

UNVEILING LGBTQ+ REALITIES IN INDIA: CONSTITUTIONAL ANALYSIS, SOCIO-LEGAL CHALLENGES, AND IDENTITY DYNAMICS

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ABSTRACT

Approximately 8% of the Indian population identifies as LGBTQ++, and a significant proportion remains unaware of this acronym's complete meaning and significance. The effort to advocate for LGBTQ++ (Lesbian, Gay, Bisexual, Transgender, Queer/Questioning, and other sexual and gender minorities) rights and recognition has been a worldwide one with several obstacles and accomplishments. In India, the approach to achieving LGBTQ++ rights have been fraught with difficulties, prejudices from society, and legal impediments traced back to ancient and medieval India.

Although the Hon'ble Supreme Court of India decriminalizes section 377 of the Indian Penal Code, the nation's population's willingness to embrace the LGBTQ++ population remained insufficient. Attempts have been undertaken to eliminate cultural restrictions associated with this population, such as giving career opportunities and creating a third gender category in the forms. Nevertheless, the obstacles remain in assuring their full rights, authentic approvals, and recognition of their real identities. The community has been more outspoken about their feeling of triumph over their fear. The community is moving forward with the goal of realizing its dream, which is to create an equitable platform where everyone can participate on equal terms.

This paper analyses the legislative advances and judicial judgments that have affected the nation's path toward LGBTQ++ equality, with an emphasis on the historic judgment that overturned Section 377 of the Indian Penal Code. Furthermore, it assesses the present lawful structure with the comprehensive examination and review of LGBTQ++ rights and discrimination in India, assessing the progress achieved, the ongoing problems that obstruct

complete protection under the law and social inclusion, and the route forward for the community to achieve real equality and inclusiveness. The research explores media portrayal and its impact on popular opinions regarding LGBTQ++ rights, highlighting the media's role in shaping societal perspectives.

INTRODUCTION

Background and Historical Context of LGBTQ+ in India

Throughout India's history, there has been a multifaceted and varied view of gender and sexuality. Historically, Indian culture recognized a variety of gender identities and sexual preferences, that are generally reflected in ancient writings and creative depictions which featured homosexual characters and concerns presented in a neutral manner, without any bias towards the idea of homosexuality.

The Kamasutra references "Swarinis" referring to lesbians who would enter marriages and raise families together. Moreover, the temple situated in Khajuraho, Madhya Pradesh was built in the 12th century and is an outstanding example, of its explicit and vivid sensual sculptures demonstrating the presence of sexual flexibility including homosexual relationships.

Subsequently, there was some criticism of homosexuality throughout the medieval period, although members of the LGBT community were not excluded. The culture was accepting, and no one experienced persecution because of their different sexual inclinations. The historical account reveals that during the rule of Alauddin Khilji in the Delhi Sultanate (1296-1316), his son had a relationship with a nobleman of his court and similarly, Babur who was the founder of the Mughal dynasty freely proclaimed his affection for a boy without any fear of repercussions from his peers and subsequent generations. Such sources detail several occurrences of homosexual relationships among Mughals during that time period.

Sexual practices considered unnatural or deviant, including any actions that did not comply to cultural standards at the time, were criminalized under section 377 of the Indian Penal Code in 1861, following the access of Britishers. This was principally inspired by the Catholic Church's theological teachings, which held that any act unconnected to procreation was morally wrong. Unfortunately, the contradiction is that, at present, the rights and recognition bestowed upon

the LGBTQ population in foreign countries are substantially more advanced and embracing, whilst India continues to lag in this aspect.

The World of Homosexuals was a groundbreaking study written by Shakuntala Devi in 1977 that compelled “full and complete acceptance and not tolerance and sympathy” towards the LGBTQ community in the nation.

The inaugural All-India Hijra Conference was organized in Agra in 1981, attracting 50,000 attendees from the Hijra Community representing various parts of the country.

Hijras were finally awarded voting rights in 1994, identifying them as a recognized third gender. Meanwhile, the AIDS Bhedbhav Virodhi Andolan filed an initial petition challenging Section 377 of the Indian Penal Code, which was eventually declined.

