

Legal effects of Transexuality in family

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ABSTRACT: In this article we showed the legal effect of Tran sexuality in fields of dower, marriage and price wedding. The research showed that there are different approaches in fields. in dowry there was four different approaches: Not entitled to dower according to that dowry is belong to woman, entitled to dower, Deserve of all the dowry In the case of penetration and Half dowry in lake of it but this was not acceptable because of this issue is related to divorce, Not entitled to dower with no her husband's permission because woman with this work impose a financial loss to him. In field of legal effect of Tran sexuality on marriage there was two approaches dissolving and nullity of marriage .for nullity of marriage, there were three ways Tran sexuality of one couples, Tran sexuality of both couples in different time and Tran sexuality of both couples in one time. In price wedding the most problem was that Tran's sexuality was a medical treatment so we could not imposed price wedding to him or her with using theory of Abuse of rights.

Keywords: Tran sexuality, dowry, marriage, price wedding.

INTRODUCTION

The progress of science spawned a new phenomenon each day these themes each have their own legal issues Of course one of the issues is transgender today, with the help of medical science is being spread. Mental strength and character of each individual depends to ensure that their gender is a real person That's why the most important goal for transgender to Achieve real gender .Human creation in two type including female and male is a native way but In the meantime there is also men with differences characterize and because of classifying right between man and woman and their influences on other bodies in Islamic law Today, the problem of Tran sexuality have find special care in legal aspect. Although these issues existed in pasts but with growing technology have been caused to open a new Dimension. One of these dimension is how does religion became to solving this problem. Although the Tran sexuality have become an important issues and western country tried to solve it with their legal Principles but in Iran and other Islamic country this is not determinate specifically. in a general view, countries divide in facing to this issues at three different branches 1) the countries like German and turkey legislate a specific rule 2) gangland, France and ... do not has legislate but they use a Jurisprudence in these cases3) these countries like Albany prevented of the Tran sexuality .The aim of this study is to answer the questions such as: Is anyone allowed to change their gender?, Who is responsible for changing gender? And the solution that Jurisprudence suggest us. One of these doctors in Iran that operated 60 case with other doctors in transit produce 300 case in whole. Thus with high level of operating, this is important to create a determined legal solution.

Acquired right

The meaning of Acquired right is the entire right that person had it before Tran sexuality. For example when he or she got a married then we face two right in the names of Province and maintenance. (Almasi, 1888) the basic question is after Tran sexuality do two rights maintain or they change? in the case of province ,there is two type of answering 1 it maintain because however sperm is belong to this person 2 it changes because customly title of father do not use for him. In response to this problem have been told that the basic of creating province by father is supporting of children so when this Tran sexuality has not a bad influence to child so we can accept it.

Non-acquired rights

the meaning of Non-acquired rights is the entire right that person had it after Tran sexuality for example get a married, Inheritance and blood money. These right are cases that the type of sex is important to it.

The legal effect of Tran sexuality on marriage.

Theory of dissolving marriage:

According to some lawyers with transgender marriage is dissolved because under both the first and more, marriage must be with the non-same sex. And according to Authority of appearances in ahadis it is no matter that the parties appear to have opposite sex. However the marriage is valid in during contract. (Agh mashhadi, 2008) but said that the role of sex in opposition to this theory is so important As is the nature of the contract and mistake of itmaking that render it void. (shahidi.2000)

Theory of nullity of marriage

To examine this theory, there are three ways

Tran sexuality of one couples:

If a couple has Tran sexuality marriage is void from the time of Tran sexuality because for marriage and the marriage of a man and a man or woman with woman is not legitimate some lawyers believe that the invalidity of the contract occur from the first place because the marriage has not been between the two sexes.

Tran sexuality of both couples in one time:

The first possibility is that the former marriage still exists because marriage is something other than credit parity Thus, when both of them change their sex in one time There is no reason to destroy it but The second possibility is nullity of a marriage Because Marriage means that the man is her husband In other words in marriage there are both of relativity and Addition. For example the relationship between father and son is one-sided. Requirements of Compliance contract of intent civil code of Iran is that after Tran sexuality there is no marriage because it not intended imposing obligations on man and woman after Tran sexuality in initial contract.

Tran sexuality of both couples in different time:

In this case, the former marriage is annulled because as soon as the partner's Tran sexuality in the current case, both of them will be gay and so marriage is not legitimate However, it is assumed that a marriage is void because the first is located between two gays (katozian, 1988).

The legal effects of Tran sexuality on Dowry

The question in to case is that with Tran sexuality does it main tent or husband has no responsibility for payment. Before we talk we must define the mean of dowry. Dowry is a property that husband adopted to pay it. However with changing in woman's gender is husband responsible to pay it off?

Not entitled to dowry:

One theory is that dowry instead awarded only to female and Tran sexuality cause to Termination of marriage so following of it the dowry also disappears. In fact in other contract with corruption, the qualification way back in first place.

Entitled to dower: in this prospect: the truth of dowry is credit and so it is not depended to marriage.

Deserve of all the dowry In the case of penetration and half dowry in lake of it:

this theory that adopted in Iran's law in fact was infer from but persons who do not agree with this theory say that dowry or half of it conducted in divorce and no in Tran sexuality.(asghari,2008)

Not entitled to dower with no her husband's permission:

In this case, the theory says if Tran sexuality was conducted without husband's permission there is no dowry the Reason of this group is that husband was in the hope that he lives with his wife and in fact when she changes her gender, she impose a financial loss to him. But this is not acceptable because of As soon as the contract closed She is the owner of all the dowry.

Price wedding

Another legal consequences of Trans sexuality is Offset the cost of holding weddings. Must be seen that person who transgendered is responsible for such costs? However, legal provisions in this regard is silent But one theory is that if one side abuse of their rights another side can receive Price wedding. This theory, however, accepted in the constitutional law but it does not apply to our issue because of In terms of medical science Trans sexuality is a type of treatment. What is consistent with legal principles that the issue be solved with other cases.

CONCLUSION

This study investigated the legal effect of Tran sexuality in three field of dower, marriage. And price wedding. The research showed that there are different approaches in three field. in dowry there was four different approaches 1 Not entitled to dower according to that dowry is belong to woman 2 entitled to dower 3 Deserve of all the dowry In the case of penetration and Half dowry in lake of it but this was not acceptable because of this issue is related to divorce 4 Not entitled to dower with no her husband's permission because woman with this work impose a financial loss to him. In field of legal effect of Tran sexuality on marriage there was two approaches dissolving and nullity of marriage .for nullity of marriage, there were three ways Tran sexuality of one couples, Tran sexuality of both couples in different time and Tran sexuality of both couples in one time. In price wedding the most problem was that Tran's sexuality was a medical treatment so we could not imposed price wedding to him or her with using theory of Abuse of rights.

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