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COVER STORY

Irish Votes Reflect the Need for a New Anti-Abortion Strategy



Source: <https://www.cosmopolitan.com/uk/reports/a15921117/ireland-abortion-referendum/>

Background

Ireland will be enacting a historic new legislation on abortion by the end of this year, after its people, mainly women, came out in large numbers to vote against the existing abortion law of the country. They demanded the repeal of the existing Eighth constitutional Amendment, 1983¹ which had declared abortion a criminal offence and restricted it to circumstances where the life of a pregnant woman was at risk. The Eight Amendment also imposed a heavy penalty on women who access illegal abortion, with upto 14 years in prison. When the vote for and against the Amendment was held out of the total 14, 29,981 votes 7, 23,632 (66.6%) voted in favor of the liberalizing the current abortion laws. After a long wait women in Ireland, will now be able to access a termination within the first 12 weeks of pregnancy with this amendment in “The Offences against the Person Act 1861”² which gave equal right to life for both mother and unborn child and hence criminalized abortion. .

However, beyond 12 weeks, abortions would only be permitted where there is a risk to a woman's life or of serious harm to the physical or mental health up until the 24th week of pregnancy. Terminations would also be permitted in cases of fatal foetal abnormality. As per recent media reports, Latin

¹ The eighth amendment is a clause inserted into the Irish constitution after a referendum in 1983.

² Abortion had been illegal in Ireland since the Offences against the Person Act of 1861.

America seems to be the next battleground with Argentina pushing towards legalizing abortions after the lower house of its legislature sent a bill last week to the Senate to allow the procedure in the first 14 weeks of pregnancy. The decision of amending the Eighth Amendment comes as a major blow to the views of the Catholic Church that has always been opposed to all forms of abortion or birth control. But for women and girls who are forced to travel outside the country for an abortion every year³ (some reports suggest that this number could be around 4000) or for those who couldn't afford to travel out of the country, had no option but to either survive without access to necessary health treatment, or risk criminal penalties if they undergo illegal abortions at home (International, 2015). The aim of this article therefore is to provide an extensive view of abortion law and policies in Ireland and their impact on the state and on the lives of the people especially women and children in those countries and why there is an universal need to legalize and broaden the access to safe legal abortions.

Abortion

Abortion is defined as the termination of pregnancy by various methods, including medical surgery, before the fetus is able to sustain independent life⁴. While the global abortion rate is estimated at 28 per 1000 women of childbearing age, 44% of the world's annual 227 million pregnancies are unintended, of which 56% end in abortion, 32% in an unplanned birth, and 12% in miscarriage⁵ for the age group of 20-24 year-old women who tend to have the highest abortion rate of any age-group (Susheela Singh, 2018). Some of the reasons why women choose abortion include not being mentally ready to deal with parenthood, financial constraints, unplanned pregnancies, or in some cases lack of partner support. In addition, many young women are victims of sexual violence and rape which may result in unwanted pregnancy. Abortions could be safe and unsafe. Safe abortion implies that it has been conducted by a trained and experienced health worker in a certified hospital, clinic etc under safe and hygienic conditions. Unsafe abortions on the other hand, are those performed by an inexperienced individual, unclean environment and after 3 months (12 weeks) of pregnancy and it may causes complications such as pain, infertility and in some cases even death, tends to take place more in number.⁶ Unsafe abortions contribute to maternal morbidity and mortality and account for about 4.7 to 13.2 percent of maternal deaths worldwide each year. (Say L, 2014).

So why are women willing to risk their lives and opt for un-safe abortions?

Study shows that around 42% of women of reproductive age live in 125 countries where abortion is highly restricted (26 countries prohibit it altogether without exceptions, others (36), allow only saving if it involves saving a woman's life or protecting her health) while only 37% of them⁷ are free to abort the foetus without any restriction. This implies that majority of the countries criminalize abortions which leave their women with no option but to go for illegal/unsafe abortions. In Ireland, in spite of the 2013 Protection of Life During Pregnancy Act that allows abortions in circumstances where there was a risk to the life of the mother, more than 168 000 women had to leave Ireland to access abortion services outside of Ireland since 1983 (Irish Family Planning Association). This implies, that even a law that allows abortions under certain cases does not guarantee safe access. For

³ The 13th amendment in 1992 allows women to travel in and out of Ireland to have an abortion

⁴ <https://definitions.uslegal.com/a/abortion/>

⁵ [https://www.thelancet.com/pdfs/journals/lancet/PIIS0140-6736\(18\)30624-X.pdf](https://www.thelancet.com/pdfs/journals/lancet/PIIS0140-6736(18)30624-X.pdf)

⁶ Around 7 million women are admitted to hospitals every year in developing countries, as a result of unsafe abortion.

