



NAVIGATING THE PATH OF EQUALITY: A MULTIDIMENSIONAL ANALYSIS OF LGBTQIA+ RIGHTS AND PUBLIC POLICIES IN INDIA

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Abstract: The study examines the evolution and current state of public policies and practices related to LGBTQIA+ community in India, highlighting on the legislative, judicial, and social facets. LGBTQIA+ stands for lesbian, gay, bisexual, transgender, queer, intersex, asexual and + stand for all the other identities. For being recognized and make a unique place in the society LGBTQIA+ community has come a long way, still many obstacles are in the path to be fully accepted by the society. The researches done previously have pointed out the need for more programs focused towards the promotion of LGBTQIA+ inclusive aquatic environment (Anderson, Knee, Ramos, & Quash, 2018). This study draws attention towards the discrepancies that exist in the formation and implementation of the legal framework and policy documents. Along with examining the influence of cultural and religious elements, it also examines the role of the organizations that advocates in expanding the LGBTQIA+ rights. The article makes recommendations for more inclusive and successful public policies in India. The results highlight the necessity of a multidimensional strategy that helps in promotion of equality and acceptance of the LGBTQIA+ community in India.

(Key Words: Gender, Diversity, Policies and Practices, LGBTQIA+ community)

INTRODUCTION

Over the past few decades, the LGBTQIA+ community in India has undergone a transforming journey that has been characterised by notable legislative gains, shifting social perspectives, and ongoing difficulties in attaining complete equality. The fight for acceptance and recognition has continued, from colonial-era legislation that made same-sex partnerships illegal to recent historic court decisions that decriminalised them. Gender equality is a basic human right that enables a society that is peaceful, prosperous, and sustainable. Although there has been development in the last few decades regarding women's gender equality, the third gender's situation remains unchanged. They are under-represented in terms of gender identity and sexual orientation because of discriminatory laws and long-standing social norms. (Bazarsky et al., 2022). While legislative reforms have made strides, social attitudes, cultural influences, and religious conservatism remain significant hurdles. This paper provides a comprehensive review of the evolution of LGBTQIA+ rights in India, addressing legislative changes, judicial interventions, societal perspectives, and organizational efforts aimed at advancing inclusivity. (Subramani, A. K., et al 2016)

Historical Context of LGBTQIA+ Rights in India

Colonial Legacy and Section 377: Homosexuality and sodomy were first mentioned as crimes in England in Fleta 1203, and then in Britain in 1300. The Buggery Act of 1533, which Queen Elizabeth I reinstated in 1563, later pursued these crimes and stipulated that offenders would be executed by hanging. For the first time, sodomy was

criminalised in India by the "Act for Improving the Administration of Criminal Justice in the East Indies." (Behera, A. (2023)). The roots of legal discrimination against LGBTQIA+ individuals in India can be traced back to British colonial rule. Section 377 of the Indian Penal Code, introduced in 1860, criminalized "carnal intercourse against the order of nature," primarily targeting homosexual relationships. This law had a profound impact on the lives of LGBTQIA+ individuals, fostering stigma and exclusion from mainstream society. For over 150 years, Section 377 perpetuated a climate of fear and repression, contributing to the marginalization of LGBTQIA+ people. The absence of legal protections also resulted in a lack of visibility and resources, preventing the community from advocating for their rights.

The Journey to Decriminalization: In India, some things, including gender definitions, are still developing slowly despite the world's rapid change and globalisation. (C Joseph, 2023)

The movement to repeal Section 377 gained momentum in the early 21st century. In 2009, the Delhi High Court decriminalized same-sex relations between consenting adults, citing that it violated fundamental human rights. However, the Supreme Court of India reversed this decision in 2013, stating that any change in the law should be the responsibility of the Parliament.

The turning point came out in 2018 when in a historic ruling, decriminalization of consensual homosexual relationships was given by Supreme Court of India. This decision was a milestone for the LGBTQIA+ community, but it was only a step in the broader struggle for equality. Although Section 377's decriminalization marked a legal victory, the social and cultural battles remained on going.