The Naz Foundation filed a PIL before Delhi High Court in 2001 to challenge Section 377 was declared a violation of fundamental rights by the court in 2009, resulting in the decriminalization of homosexual sex but it was still not legal. Despite condemnation from the Supreme Court, this was a huge step forward in the LGBTQ battle for equality.

The Supreme Court rejected a review petition against its prior ruling on Section 377 in 2014, stating that the LGBTQ group was a small fraction of the population, rendering the appeal legally unsustainable. In April 2014, the court determined that transgender people should be recognized as the third gender. The Supreme Court allowed the LGBTQ community the ability to identify their sexual preference under the right to privacy law on August 24, 2017, while homosexual behaviors remained criminalized. At last, on September 6, 2018, the Court overturned the portion of Section 377 that criminalized consenting homosexual behavior.

The Transgender Persons (Protection of Rights) Bill was enacted by Parliament on November 26, 2019, identifying trans people as an individual whose gender does not match their given gender at birth the bill’s objective was to abolish discrimination in sectors including employment, education, and healthcare. The LGBTQ+ groups, on the other hand, were outraged since it required getting proof of identification from the district magistrate, with a particular emphasis on hijras and transwomen. The Ministry of Social Justice and Empowerment implemented the updated Transgender Person (Protection of Rights) Rules in July 2020, allowing free sex reassignment procedures at state government-owned hospitals and monetary help to the transgender population for education and housing.

RESEARCH DESIGN

Statement of the Problem

Throughout history, the LGBTQ community in India has coexisted with mainstream society and is even appear in ancient and legendary texts. However, it has been marginalized and regarded skeptically in the current socio-politic surrounding. The extensive use of social media in India in recent years has played a crucial role in bringing the once-hidden issue of Indian LGBTQ into the public view, permitting a noteworthy change from obscurity to exposure.

Review of Literature

Books:

1. ***Beverly Greene and Gregory M. Herek (1994), Lesbian, and Gay Psychology: Theory, Research, and Clinical Applicationsⁱ***

- This thorough content dives into the nuances of LGBTQ+ psychological experiences, offering a multifaceted analysis of philosophy, studies, and therapeutic practices pertaining to lesbian and gay people.
- The capacity of the book to fill the disconnect between intellectual study and actual implementation is its fundamental strength. It provides a detailed review of the psychological viewpoints on homosexuality by incorporating remarks from a varied spectrum of professionals on the subject.
- It focuses on fostering LGBTQ+-affirming practices in therapeutic contexts.
- The book is an excellent reference for mental health professionals who want to increase their competency and compassion.

2. ***Gregory M. Herek (1997), Stigma and Sexual Orientation: Understanding Prejudice Against Lesbians, Gay Men, and Bisexualsⁱⁱ***

- This incisive study concentrates on the ubiquitous problem of shame and injustice suffered by people of non-heterosexual positions, thoroughly examining the mental, sociological, and cultural variables that contribute to prejudice towards lesbians, gays, and bisexuals.
- The book provides a helpful understanding of the origins of anti-LGBT views among the people by diving into the psychological mechanism that contributes to the establishment of preconceived notions and stereotypes.

- The book examines the possible efficacy of interventions, educational programs, and public knowledge initiatives in eliminating anti-LGBT stigma.

3. *Kate Davies (2019), In at the Deep End*ⁱⁱⁱ

- The book is a delightful, intelligent, and at times frank portrayal of the protagonist's emotions and feelings as she confronts and comes to terms with her natural attraction to women and accepts her orientation as a lesbian.
- The author in this book addressed important issues such as sexuality, relationships, and cultural pressures with humor and empathy.
- The book has garnered great feedback for its honest depiction of the difficulties of sexual identity and connections, providing readers with a compelling and accessible story.

Articles:

1. *Karan Jajal (2015), A social consciousness identity development and contemporary conundrums in LGBTQ community- Ahmedabad scenario*^{iv}

- The research paper addresses the importance of the study issue and how it pertains to the LGBTQ population in Ahmedabad. It also delivers a short description of the study's attention to the LGBTQ identity development and modern conundrums.
- It investigates the ideas about social perception and understanding in the LGBTQ community.
- It analyses the number of obstacles and concerns that the community is facing in Ahmedabad.