⁷ As of 2013, 61 countries around the world permit abortion with no restrictions.

instance, India permits abortion under certain circumstances, factors such as inadequate public sector facilities, non regulation of private sector clinics, poor understanding of the law and most importantly the stigma which plays a critical role in the social, medical, and legal marginalization of abortion care leads to 78% of abortions taking place outside a health clinic, most of them illegally.

APPENDIX TABLE 1 Status of the world's 193 countries and six territories/nonstates, by six abortion-legality categories and three additional legal grounds under which abortion is allowed, 2017

Legality category	DEVELOPED REGIONS		DEVELOPING REGIONS			
			Africa		Asia & Oceania	
1 Prohibited altogether (no explicit legal exception)	Andorra Malta San Marino	Angola Congo-Brazzaville Congo-Kinshasa Egypt Gabon	Guinea-Bissau Madagascar Mauritania Sao Tome & Principe Senegal	Iraq Lao Marshall Islands Micronesia	Fiji Philippines Tonga	Dominican Republic El Salvador Haiti Honduras Nicaragua Suriname
2 To save life of women	Ireland	Côte d'Ivoire Libya Mali (c,l) Nigeria Somalia South Sudan Sudan (r) Tanzania Uganda	Ethiopia (c,l) Guinea (c,l) Kenya Lesotho (c,l) Morocco* Niger (l) Rwanda (c,l) Togo (c,l) Zimbabwe (c,l)	Afghanistan Bangladesh Bhutan (c,l) Brunei Darussalam Indonesia* (c,l) Iran (l) Kiribati Laos Myanmar Oman	Papua New Guinea Solomon Islands Sri Lanka Syria*,† Timor-Leste† Tuvalu United Arab Emirates*,† West Bank & Gaza Yemen	Antigua & Barbuda Bahrain (l) Chile (r,l) Cuba (r,l) Guatemala Mexico (c,l) Panama† (c,l) Paraguay Venezuela
3 To save life of women/preserve physical health	Liechtenstein Monaco (c,l) Poland† (c,l)	Benin (c,l) Burkina Faso (r,l) Burundi Cameroon (r) Cen. African Rep. (c,l) Chad (l) Comoros Djibouti Equatorial Guinea*,†	Ethiopia (c,l) Guinea (c,l) Kenya Lesotho (c,l) Morocco* Niger (l) Rwanda (c,l) Togo (c,l) Zimbabwe (c,l)	Jordan Kuwait*,† (l) Maldives* Pakistan Qatar (l) Saudi Arabia*,† South Korea* (c,l) Vanuatu		Argentina (r) Bahamas Bolivia (c,l) Costa Rica Ecuador Grenada Paraguay
4 To save life of women/preserve physical/mental health	New Zealand (l) Northern Ireland	Algeria Bosnia (c,l) Eritrea (c,l) Gambia Ghana (c,l) Liberia (c,l)	Mauritius† (c,l) Mozambique (c,l) Namibia (c,l) Seychelles (c,l) Sierra Leone Swaziland (c,l)	Israel (c,l) Malaysia Nauru Samsa Thailand (c,l)		Colombia (c,l) Jamaica St. Kitts & Nevis St. Lucia (c,l) Trinidad & Tobago
5 To save life of women/preserve physical/mental health/ or socioeconomic grounds	Finland (r,l) Great Britain (l) Iceland (c,l) Japan* (r)	Zambia (l)		Cyprus (r,l) Fiji (c,l) Hong Kong (c,l) India† (l) Taiwan*,† (c,l)		Barbados† (c,l) Belize (l) St. Vincent & Grenadines (r,l)
6 No restriction as to reason (with gestational and other requirements)	Albania† Australia Austria† Belarus Belgium† Bosnia-Herzegovina† Bulgaria Canada†† Croatia† Czech Republic† Denmark† Estonia France† Germany† Greece† Hungary Italy** Kosovo†,††	Latvia† Lithuania† Luxembourg† Macedonia† Moldova† Montenegro† Netherlands†† Norway† Portugal†,†† Romania† Russian Fed. Serbia† Slovakia† Slovenia† Spain†,† Sweden* Switzerland Ukraine United States†,††	Cabo Verde South Africa Turkmenistan**	Armenia† Azerbaijan Bahrain Cambodia†,† China†† Georgia† Kazakhstan Kyrgyzstan Mongolia** Nepal North Korea†† Singapore††† Tajikistan Turkey*,†,†† Turkmenistan Uzbekistan Vietnam††	Cuba† Guyana† Puerto Rico†† Uruguay†	

Source: <https://www.weforum.org/agenda/2018/05/the-many-countries-where-abortion-still-banned>

Is there a need to legalize abortion then ?