Legislative and Judicial Developments

Legal Protections and Gaps: Despite the repeal of Section 377, India still lacks extensive anti-discrimination laws that particularly protect LGBTQIA+ persons. Inequity on the basis of sexual orientation and gender identity persists in different spheres, inclusive of education, employment, healthcare, and housing. While the Transgender Persons (Protection of Rights) Act, 2019, was introduced to safeguard transgender rights, the law has been condemned for its limitations. It mandates a certificate of identity for transgender individuals, raising concerns about the intrusive and discriminatory nature of this requirement. But the marriage of LGBTQIA+ community remains questionable under civil laws till date, except maybe in Tamil Nadu wherein 'the Hon'ble High Court of Madras had held that a transgender can be a 'bride' within the Hindu Marriage Act. (Joseph, C. 2023)

Additionally, there is no specific legislation that addresses the rights of lesbian, gay, bisexual, and intersex individuals. The absence of affirmative actions, such as legal recognition of same-sex marriages or civil unions, denies the LGBTQIA+ community fundamental rights and benefits, such as inheritance, adoption, and spousal benefits.

Judicial Interventions: The judiciary has played a pivotal role in advancing LGBTQIA+ rights in India, acting as a counterbalance to the legislative shortcomings. In recent years, the Supreme Court has delivered several progressive rulings that reflect a growing recognition of LGBTQIA+ rights.

In 2014, transgender people were acknowledged as a "third gender" and their right to self-identify was upheld in the NALSA v. Union of India case. In order to support the transgender population, the Court also demanded affirmative action policies, such as reservations in public jobs and education. The LGBTQIA+ movement was further fortified by the 2017 decision in the Justice K.S. Puttaswamy v. Union of India case, which proclaimed privacy to be a basic right and stated that "sexual orientation is an essential attribute of privacy." To guarantee that legal developments are put into effect, however, greater political will and inclusive policies are required. Judicial decisions by themselves have not resulted in wider community acceptance. The actions taken against third gender by the Indian Supreme Court in 2014 and 2018. The steps taken by the Supreme Court of India in 2014 and 2018 towards third gender in the case of National Legal Services Authority v. Union of India, 16 is that the rights and freedom of transgender people in India were protected under the constitution and in the case of Navtej Singh Johar v. Union of India, 17 the court decriminalised the colonial ban on gay sex. (Lepcha, P.2023)

Social and Cultural Dimensions

Societal Perceptions and Discrimination: LGBTQIA+ people in India continue to experience pervasive societal discrimination in spite of legal advancements. The majority of Indian society is conservative, and views on gender and sexuality are frequently shaped by cultural and religious beliefs. People who identify as LGBTQIA+ often face discrimination, harassment, and violence. They are frequently shunned by their families and communities and are compelled to hide their identity out of concern for social rejection. Public perceptions of the LGBTQIA+ group are greatly influenced by cultural and religious factors. The three main religions in India—Hinduism, Islam, and Christianity—have different views on gender and sexuality; some groups support acceptance of LGBTQIA+ identities, while others oppose them.

Shikhandi, Brihannala from the Mahabharata, and Chitrangada (wife of Arjuna and mother of Babruvahana), these are some of the characters that are in the Hindu history who depicts the different gender identities and sexual orientations. (R. Sharma (2021).

Activism and Organisational Advocacy: In India, community-based organisations, advocacy groups, and non-governmental organisations (NGOs) have been instrumental in advancing LGBTQIA+ rights and increasing public awareness. At the vanguard of advocacy are groups like the Naz Foundation, Humsafar Trust, and Queer Azaadi, which offer forums for visibility, healthcare services, and legal help. These groups have also played a significant role in promoting legal reforms and organising grassroots movements.

The cooperation between international pressure, solidarity, local activism, and gay people itself can be regarded as mutual joint action aimed at changing a situation. It could be viewed that this recognition within the ruling of the troubles encountered by society is a mark of the resilience of those who fight for LGBTQ rights. (Varma, H. 2024)

In addition to these efforts, LGBTQIA+ pride marches, cultural festivals, and media representation have contributed to increasing awareness and acceptance. However, these movements are often concentrated in urban areas, with rural LGBTQIA+ individuals facing even greater challenges due to limited access to resources and a lack of support networks.

Discrepancies in Legal Framework and Policy Implementation: Despite the growing recognition of LGBTQIA+ rights in legal discourse, significant gaps remain in policy implementation. While some states and local governments have introduced inclusive policies, such as reservations for transgender individuals in education and employment, there is a lack of consistency and coordination at the national level. Discrepancies exist between the legal recognition of LGBTQIA+ rights and the practical enforcement of these rights on the ground.