2. *Bhaskar Choudhary and Karun Sanjaya (2022), The Status of LGBTQ people in India: A Socio-Legal Examination*^v

- The research paper provides a thorough examination of the socio-legal problems that LGBTQ+ individuals face in India. It detects inequality in a variety of circumstances such as work, education, medical care, and accommodations.
- The researcher here investigates the elements that influence societal acceptance and prejudice towards LGBTQ people.

Research Objective

The purpose of this research is

- To examine the historical context of LGBTQ+ rights in India, tracing the impact of the colonial era on the community's legal and social status.
- To analyze the legislative progress and landmark court decisions that have shaped the evolution of LGBTQ+ rights in India, with the main focus on the repeal of Section 377 of the IPC.
- To examine the prevalent discrimination and social stigmatization faced by the LGBTQ+ community in various spheres.
- To examine media representations and public perception of LGBTQ+ rights, investigating how media influences public attitude and perception towards the community.
- To provide recommendations for advancing LGBTQ+ rights in India to promote equality and inclusivity.

Method of Analysis

This research paper focuses on doctrinal research. Considering this, the researcher has depended on the conventional strategy of employing primary sources such as journals, papers, books, blogs, and other informational sources to acquire information and tools that were utilized to comprehend and further discuss the issue.

ANALYSIS

Constitutionality of Section 377

“Unnatural offense- whoever voluntarily has carnal intercourse against the order of nature with any man, woman, or animal, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to 10 years, and shall also be liable to fine.^{vi}

Explanation- Penetration is sufficient to constitute the carnal intercourse necessary to the offense described in this section.”

The constitutionality of section 377 of the Indian Penal Code was challenged by Naz Foundation India Trust before Delhi High Court under Articles 14^{vii}, 15^{viii}, 19^{ix}, and 21^x of the Indian Constitution. The Foundation stated that Section 377 represents the outdated view of sexual perception, which is confined to procreation and is unsuited for modern society. Furthermore, the police have taken advantage of this law, impeding attempts to control HIV/AIDS transmission.

Citing a particular case in Lucknow 2001, the Foundation emphasized the arrest of HIV prevention volunteers who were delivering condoms to homosexual men on the false charge of criminal conspiracy. The Naz Foundation also claimed that the law has been misused to criminalize consensual non-peno-vaginal sexual activity.

In 2009, the Delhi High Court decided that Section 377 is inappropriate to penalize consensual sexual relationships between two adults, violating the rights to privacy and individual freedom guaranteed by Article 21 of the Indian Constitution. The court held that categorizing and separating out homosexuals violates the guarantee of equal protection established under Article 14 of the constitution. As a result, Section 377 of the Indian penal Code breaches the dignity of humans, a basic concept stipulated in the Indian Constitution.

The judgment of the High Court of Delhi was challenged in the Supreme Court by numerous entities and individuals where they contended that right to privacy doesn't include the freedom to participate in unlawful conduct or offense, and that decriminalizing homosexuality could harm and damage the institution of marriage by additionally influencing the youngsters to indulge in homosexuality behavior.

The Supreme Court overturned the ruling of the Delhi High Court in the Suresh Koushal^{xi} case in 2013, asserting that the power to legalize homosexuality belonged exclusively with the Parliament, not to the court. The court further went on to say that Section 377 of the Indian Penal Code criminalises specific actions, rather than targeting any specific group of individuals. It also made references to the modest membership of the LGBTQ+ group and the limited proportion of those who belong in it who had been charged under section 377.

Numerous petitions for reconsidering were filed in response to the Supreme Court's decision. As the reconsideration petitions in the above-mentioned case stayed unresolved, 5 LGBTQ+ individuals of the community, i.e., famous Bharatnatyam dancer Navtej Singh Johar,

restauranters Ritu Dalmia and Ayesha Kapur, hotelier Aman Nath, and media personality Sunil Mehra- filed a fresh writ petition. This new petition urged the repeal of section 377 of the IPC, which made consenting to same-sex intercourse a criminal offense.

On January 5th, 2018, the Supreme Court established a Constitutional Bench to comprehensively address the challenge to Section 377, notwithstanding the ongoing consideration of curative petitions by the court. This move may have been influenced by the insights presented in the 9-judge verdict of the Right to Privacy case, which suggested inherent flaws in the rationale and conclusion of the Suresh Koushal decision. The panel, comprising Chief Justice Dipak Misra, along with Justices A.M. Khanwilkar, D.Y. Chandrachud, R.P.F. Nariman, and Indu Malhotra, undertook the proceedings from July 10th, 2018.