A study published in the Lancet medical journal analyses the abortion rates countries with the most restrictive abortion laws also have the highest rates of abortion. “Highly restrictive laws do not eliminate the practice of abortion, but make those that do occur more likely to be unsafe,” says the report. In the case of Ireland, which has a long history of criminalizing abortion, it was the result of a broader social and political context in which the state and religious institutions that have subjected women and girls to strict, punitive social controls around their sexuality for around 4,000 women and girls who were forced to travel outside the country for an abortion every year at considerable mental, financial and physical cost. For others who couldn’t afford the travel were left without access to

necessary health treatment, or risk criminal penalties if they undergo illegal abortions at home (International, Ireland's abortion law treats women like vessels, 2015). In fact in the year 2012, Savita Halappanavar, a 31-year-old dentist died of sepsis after being denied an abortion during a protracted miscarriage.

As per recent studies conducted in the U.S, women who want an abortion but are denied one are more likely to spend years living in poverty than women who have abortions (Diana Greene Foster PhD, 2017). Women who were denied abortions were more to be marginally employed, unemployed, or depend on public assistance for months and even years afterwards⁸. A major study published recently by the Advancing New Standards in Reproductive Health, a research group at the University of California, San Francisco reported, that there were “profound” connections. Results indicate that women who carry unwanted pregnancies were more likely to live in poverty, while 40% surveyed said they opted for abortions for financial reasons. Further the research also highlights that many women wanted an abortion because they knew they couldn't afford to raise a child⁹.

According to a study published in JAMA Psychiatry, women who are denied abortions are more likely to suffer from negative psychological symptoms than women who have actually had the procedure done¹⁰. The study was conducted among 965 women with an average age of 25 across 21 states for over a five-year period. After the first week, those who were denied abortions reported having more symptoms of anxiety, lower self-esteem and lower life satisfaction but had similar levels of depression as women who had received an abortion. Over time, these negative emotions improved. In the 2016 case of denied abortion, the UN's Human Rights Committee condemned the 2013 case of *Mellet vs Ireland*¹¹, stating the Ireland constitution had subjected Amanda Mellet (Dublin) to discrimination and had failed to provide her with the protection of, and equality before, the law. The committee also in its statement concluded that she has been subjected “to conditions of intense physical and mental suffering” that “amounted to cruel, inhuman or degrading treatment”¹². Amanda Mellet of Dublin, Ireland (the Claimant), was denied abortion by the doctors after she received scans at a public hospital in her 21st week of pregnancy according to which her foetus had congenital heart defects and after further examination was informed that her foetus would die in utero or shortly after birth. However she was like many others, was given the option to travel to nearby countries for an abortion. In India too, a woman dies every two hours because she's had an unsafe abortion, according to estimates by Ipas, an international organization that works with the National Rural Health Mission to reduce maternal deaths due to unsafe abortions¹³. Further, over the last few years there also have been cases of girls being raped, impregnated and then being denied abortion that are between the age group of 10-15 years. The 2017 incident where a 10 year old gave

⁸ Forty-five percent of the women were on public assistance, and two-thirds of the women reported a household income below the poverty line.

⁹ <https://www.theguardian.com/society/2016/apr/27/contraception-abortion-access-women-poverty>

¹⁰ <https://globalnews.ca/news/3129227/women-denied-an-abortion-suffer-worse-mental-health-outcomes-than-those-who-have-one-study-says/>

¹¹ Read the full case at <https://www.hrlc.org.au/human-rights-case-summaries/human-rights-committee-finds-against-ireland-for-restrictive-abortion-laws>

¹² <https://thewire.in/gender/five-years-indian-woman-denied-abortion-died-will-ireland-finally-reform-laws>