For instance, while the Supreme Court's rulings have established important legal precedents, many government bodies and institutions have been slow to implement policies that reflect these decisions. This discrepancy between law and practice has created a situation where LGBTQIA+ individuals continue to face discrimination and exclusion, despite legal protections.

The Role of Cultural and Religious Elements

Cultural and religious elements play a dual role in the acceptance or rejection of LGBTQIA+ individuals in Indian society. On one hand, certain interpretations of Hindu scriptures and ancient texts depict non-binary gender identities and same-sex relationships in a positive light, suggesting a historical precedent for LGBTQIA+ inclusivity in Indian culture. On the other hand, more conservative religious interpretations, particularly from modern Hindu, Muslim, and Christian groups, have fueled opposition to LGBTQIA+ rights, framing them as antithetical to traditional values.

This cultural and religious dichotomy creates tension in public policy formation. Policymakers must navigate these complex intersections of belief systems while striving for a more inclusive society. The challenge lies in balancing the promotion of LGBTQIA+ rights with the respect for religious and cultural diversity in India.

LITERATURE REVIEW

An organization exhibiting diversity policy and practice and equality even within “good practice organisations,” still does not as a direct result guarantee a working environment which is welcoming and positive towards “sexual minorities” or prevents treatment across the board and homophobic attitudes. (Colgan, F., Creegan, C., McKearney, A., & Wright, T. (2007)

Indian Penal Code follows a heteronormative narrative that is injurious to sexual and gender minorities. It leaves them vulnerable to certain crimes and has too many grey areas which need to be filled. It appears that it would be useful to adopt the gender/sex inclusive narrative of statutes from around the world. (Joseph, C. 2023).

Prior to the historic rulings in 2014 and 2018, our society was unaware of the anguish and suffering endured by transgender people. However, LGBTQ residents in our nation are no longer a "minuscule minority" due to increased public awareness and easy access to information and technology, and recognition has been partially attained thanks to both compelling legal tools and nationally binding laws. Today, because of this recognition, they have a powerful voice and will not be silent in their fight to restore equality..(Lepcha, P. 2023)

Mental health practitioners might use this legal change—the repeal of Section 377—as a chance to reconsider their own perspectives about homosexuality. Instead of encouraging homosexual clients to change, counselling services will need to concentrate on helping people accept who they are and go on with their lives. Counsellors must take a more progressive stance that takes into account the evolving medical field and shifting social norms rather than attempting to treat something that isn't even a disease or illness.(Kottai & Ranganathan, 2019)

Since the establishment of the first financed posts in 1971, the duties and responsibilities of LGBTQIA directors and professionals have changed, necessitating a more comprehensive understanding of the breadth and adaptability of the LGBTQIA profession's work. These Consortium-approved core competencies were developed using two frameworks: the gamut of institutional life and social justice through an intersectional lens. They focused on the identities of the LGBTQIA community, the constituencies served, and the diverse and intricate institutional variances in higher education.(Bazarsky et al., 2022)

The decriminalisation of homosexuality and the acceptance of third gender identity are not the only implications of the NALSA and Navtej Singh Johar rulings. However, these rulings are also progressive because, in addition to addressing the matter at hand, they have established the fundamental framework for granting a number of additional civil rights that were previously unavailable to the LGBT community but are typically enjoyed by heterosexual and cisgender individuals. These civil rights include the freedom from sexual assault, the right to marriage, the right to adoption, the right to surrogacy, and the right to be free from discrimination. (Sharma, R. 2021).

The desire to legalise gay marriage is, in one way or another, ignored and dismissed given the current Indian cultural framework and the growing conflict around marriage establishment. However, in the not-too-distant future, the generalisation of marriage as a hetero establishment associated with procreation and childrearing may also include gay partnerships, where love between partners will be valued more than sex. (Sankhyan, A., & Hussain, S. S., 2022).

It is crucial to maintain the disciplinary effects of the business case supporting these changes alongside the methods by which different actors try to take resources away from those same organisations as organisations that are trying to position themselves as LGBTQ-friendly gain traction on a global scale. When it comes to LGBTQ D&I in India, it is crucial to take into account this discussion in the context of broader structural injustices where Indian workers face discrimination and cultural punishment, making the globalisation of business knowledge more complicated.(Aaberg, 2024)

To ensure that women and members of the LGBTQ community receive the human rights they are entitled to, we should begin by taking little actions and doing our best as individuals. Bias based on sexual preference and gender will be eradicated with sustained efforts. Here in our nation, women are revered as goddesses like Saraswati, Durga, and Laxmi. Lesbians, homosexual men, bisexuals, and transgender people were welcomed in our nation long before they were in many other nations, as evidenced by our ancient writings, architecture, and statues, including those found in Khajuraho. Dube, M. (2020).