On September 6th, 2018, the aforementioned bench partially invalidated Section 377 of the Indian Penal Code, thereby decriminalizing consensual same-sex relationships among adults. Consequently, individuals belonging to the LGBTQ+ community are now permitted by law to engage in consensual sexual activities. The court upheld the clauses in section 377 that criminalises non-consensual acts and sexual conduct involving animals.

Criticism of Transgender Persons (Protection of Rights) Bill, 2019

The challenges pertaining to the transgender population vary from stigma in society, and discrimination, to a shortage of education, public healthcare, and career prospects, as well as the issuance of different official documents. To tackle such challenges the Transgender Persons (Protection of Rights) Bill was passed by the Indian Parliament to promote the holistic well-being of transgender individuals in the nation. The legislation was presented in the lower house of the Parliament on 19th July 2019 by the Ministry of Social Justice and Empowerment.

The act exhibits several inadequacies, falling short of meeting anticipated standards. It disregarded numerous suggestions put forth by both the Standing Committee and the Expert Committee. Moreover, it goes against the rulings of important cases such as National Legal Services Authority v. Union of India^{xii}, Justice K.S. Puttaswamy (Retd.) & Anr. V. Union of India & Ors^{xiii}, and Navtej Singh Johar v. Union of India^{xiv}. The act has faced significant scrutiny for its lack of thorough research. The primary and foremost concerns surrounding the act are outlined below-

1. The act fails to acknowledge the diversity present among transgender individuals, the legislation above has defined transgender individuals in two distinct categories. In section 2(k) of the act, Part I states that a ‘transgender person’ refers to an individual whose gender doesn’t correspond with their biological gender. This category encompasses both transmen and transwomen. Part II extends the definition to individuals with intersex variations. However, incorporating intersex individuals into the scope of ‘transgender persons’ raises concerns, as an intersex person might or might not identify as transgender.^{xv}

The report from Standing Committee explains that it discovered that the 2016 Bill^{xvi} doesn’t inherently encompass, handle, or safeguard the rights of intersex individuals, given that the issues faced by transgender individuals and intersex individuals remain distinct.

2. Establishing the medical basis of gender identity is crucial for achieving legal acknowledgment. The enforced need for psychological or medical validation is derived from the assumption that transgender individuals experience psychological conditions and necessitate medical treatment. The 2016 Bill faced criticism for suggesting the creation of “screen committees” to identify individuals who are transgender.^{xvii} The act of 2019 doesn't include provisions for the screen committees. Instead, it requires transgender individuals to apply for a certificate issued by the District Magistrate. The District Magistrate is tasked with the responsibilities and is required to follow *a specified procedure, adhere to a designated format, and complete the process within a stipulated timeframe, all of which must be prescribed, indicating the individual’s gender.*^{xviii} The specific procedure is not detailed in this context.

Furthermore, the act also stipulates that if transgender individuals undergo a procedure to change their sex, they must apply for an updated certificate from the District Magistrate. To obtain this revised certificate, the applicant must procure a document verifying the surgical procedure from the Medical Superintendent or Chief Medical Officer of the relevant medical facility where the surgery was conducted. The District Magistrate hold the authority to approve the updated certificate solely after confirming the accuracy of the certificate provided by the Chief Medical Officer.^{xix} Therefore, the act accomplishes an “implicit and indirect” evaluation procedure for awarding certificates to transgender individuals.