¹³ <https://www.firstpost.com/living/shamed-and-scarred-stories-of-legal-abortions-in-india-1179659.html>

birth to her daughter is one such case. This kind of conditions/situation has a profound effect on the lives of these young girls. Starting with the risk of death for the young adolescent, women who have delivered their first child very early have nearly twice the risk of developing chronic health conditions such as orthopedic problems, diabetes, high blood pressure and chronic lung disease in later life¹⁴. In another context, a couple in Mumbai pleaded in the Supreme Court to allow them terminate their child in the 24th week of pregnancy after knowing that the child will be born with a structural defect in the brain, was denied abortion. The couple later spoke in media interviews that they did not have the wherewithal - emotional and financial - to take care of the child, while doctors could not indicate the infant's expected life span.¹⁵

In cases of children born due to denied abortions, they are more likely to have a variety of social and psychological problems. Studies on mother-child relationships have found out that if a pregnant woman identifies a pregnancy as unwanted; her subsequent child will be at risk for a wide range of negative outcomes, including deficits in cognitive, emotional, and social processes. These effects can begin prenatally, emerge at different stages over the life cycle, and are transmitted inter generationally (Jennifer S. Barber, 1999). A study from Washington State highlighted that children born to unwed teenagers had an 11-fold higher risk of becoming chronic juvenile delinquents than did other children. Other studies have found the combination of a complicated birth and maternal rejection to be associated with juvenile crime (Conseur A, 1997).

Way Forward

Supporters of criminalizing abortion have put forward a moral argument which is subject to personal interpretation so should not be legislated against. They argue that aborting a foetus is akin to taking a life and worse because it is helpless. While some argue that at 3 months foetus cannot be referred to as a life pro life believers disagree with this position. On the other side, there is a women rights movement that calls for the right of women to control their own bodies. They believe that a female in today's world is reduced to her womb, used as a pawn for governments to manipulate, and restricted from autonomy of body, mind, and identity¹⁶. From the data stated above, it is safe to conclude that the plethora of laws and restrictions surrounding abortion do not make any legal or public health sense and in fact does not mean decreased abortions increased as in the case of Ireland. Abortions are safe only when it is available on the woman's request and are universally affordable and accessible. It is essential for the governments all over the world to treat abortion as an essential health care.

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¹⁴<https://thewire.in/health/apart-emotional-trauma-adolescent-mothers-face-severe-health-risks>

¹⁵ <https://health.economicstimes.indiatimes.com/news/industry/not-a-womans-choice-indias-abortion-limit-puts-women-at-risk-say-campaigners/60387399>

¹⁶ <http://blogs.cuit.columbia.edu/rightsviews/2018/02/12/criminalizing-abortion-a-threat-to-womens-rights-and-lives/>

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EQUALITY

In Rajasthan, Adivasi Women Are Coming Together to Assert Their Rights

Drishti Agarwal, The Wire

Women from Adivasi communities in rural Rajasthan are coming together to form associations to fight for their basic rights like fair wages and decent working conditions. Unions like Aravali Nirman Majdoor Suraksha Sangh, a registered union of construction sector workers have been protesting against denial of benefits and delayed wage payment of the daily wage labourers by the Building and Other Construction Workers Welfare Board (BOCW). The Aravali Sangh brings together 11,000 Adivasi women across southern Rajasthan and provides them a common platform to help and extend support as well as fight for their rights together. Data from the Aajeevika Bureau's Management Information System reveal that more than 8,000 families have been linked to MGNREGS in the last two years, and over 2,000 families have been receiving regular and full ration due to the efforts of these women. Seen as a patriarchal, Rajput dominated society, these movements by Adivasi women are considered to be relevant for making public participation more inclusive and for protecting the democratic nature.

Read more: <https://thewire.in/rights/in-rajasthan-ativasi-women-are-coming-together-to-assert-their-rights>

Date Accessed: 26.06.2018

Gender equality, sensitivity can be taught, Haryana schools show

Livemint

As an attempt to change the narrative of Haryana's current gender biased society and its restrictive practices towards women and girls, researchers from the Bill and Melinda Gates Foundation, Indian School of Business and Northwestern University came together in 2014 to implement several persuasion programmes across 314 government schools in Haryana, to see if gender sensitivity and appreciation of the unique challenges faced by women can be taught as a school subject. The preliminary results of these programmes suggested that it did have a positive impact on the lives of the participants in the short term. In the paper titled, "Reshaping Adolescents' Gender Attitudes: Evidence from a School-Based Experiment in India", researchers found out that the girls may face gender-specific barriers to act on their altered attitudes. "The intervention also produced more gender-equal behaviour such as increased interaction at school with the opposite sex" says the report. They further pointed out that in order to ensure gender equality, change in the mindset of the society is necessary as the current approaches to reduce gender bias, such as banning sex-selective abortion and offering financial incentives to have daughters, do not appear to be working.