The legal framework for the LGBTQ movement in India was changed in 2018 when Article 377 was repealed. Due to national legal limits, organisations were only able to concentrate on expressive goals until 2018. This focusses on changing the attitudes of heterosexual employees regarding sexual minorities. Even though the majority of Indian organisations have "non-discriminatory policies," adverse employment experiences are nonetheless common, however they frequently take on subtle or covert forms. Policymakers should concentrate on creating awareness campaigns on social exclusion and microaggressions.(Maji et al., 2023)

Marriage is a fundamental right for everyone in a country like India where it is highly valued, but the LGBT population does not currently enjoy this privilege. It would seem pointless to decriminalise homosexuality in a

country like India when LGBTQ individuals are still unable to marry the person of their choice. The Transgender Persons (Protection of Rights) Bill has numerous flaws and offers minimal assistance to the LGBT community, despite being adopted by the Lok Sabha on August 5, 2019. (Krishna et al., 2018)

The LGBT community now has a thriving platform thanks to organisations like SAKHI, Humsafar Trust, and the Naz Foundation. However, LGBT advocacy is stifled by widely accepted right-wing scriptures that condemn homosexual tendencies. Gay pride marches around the nation have allowed the LGBT community to dominate public life since 2000. These marches show how the LGBT community in India is becoming more entrenched and powerful very quickly. (Behera, 2024)

ORGANIZATIONAL INITIATIVES

Tata Steel

Tata Steel has consistently taken steps to enhance the lives of its employees, making it one of the most employee-friendly companies. In 2020, Tata Steel was recognised as the Top Employer for LGBT+ inclusivity by the India Workplace Equality Index (IWEI). LGBTQ employees at Tata Steels are eligible for the following benefits and bonuses: 1. Regardless of gender or sexual orientation, the employee's partner is covered by Mediclaim insurance. 2. Give new parents a vacation. 3. The Diversity & Inclusion (D&I) program, which ensures that everyone has fair access to job possibilities. (Vohra et al., 2015)

RBS (Royal Bank of Scotland)

RBS or Royal Bank of Scotland was the first company that have initiated to provide medical coverage and leave for adoption and surrogacy to same-sex partners. It is a leading business organization that looks out for the LGBTQ community. The company has also established a safe network for the community called 'Rainbow network' here LGBTQ employee may go to get any advice or answers. About 200 people who are the part of LGBTQIA+ community or the person who support this community are the part of this network. To increase public knowledge and the challenges faced by the LGBTQIA+ community the company is putting out lot of efforts. (García Johnson, C. P., & Otto, K. (2019)

Razorpay

By offering health insurance to its partners, irrespective of their sexual orientation Razorpay has become the first company to do so in India. The health insurance takes into account the same-sex couples and the live-in couples, and the benefits of insurance include infertility and gender transformation treatments. It is a innovative first step for creating a diverse, inclusive, and supportive work environment for its employees in the company's new health policy. (Vohra et al., 2015)

Accenture

This company is dedicated towards creating a comfortable and friendly work environment for all its employees, name of Accenture is taken as one of the top LGBTQIA+ friendly companies in India. Programmes like Pride and LGBTQIA+ Ally programs that offer guidance, support and a safe space to the people of this community are fully supported by the company. These programs are conducted for educating and raising awareness and to sensitise the workforce in an effort to increase the involvement of its LGBTQIA+ employees. By conducting these programs the company feels that these events will help the LGBTQIA+ people to feel more connected to one another also it offers a platform for networking, mentoring, and advice-seeking. This also reduces the chances of discrimination based on sexual preferences and gender identity. (Vohra et al., 2015)

Tech Mahindra

Tech Mahindra is an Indian company that focus on a discrimination-free and friendly work environment for employees of different orientations. Some of the initiatives of the company for creating a great work environment for LGBTQIA+ employee are that the LGBTQIA+ parents are given adoption leave for up to 12 weeks, health insurance for same-sex spouses, flexible work schedule and WFH for new LGBTQIA+ parent. Also, company have initiated a

Kaleidoscope project that give the LGBTQIA+ staff members a free forum to inform and increase awareness while connecting with a larger audience. (Vohra et al., 2015)