3. In the NALSA verdict, the Supreme Court directed both the Central and State Governments to classify transgender individuals as “socially and educationally backward” members of the society. It further urged the provision of various forms of quotas for educational institution admissions and government appointments. The Expert Committee additionally proposed that the government should offer scholarships, fee exemptions, complimentary textbooks, hostel accommodations, and other amenities.^{xx} However, the act solely addresses the obligation of educational institutions to furnish transgender individuals with unbiased access to inclusive education, as well as opportunities for sports, recreational activities, and leisure, without discrimination.^{xxi} It refers to an “inclusive education system” but lacks any specific guidance on integrating transgender children within educational institutions.
4. According to the Expert Committees’ report, a helpline for career counseling, promotion, and online placement aid should be established. This idea was reiterated by Standing Committee in its own report. It advocated for the establishment of a separate provision for providing orders to carry out specific acts such as counseling and career advising.^{xxii} Unfortunately, the act doesn’t address these issues. It only mentions “non-discriminatory provisions” in relation to recruiting, advancement, and employment-related issues. The Act, however, imposes no proactive requirement on the government to guarantee job possibilities for transgender people.
5. The Act largely incorporates the recommendations for health put forth by the Expert Committee and Standing Committee. However, it confines counseling specifically to Sex Reassignment Surgery and hormonal therapy^{xxiii}. There is a noticeable absence of provisions for psychological counseling or support related to mental well-being. Additionally, the Act does not make any reference to insurance coverage, despite the recommendation made by the Standing Committee.
6. The most significant limitation of the Act is its reduction in the duration of penalties for rape and assault against transgender community members when compared to the Indian Penal Code (IPC). There exists a substantial discrepancy between the penalties imposed for sexually assaulting a transgender person in contrast to cisgender individuals. The Act stipulates that any individuals found guilty of instigating or perpetrating sexual abuse against a transgender person shall be subject to “imprisonment for a duration not less than 6 months but extend to two years, along with a fine.”^{xxiv} Nevertheless, sexual offenses against cisgender women incur more severe punishments, that even may lead to a sentence

of life imprisonment.^{xxv} Treating individuals as either gender-conforming and non-gender-conforming differently constitutes a breach of the Article of the Constitution.^{xxvi}

Challenges Faced By LGBTQ++ community in India

In India, the LGBTQ++ community suffers a number of societal discrimination barriers that affect their everyday life, well-being, and opportunities. These difficulties stem from cultural conventions, societal attitudes, and historical circumstances. In Indian culture, there is widespread stigma and discrimination towards the LGBTQ++ community. Homophobia, biphobia, and transphobia all originate in unfavorable attitude, prejudices, and biases, which leads to societal exclusion and marginalization.

Many people from this community face familial alienation and disownment upon speaking forth about their sexuality. For people who aren't accepted by their families, culture and conventional expectations may lead to broken relationships, loneliness, and abandonment.

Young people of the community are often subjected to bullying, harassment, and verbal abuse in schools, universities, workplaces and public places. This unfriendly and hostile atmosphere might have a negative impact on their psychological and emotional health and self-esteem.

Acts of hatred, physical assault, and even curative rape are severe risks to LGBTQ++ individuals, especially transgender and nonconforming people. Such violence is often unreported, and may result in bodily and psychological suffering,

While homosexuality was decriminalised in 2018, legislative safeguards for LGBTQ++ rights remain inadequate. Unequal treatment in terms of employment, housing, or access to public services to one's sexual orientation or gender identity is not specifically forbidden by law. These individuals often subjected to prejudice and insensitivity from healthcare practitioners. This might discourage the patients from obtaining medical treatment, including mental health assistance, and can have a detrimental influence on their overall well-being.

Because of their sexual orientation and gender identity, they are often barred from social activities, religious locations, and community meetings. The feeling of solitude and lack of social support may result from such isolation. Biasness against the community cause them difficulties in education and jobs. Inequality from employers and coworkers may hinder job opportunities and professional progress. They also face challenges in obtaining legal recognition of their gender identity.

While the perspective of LGBTQ++ individuals in urban settings still continues to receive recognition, their counterparts residing in rural areas grapple with a heightened level of discrimination and lack of adequate representation. The voices and concerns of rural LGBTQ++ individuals often remain marginalized, resulting in an unjust disparity between the experiences of urban and rural LGBTQ++ communities. This discrepancy underscores the pressing need for targeted efforts to address the specific challenges faced by LGBTQ++ individuals in rural regions, aiming to bridge the existing gaps in terms of social acceptance, rights, and visibility.

Rights of LGBTQ++ Community in India

(i) **Adoption-** Although the law doesn't restrict adoption based on sexual orientation, LGBTQ++ individuals would be allowed to adopt as a couple if same-sex unions are legalized in India, since live-in couples are not currently eligible to adopt a child. As a result of this, an LGBTQ++ person may only apply to the Central Adoption Review Authority (CARA) for adoption as a single parent as per the Juvenile Justice Act 2015^{xxvii}, and may also sign into the adoption agreement under the Hindu Adoption and Maintenance Act 1956^{xxviii}.