Read More: <https://www.livemint.com/Home-Page/eAprTrjJhDT79ShOIDYIcL/Gender-equality-sensitivity-can-be-taught-Haryana-schools.html>

Date Accessed: 25.06.2018

'Gender stereotypes hold back our children and hurt them emotionally'

The Times of India

Several studies have found that gender stereotypes reinforced during the early and formative years of a child play a major role in shaping their emotional build-up. It is also largely responsible for the prevailing bias against women and gender inequality in terms of wage gap, sexual violence etc. Experts have suggested that tackling gender stereotypes, addressing inherent biases and introducing a more gender neutral approach with children can help considerably improve the situation and combat existing patriarchal structure. Discussing issues like gender, sexuality and portrayal of women in media which sets unrealistic expectations from both boys and girls can also positively impact the mindset of a child.

Read more: <https://timesofindia.indiatimes.com/life-style/relationships/parenting/gender-stereotypes-hold-back-our-children-and-hurt-them-emotionally/articleshow/64733860.cms>

Date Accessed: 26.06.2018

DEMOCRATIC PARTICIPATION

Advancing gender parity could contribute \$770 billion to India’s GDP by 2025: McKinsey report

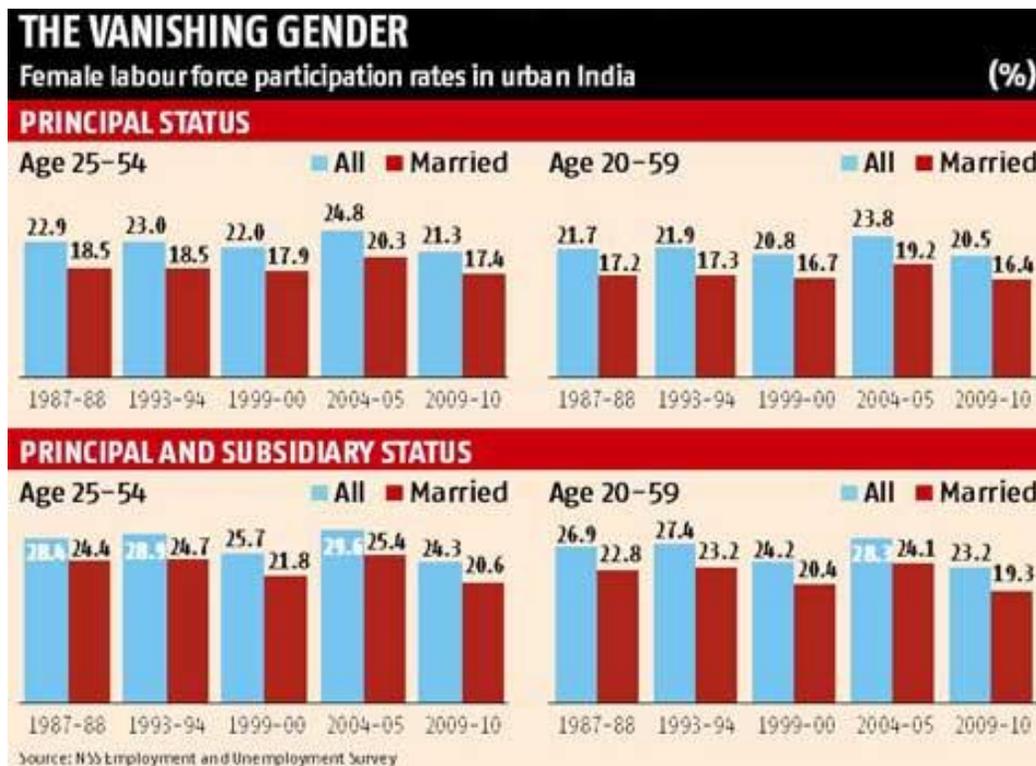
Economic Times, June 20, 2018

According to the key findings put out forward by the McKinsey Global Institute (MGI) report, ‘The Power of Parity: Advancing Women’s Equality In Asia Pacific’, gender inequalities in the workplaces have negatively impacted several large Asia-Pacific economies including India and China. However report suggests that 58% of the opportunity (\$4.5 trillion) could come by increasing the female labour force participation ratio, 17% from increasing the number of hours women work and the remaining 25% from more women working in higher productivity sectors. Since there is a strong link between societal attitudes that limit women’s potential and gender-equality outcomes in a given region, the report says that if concrete steps are taken to address gender inequality at work and in society, the tangible gains can include as much as 18% higher gross domestic product by 2025 as in the case of India. .

