

Transgender Set of Maxims Reign over All the Law

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Abstract

The judgment was definitely a constructive step towards humanization of the judicial system and was a major step towards eliminating the injustice done to almost five million people who were running from one place to another without any identity. The Supreme Court's ruling acted as the conformity to basic human rights and people's dignity, finally assigning the true meaning to Right to life and human dignity guaranteed under Article 21 of the Constitution of India.

Keywords: Educational capacity; Challenging tasks; Transgender phobia; Crown prosecution service; Gender reassignment; Democratic process

Introduction

Transgender people continue to suffer restricted opportunities, discrimination and harassment at work despite the existence of anti-discrimination and equalities legislation. They have been found to be in jobs that are below their skills and educational capacity and appear more likely to work in lower-paid and insecure employment in the public sector, or to be self-employed. There is evidence that they may also experience greater debt and difficulty paying bills, which Transgender people have linked to their gender identity. However, the literature is somewhat contradictory regarding the economic status of Transgender people. Some evidence suggests that Transgender people may occupy advantageous economic positions, yet other evidence suggests the opposite. There is a need for comprehensive data on where Transgender people are employed, at what occupational levels and levels of pay, whether they have experienced discrimination in employment and the impact of this on their careers [1]. There is evidence that some Transgender people felt unable to undergo gender Transition as they feared discriminatory treatment at work. Where people had transitioned they had been harassed, refused permission to use the toilet of their acquired gender, and demoted to perform less challenging tasks. There were some cases where Transgender people had successfully challenged such discrimination at Employment Tribunals. Other workplace issues around the time of Transition might include a failure of the organisation to acknowledge the gender change and exclusion, for example from staff social events. People who do not plan to undergo gender reassignment treatment continue to have no legal protection from discrimination and many employers lack anti-discrimination policies on gender identity, despite the existence of legislation and a number of best practice guides. Transgender people appear to experience high levels of hate crime and hate incidents [2]. Morton found that 62 per cent of respondents had experienced Transgender phobic harassment from strangers in public places who perceived them to be Transgender: mostly this had taken the form of verbal abuse but 40 per cent had experienced Transgender phobic threatening behaviour, 17 per cent had been physically assaulted and 4 per cent had been sexually assaulted. Whittle et al also found that a majority of respondents had faced harassment in public spaces [3]. They noted that '73 per cent of respondents experienced comments, threatening behaviour, physical abuse, verbal abuse or sexual abuse while in public spaces.' They also suggest that the 27 per cent of respondents who had not experienced abuse may not have done so not because of social acceptance, but rather because they 'pass' so convincingly as their post-Transition gender that people are unaware of their previous gender status. Transgender people were reluctant to report such incidents to the police for fear that they will not be treated fairly, appropriately or with respect. There is also fear that their previous

gender status will be disclosed if they do so. The police have been found to be less knowledgeable and confident in dealing with Transgender people than with lesbian, gay and bisexual people, suggesting the need for training and good practice guidance in these respects. Transgender people may also be over-represented in prisons. Where they have not received gender reassignment treatment they are likely to be imprisoned with their birth sex, making them vulnerable to bullying, violence and sexual assault and reducing the likelihood that they will be treated with dignity and respect. The Crown Prosecution Service has published policy and guidance on prosecution of Transgender phobic and homophobic crime. Transgender people can experience long delays in access to gender reassignment treatment through the NHS, leading some to pay for expensive care in the private sector. Some GPs have been reluctant to treat Transgender people or have refused to do so.