As per the Ipsos LGBT+ Pride 2021 Global Survey findings, a significant portion of the Indian population, accounting for 66% expresses support for equal adoption rights for same-sex couples, mirroring those granted to heterosexual couples. Conversely, 21% of respondent hold opposing views, while 13% remains undecided on the matter. Likewise, the survey indicates that 59% of Indians believe that same-sex couples are equally capable of successful parenting compared to other parents, highlighting a growing societal acceptance. In contrast, 26% of participants harbour doubts about this, while 16% are uncertain about the potential of same-sex couples as parents. These statistics reflect an evolving attitude toward recognizing the parenting abilities of same-sex couples within the Indian context.

(ii) **Article 15 of the Constitution of India-** this article of the Indian constitution prohibits the State to discriminate against any citizen of the nation on the basis of religion, race, caste, sex, or place of birth alone or in combination with any other grounds.^{xxix}

It further states that no citizen of the nation shall experience any form of disadvantage, obligation, limitation, or requirement in relation to

- (a) Entry to shops, public eateries, lodgings, and venues for communal amusements;
or^{xxx}
- (b) The utilization of wells, reservoirs, bathing areas, pathways, and locales for communal congregation funded wholly or partially by the government or designated for the common populace's use.^{xxxi}
- (iii) **Military Services-** despite the Supreme Court's ruling that nullified section 377 of the Indian Penal Code, homosexuality remains classified as an offense within the Indian armed force. Former Army Chief General, Late Bipin Rawat, during a press conference in January 2019 commented that "LGBT concerns are not permissible within the military". There are certain legal sections under the Army Act, of 1950^{xxxii} that can be used to prosecute gay sex in the military. Some of them are mentioned under section 45^{xxxiii}, section 46 (a),^{xxxiv} and section 63^{xxxv} of the act.

Proposed amendments to the Army Act 1950, Navy Act 1957, and Air Force Act 1950 were presented in the Indian Parliament by BJP Member in late December 2018, aiming to permit LGBTQ individuals to serve in the armed force but the House of Representatives didn't proceed to vote on the bill.

Rights given by States to the community

The Government of Karnataka released National Transgender Policy in October 2017 with the objective of enhancing the visibility of transgender individuals within all state educational establishments. This policy is designed to facilitate educational institutions in tackling issues related to the mistreatment, aggression, and bias faced by transgender individuals.

Tamil Nadu and Kerala were the pioneering Indian states to implement welfare policies specifically for transgender individuals. These policies encompass a range of benefits, including complimentary housing, essential citizenship documentation, admission to state universities with comprehensive scholarships for advanced studies, and the provision of alternative sources of income through the establishment of savings-oriented support groups and the introduction of income-generating initiatives. Kerala in the year 2016, initiated the practice of providing cost-free surgeries at public hospitals.

In July 2019, the Bihar Government declared the formation of a transgender welfare entity. This commission is tasked with examining and documenting the societal and legal challenges experienced by transgender individuals within the state. Furthermore, it offers financial aid of

up to Rs. 150,000 for gender reassignment surgery. It also states that whoever refuses transgender access to housing or medical services could potentially be subject to imprisonment for a period of up to 2 years.

In February 2019, the Transgender Welfare Board was instituted by the Government of Maharashtra with the primary objective of executing healthcare initiatives and facilitating formal education and employment prospects for transgender individuals. The Gujarat State Commission collaborates closely with government entities to guarantee that the transgender community is able to access the advantages of government initiatives. Additionally, it also offers diverse social programs aimed at enhancing opportunities for employment and education.^{xxxvi}

Role of social media in Establishing the Identity of LGBTQ++ in India

The interplay between society and technology is undergoing profound changes, driven by the current dynamic relationship between them. This evolution is significantly impacting how technology is employed for communication. A World Bank report computed in 2017 states that approximately 45.7% of the global population, equivalent to around 3.5 billion individuals, is equipped with an active internet connection, thus establishing a substantial digital platform.