Read more at:

[//economictimes.indiatimes.com/articleshow/64657487.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst](http://economictimes.indiatimes.com/articleshow/64657487.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst)

Date Accessed: 25.06.2018



Source: https://www.business-standard.com/article/economy-policy/why-female-labour-force-participation-in-india-is-low-113100800029_1.html

HEALTH

Dalit women in India die younger than upper caste counterparts: Report

Ashwaq Masoodi, Livemint

Recent data from the National Family Health Survey (NFHS) suggests that Dalit women in India (the overall population is said to be around 16.6% of the total population) die younger than upper caste women, face discrimination in accessing healthcare and lag behind on almost all health indicators. For instance, among the total number of women in the age group 25-49 who have anemia, 55.9 % are Dalits while the national average among Indians is itself 53%. The survey also takes into consideration the reasons for the same. As per the Indian law, it is a punishable offence to refuse to admission to hospital, dispensary, etc on the basis of “untouchability”, 70.4 % of Dalit women reported problems with accessing healthcare. This NFHS finding backs up a 2015 Lancet report ‘Health and the Indian caste system’, which highlighted three major factors responsible for unequal access to healthcare by certain communities based on the caste system- genetics, early environment, and opportunities due to social mobility.

Read More: <https://www.livemint.com/Politics/Dy9bHke2B5vQcWJJWNo6QK/Dalit-women-in-India-die-younger-than-upper-caste-counterpar.html>

Date Accessed: 25.06.2018



LEGAL DEVELOPMENTS

Law Against Indecent Representation of Women on Digital Platforms in the Works **The Wire**

According to proposals from the Ministry and Women and Child Development, amendments to indecent representation of women are being considered by including digital messaging platforms like WhatsApp and Sykpe. It seeks to widen the scope of the existing Indecent Representation of Women Act 1986 as per the observations made by a parliamentary standing committee and recommendations from the National Commission for Women, keeping in mind the technological advancements in the digital age. The amendments will include changes in the definition of advertisement as well as distribution so as to broaden the nature and effectiveness of the Act. The draft bill will also include reformulated provisions on penalty as well as a centralised authority.

Read more: <https://thewire.in/women/indecent-depiction-women-digital-platforms-punishable>

Date Accessed: 26.06.2018

Kerala HC Rejects Petition to Allow Adult Trans Woman Into Mother's Custody **Shreya Ila Anasuya, The Wire**

Concurring with the landmark NALSA judgment recognising the fundamental rights of transgender people and their right to the self-determination of gender, the Kerala High Court held that an adult trans woman has the right to self identify her gender and will not be put under the custody of her mother. The Court's approach has come under criticism however for ordering a medical and psychological evaluation of the trans woman based on her mother's petition claiming her daughter is mentally ill, with activists stating that it is a breach of her fundamental rights.

Read more: <https://thewire.in/lgbtqia/kerala-hc-rejects-petition-to-allow-adult-trans-woman-into-mothers-custody>

Date Accessed: 26.06.2018

By Dismissing This Petition, Kerala Court Delivers Landmark Verdict for Transgenders **Lekshmi Priya S, The Better India**

Recently the Kerala High Court led by Justices V. Chitambaresh and K.P. Jyothindranath gave a landmark judgment in favor of the LGBTQ community when it upheld the right of an individual to live life as a transgender by dismissing the habeas corpus plea filed by a mother which claimed that a group of transgenders had detained her 'son' who according to her was suffering from a 'mood disorder with psychotic features' and that he had also changed his name to Arundhathi while he was in the company of other transgenders. The Court however asserted that the person had 'the right to wander about or associate with like-minded people and cannot be compelled to be at his parental home'. "Gender identity, therefore, lies at the core of one's personal identity, gender expression and presentation and, therefore, it will have to be protected under Article 19(1)(a) of the Constitution of India. A transgender's personality could be expressed by the transgender's behaviour and presentation. State cannot prohibit, restrict or interfere with a transgender's expression of such personality, which reflects that inherent personality" the High Court quoted the aforementioned passages from the Supreme Court judgment.

Read More: <https://www.thebetterindia.com/145417/news-kerala-high-court-landmark-judgement-habeas-corpus-mothers-petition-right-to-individuality-transgender/>

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