

Gender Self Determination Law and the Inability of the Human Mind to Legislate

News:

The Telegraph reported on Monday, August 21, 2023, that Germany has banned illegal migrants from changing gender. Migrants awaiting deportation will be banned from changing gender in Germany amid fears they may try to do so to evade authorities and remain in the country.

Comment:

As the German government is in the process of amending the country's laws to allow people to switch gender at local registry offices, a debate has surfaced around whether the illegal immigrants should be allowed to change their gender or not. On one end of the spectrum is the argument that everyone is equal before the law and every individual has the right to self-identity whereas the other end of the spectrum represents those who call for stricter vigilance on immigrants and a crackdown on immigration across Europe. There has been similar outcry regarding issues emanating from gender reassignment and gender identity where issues related to segregation of restrooms, saunas and even prisons is widely debated and argued in the West.

This debate once again brings to the fore a core issue on the limitations of the human mind in legislation. The inability of the human mind to legislate comprehensively is an observation rooted in the complex interplay between the intrinsic limitations of human cognition, the unpredictability of societal and natural phenomena, the evolving nature of human knowledge and the susceptibility of the human mind to be influenced by its surroundings.

Western thought about gender and gender assignment has evolved dramatically over time, influenced by cultural, scientific, philosophical, and political developments in the West. For much of Western history, a binary model of gender, grounded in biological sex and religious beliefs, predominated. Men and women had distinct roles based on perceived natural differences, which were reinforced by religious teachings and societal structures.

With the rise of social sciences in the 20th century, and especially with second-wave feminism, the idea that gender roles were socially constructed, started taking roots in Western societies. This perspective holds that society and culture create gender roles, and these roles are not necessarily determined by biological factors. As societal attitudes evolved, especially in the latter half of the 20th century, the idea that gender isn't strictly binary, gained strength. Intersex, transgender, non-binary, and other gender-diverse individuals have increasingly challenged the more traditional understanding of gender roles in the West. Concepts like gender fluidity, which allows for movement across a spectrum of gender identities, have become more widespread in Western societies.

According to Western concept of genderism, the gender is assigned by the thoughts of an individual, by self-perception, and not by biology. Genderism, originally, arose as

part of second wave feminism. However, genderism evolved from support of women's rights to the support of homosexual rights. According to genderism, a man can decide that he is a woman, even though he possesses the biological features of a man. He can undergo surgery and hormone therapy to transition to the gender he has chosen for himself.

This is not the first matter on which the limitation of the human mind to legislate comprehensively on complex moral and societal matters has been exposed. Abortion rights or the right of the woman to choose whether to give birth or not, prohibition of consuming alcohol, restricting alcohol consumption below a certain age, driving while intoxicated, definition of marriage as a social contract between a man and a woman, and many similar issues have been at the heart of the political and intellectual debate in the West for decades with no clear answer.

Human mind makes decisions based on its limited cognitive abilities and is always biased based on the circumstances that surround it. Shifting moral grounds and cultural diversity also make it impossible for the human mind to overcome the challenge of comprehensive legislation.

In life, we can either act according to the opinions of human beings, who are limited, and flawed with limited knowledge, like all of us, or we can act according to all that has been revealed by Allah (swt), Who Alone has flawless, and limitless, knowledge. In Islam, desires and lusts do not determine action. Instead, the Shariah rulings determine the relations between men and women, as well as their respective conducts, behaviors, and roles.

Gender is not determined by self-perception, ignoring biological realities at birth. Altering a person's gender from male to female, or vice versa, is considered altering the creation of Allah (swt) which is forbidden (Haraam).

In the case of male to female transition, it is manifesting the attributes of femininity, or concealing the attributes of masculinity. So, in Islam, the individual is considered to be the gender that they were born with.

It is our individual and collective duty to raise our voice to expose these evil ideas and oppose these malicious acts, explain the importance of the institution of marriage and the relationships between men and women; all on the basis of our Islamic ideological viewpoint. Let us unite and work for the resumption of the Islamic way of life via the reestablishment of the Islamic Khilafah (Caliphate) State on the method of the Prophethood (saw). This Khilafah State is a distinguished state that will comprehensively implement the noble Islamic ideology in all spheres of life and protect the society against all evils.

﴿يَا أَيُّهَا الَّذِينَ آمَنُوا اسْتَجِيبُوا لِلَّهِ وَلِلرَّسُولِ إِذَا دَعَاكُمْ لِمَا يُحْيِيكُمْ﴾

“O you who have believed, respond to Allah and to the Messenger when he calls you to that which gives you life.” [TMQ Surah Al-Anfaal 8:24]

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