Hindustan Unilever Limited

HUL was named by the 2020 Work Equality Index as one of the best Indian company as employer for LGBTQIA+ people. It is constantly trying to create a diverse and inclusive workplace. One of the ways to support its LGBTQIA+ employees the company is educating others by seminar and workshops. They are providing gender neutral bathrooms, giving a full spousal benefits to same sex couples, support for gender change and trying to hire people from LGBTQIA+ community. . (García Johnson, C. P., & Otto, K. (2019)

Microsoft

From the year 1993 till now, Microsoft is a sole Fortune 500 company that offers equal benefits to same-sex partners. To raise awareness about discrimination against the LGBTQIA+ community the company have made deliberate efforts. The company has worked to educate its staff through rules and regulations. Microsoft has created a safe and welcoming environment to work for LGBTQIA+ employees, it also make charitable contributions to support the community. (Peters, W. 2005)

RECOMMENDATIONS FOR INCLUSIVE PUBLIC POLICIES

To foster greater acceptance and equality for the LGBTQIA+ community, a multidimensional strategy is required. Based on the review of the legislative, judicial, and social facets of LGBTQIA+ rights in India, the following recommendations are proposed:

1. **Educational and Sensitisation Programs:** To promote comprehensive sexual education in schools discussions on gender diversity and LGBTQIA+ issues should be done for fostering an accepting environment from an early age. Since many young people face discrimination that can lead to lasting harm, it is vital to provide foundational education that promotes community inclusivity.
2. **Enhancement of Healthcare Accessibility:** Need to develop healthcare policies that reflect the specific needs of LGBTQIA+ people, including services like hormonal treatments, gender-affirming procedures, and mental health resources. Healthcare professionals must be trained to treat LGBTQIA+ individuals with the same level of care as all other patients.
3. **Same-Sex Relationships should be Legally Recognized:** It is important to create legal frameworks that ensure same rights and benefits for LGBTQIA+ individuals as their heterosexual counterparts by formally recognizing same-sex marriages or civil partnerships. It is important to adopt more inclusive regulations to help the community feel integrated rather than marginalized.
4. **Anti-Discrimination Laws to be implemented:** Initiation of laws that explicitly prohibit unfair treatment based on sexual orientation and gender identity within public services, employment, healthcare, housing and education sector. Such laws are essential for recognizing and addressing the discrimination faced by LGBTQIA+ individuals.
5. **Affirmative Action for LGBTQIA+ Individuals:** To aid underrepresented LGBTQIA+ individuals, especially those who are transgender, there should be affirmative action initiatives such as job placement reserved for them or seat reservation as school or college level. Organizations ought to allocate a portion of their recruitment budgets specifically for hiring LGBTQIA+ community members.
6. **Cooperation with Religious and Community Leaders:** Engage in dialogue with religious and community figures to foster an inclusive narrative that champions human rights and values cultural diversity.

CONCLUSION

Landmark judicial decisions have contributed to a more inclusive legal framework, such as the decriminalization of homosexuality in the case of Navtej Singh Johar v. Union of India in 2018 and the recognition of transgender rights in Nalsa v. Union of India in 2014. These landmark verdicts serve as the beacons of hope for future advancements while upholding the fundamental rights of LGBTQIA+ individuals. Nonetheless, deep rooted societal biases, cultural, traditions, and issues with implementation present serious hurdles that hinder full equality, even amidst these

legislative and judicial triumphs. Discrimination, stigma, and ignorance continue to challenge the social acceptance and fair opportunities available to LGBTQIA+ people. Here we would conclude by pointing out that the LGBTQIA+ community is as important as any other community in the country they should be treated equally. Since they gained momentum late but constant education and awareness is still important for this community to come out and live their life with ease. The journey towards equality for the LGBTQIA+ community in India has witnessed numerous significant milestones that highlight both progress and on-going challenges. Policy frameworks must ensure that institutional practices are inclusive, with active participation from corporations, educational organisations, and government authorities. By prioritising structural and cultural improvements, India may progress towards a more equitable society in which LGBTQIA+ people are accepted and cherished. True equality will need collaborative and ongoing lobbying initiatives.

To accomplish long-term change, a complete plan is required, including community participation, workplace diversity, educational programs, and legal reforms. To reinforce existing legal protections, unambiguous anti-discrimination policies must be established in areas such as housing, healthcare, education, and employment.

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