Discussion

Where they received care related to gender reassignment, Transgender people have experienced an unsatisfactory one size fits all approach. Transgender people may also be at greater risk of isolation, alcohol abuse, suicide, self-harm, substance abuse and HIV infection, although these issues require further investigation. Although a number of important best practice guides on Transgender health exist these needs to be better informed by evidence [4]. Key service delivery issues that were raised included the need for better health policy on Transgender issues; improved training on Transgender issues for practitioners; assessment procedures and processes that include Transgender awareness, treatment of Transgender people as 'not sick but different', and funding for Transgender health services. Transgender people may be particularly at risk of housing crisis and homelessness arising from Transgender phobic reactions and harassment by family, neighbours and members of their local community. Morton 2008 reported that 25.4 per cent of respondents had to move out of their home due to Transgender phobic reactions. There were no housing services specifically addressing the needs of Transgender people and access to housing services was not monitored in relation to Transgender status or gender identity. Transgender people fear disclosing their identity to housing officers for fear that they will not be treated with dignity and respect. The result

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can be that they do not receive the housing services that they need or receive a service inappropriate to their needs. Transgender people are often portrayed as isolated individuals in the media, with a focus solely on gender reassignment surgery rather than as whole individuals with lives [5]. However, there has been no systematic monitoring of the representation of Transgender people in the media to date. There were particular problems for Transgender people in accessing changing facilities that are appropriate to their gender identity in sports and leisure facilities and in shops. Many Transgender people did not use these facilities in order to avoid discrimination, thereby restricting their leisure opportunities. Little attention has been paid to the development of community capacity or the community engagement of Transgender people. The voluntary activities and community support that exists between Transgender people could be better supported in terms of funding and advice. Transgender people have not been considered in thinking around community cohesion or good relations. There was no research on the participation or representation of Transgender people in the democratic process. Families and relationships Some Transgender people may experience a lack of family and social support as a result of Transgender phobic reactions to their gender identity. They may also experience compromises to their right to a family life. Yet, there was virtually no research on the family lives, households and relationships of Transgender people [6]. Recent research in the North West of England suggested that 11 per cent of people have friends who are Transgender. There are obvious gaps that need to be addressed in family and relationships research. The impact of the Gender Recognition Act A on existing marriages requires exploration, in particular, the impact of a Gender Recognition Certificate on relationships and the legal status of marriages which existed prior to gender reassignment. It is important to find accurate measures of the Transgender population at national and local levels. It is not possible to make robust population generalisations from the quantitative studies to date. Placing a question on Transgender identity on the Census and/or a Government survey, such as the Integrated Household Survey, would be a significant step forward in terms of achieving this aim [7]. However, a number of issues will need to be considered before this can take place. In particular, the Commission could work with a body such as the Office for National Statistics and Transgender stakeholders to work towards an agreement of a definition, or definitions of the Transgender populations, and, explore the acceptability of asking a question on Transgender status or gender identity, and what form a question, or questions, should take. Such a project should be a priority in terms of building the type of evidence required to produce baseline data on inequalities faced by the Transgender population relative to the general population [8]. However, such large-scale surveys are unlikely to capture the size of the Transgender population with accuracy, because, at present, they do not guarantee sufficient confidentiality for individuals. For example, the Census is completed at the household level and so will not capture Transgender people who have not disclosed their status to the person completing the Census or other people in the household. The quantity of research relevant to each of the substantive areas covered in their view was highly variable [9]. There was a greater volume of literature available in some areas than others, such as employment, where the

rights of Transgender people have been established for longer. Other areas such as: housing; education; media, leisure and sport; community and citizenship; and families and relationships seemed to be particularly neglected. In areas such as health and social care there were suggestions for good practice guidance but the relationship of this guidance to research evidence was unclear. The review reveals that there is a case for UK-wide quantitative and qualitative study on the economic position, experiences and needs of the Transgender population. The absence of such evidence makes providing correct support, funding, services and policies more difficult for Transgender people. The priorities for such a study would need to be defined with a number of stakeholders, but several directions could be implied from the review. These would include improving the coverage of research in substantive areas identified in the review. Recruiting a large survey sample, using robust sampling methods, to establish patterns of inequality and discrimination within and across the Transgender community [10]. Establishing a high quality qualitative study, using purposive sampling, to include the wide range of Transgender people and their experiences.

Conclusion

Assessing the impact of existing Transgender-relevant equality legislation on Transgender people. Assessing the experience and impact of Transgender phobia on the life chances of Transgender people.

Acknowledgement

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Conflict of Interest

None

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