even, homosexuality is often categorised as a mental disease or mental disorder by the “straight” people.
- **Lack of education and employment opportunities-** As the community is not treated as an equal, they are deprived of many of the rights and privileges which other people enjoy as the citizens of the country. Early denial of education further mitigates the chances of employment. Non-recognition of the identity denies them the facilities provided by the State in the healthcare department as well. Not only they need safe sexual practices, but also psychological help by the medical department.
- **Violence and physical abuse-** The community is extremely vulnerable to harassment, sexual assault including molestation, rape, forced oral and anal sex, gang rape, stripping, and that too in the public places. There have been recorded cases of brutality in educational institutions and workplace. The mental agony and psychological violence, besides physical torture is also a constant battle fought by them. Many at last end up committing suicides.

²⁶ Kharak Singh v. State of Uttar Pradesh, AIR 1963 SC 1295

²⁷ Francis Coralie Mullin v. Union Territory of Delhi, AIR 1981 SC 746

²⁸ Anuj Garg v. Hotel Association of India, (2008) 3 SCC 1

²⁹ Ibid at 18

³⁰ Available at: <https://www.merriam-webster.com/dictionary/homophobia>, Last visited on: October 25, 2019

- **Social exclusion**- The social stigma around homosexuality and transgender is so large and pronounced that they face a serious problem to access the public toilets. In the male toilets, transgenders and gays are usually prone to sexual assault. They are often ridiculed and abused in public places like restaurants, bus-stands, railway stations, malls, theatres, etc. Different sexual orientation and identity is considered against the word of god and blasphemous.
- **Beggary and Sex-work**- Lack of employment and unacceptance of the community is so widespread that they have no alternative but to indulge in sex work and beggary. Akkai Padmashali, now human rights activist from South India worked as a sex worker for a period of almost 4 years in order to survive on a daily basis. Madhu Bai Kinnar is India's first official Dalit transgender mayor in Raigarh, Chhatisgarh.³¹ Previously, she used to sing and dance on trains to earn the daily bread and butter. Thus, this is the path several people from the LGBTQ community have to adopt in order to earn a living.
- **Disownment by the family**- A child showing characteristics of the opposite gender than what is assigned to him at the birth, is often not easily accepted by the parents. They end up getting thrown out of the family institution forcing them to live on streets.

VII. Conclusion

The contemporary modern India has to break the shackles of stereotypical and patriarchal order of the society. Procreation is not the sole basis for the physical interaction of two adults. A whole lot of reasons exists including emotional companionship. There ought to be dissolution of limits imposed by structures such as gender, class, caste, culture, religion, etc. for all and liberty must triumph over the rigid norms of the mainstream society. The lines between the homosexuals and heterosexuals should be blurred and fluidity of sexual identities and preferences should be comprehended. Dire need exists to adopt a perspective which can lead to their acceptance as equal members of a humane and compassionate society. The society cannot remain unmindful to the fact that sexuality is ingrained in a person and cannot be altered at will. Compelling a person having a certain sexual orientation and gender identity to proselytise to another is like demanding a body part to perform a function it was never designed to perform in the first place. The community do not claim any 'special' or 'additional rights' but the observance of the same rights as those of heterosexual persons. Besides, the court should not dwell on the moral notions which are an anathema to a constitutional order. To encapsulate, there is a need to transform idealism into reality by fostering respect for human rights, bringing harmony, abandonment of unacceptable social norms and establishing a cult of egalitarian liberalism founded on reasonable principles.

³¹ Rhea Almeida, Meet 7 of the India's Transgender Icon Thriving Despite Social Taboo; Available at: <https://homegrown.co.in/article/44544/meet-7-of-indias-transgender-icons-thriving-despite-social-taboo>, Last visited on: October 16,2019