Within the local community, individuals who identify themselves as sexual and gender minorities frequently utilize social media platforms to satisfy their desire for inclusiveness and achieve the happiness linked with building a feeling of community.^{xxxvii} affirmation of identity, nurturing relationships, and a sense of community connection are key sources of satisfaction derived from the use of social media. These factors could potentially impact the user's wellness.^{xxxviii} Social-media enables LGBTQ+ youth to shape their identity and communication by providing them with the opportunity to carefully curate their online persona within an environment marked by a degree of safety and the ability to control their level of anonymity.^{xxxix} Social media platforms have enabled LGBTQ++ groups to share their stories, experiences, and problems. This exposure has helped to dispel prejudices and misunderstandings, resulting in a more truthful portrayal of the group. The community now uses social media to educate the general public about many variables of their identity, such as sexual orientation, gender diversity, and rights. Educational information, essays, movies, and infographics have all contributed to refuting falsehoods and raising awareness. LGBTQ++ activists and supporters have used social media to mobilise support for a variety of issues,

including the decriminalization of homosexuality, equal rights, and anti-discrimination legislation. Hashtags, internet campaigns, and petitions have all contributed to amplifying voices and building momentum for change.

Social media has played a role in promoting LGBTQ++ pride events, celebrations, and festivals. Platforms like Facebook, Instagram, and Twitter have been used to spread information about these events, encouraging participation and fostering a sense of unity and celebration.

Current research on social media tends to categorize its usage as either active or passive, a distinction that appears to have varying effects on an individual's subjective well-being.^{x1}

Although the use of social media has been a strong factor in furthering the LGBTQ++ community's identity in India, it is vital to emphasize that issues such as online harassment, hate speech, and censorship remain. However, social media has had a significant influence on empowering and creating the LGBTQ++ identity in India.

COMPARATIVE ANALYSIS

In India, individuals who identify as transgender have consistently experienced discrimination due to factors rooted in socioeconomic, socio-cultural, and political contexts. The Social Exclusion Framework has frequently been employed to assess and draw attention to matters pertaining to marginalized and underrepresented segments of society. Despite our nation being a diverse hub of various religions and professing to honor all cultures and people regardless of caste, creed, and gender, we observe that the lack of alignment between an individual's gender identity and expression and their biological sex often goes unrecognized.

The transgender community encounters numerous hurdles in achieving political representation, particularly when it involves participating in elections. There have been instances where the election victories of transgender individuals were invalidated, citing alleged fraud. These situations arise due to the stereotypical unease of a privileged few. They have faced consistent rejection from employment opportunities, regardless of their possession of essential skills.

However, the global scenario concerning LGBTQ++ rights has undergone a transformation.

In 2012, Argentina introduced a groundbreaking gender recognition law that aligns with the aspirations of a significant portion of the LGBTQ++ community. Individuals aged 18 and above can now legally identify themselves as members of the community, without being subjected to the degrading requirement of obtaining medical or judicial authorization beforehand. Minors also have the option to do so, either under the guidance of their legal guardian or through expedited legal procedures overseen by a judge.

Three years later, in a noteworthy succession, 4 additional countries- Colombia, Denmark, Ireland, and Malta- embraced a significant shift towards an entirely barrier-free approach to gender recognition. Within these nations, individuals from the LGBTQ++ community can now simply submit application forms to be acknowledged according to their desired identity, without facing the imposition of forced sterilization or psychiatric assessment.

Lydia's persistent legal battle spanning 22 years culminated in the enactment of Ireland's 2015 Gender Recognition Bill, ushering in an identity-centered legal framework for gender recognition. The Yogyakarta Principle played a pioneering role in formulating global standards for sexual orientation, gender identity, and human rights. Nepal's Supreme Court delivered a landmark verdict in 2007, mandating the government to formally acknowledge the third gender category based on individual self-identification.

Following these developments. Activists effectively collaborated with government bodies to integrate the third gender category into various official records in Nepal, such as voter rolls, the federal census, citizenship documents, and passports. Similarly, in Pakistan and Bangladesh, the Supreme Courts ruled in 2009 and 2013 respectively, leading to the recognition of the third gender.

Notably, New Zealand and Australia have extended the option for individuals to identify as "unspecified" in official documents. Meanwhile, the Dutch government is currently deliberating whether an individual's gender should be a concern for official identification documents at all.

In comparison to India, many developing nations hold more conservative perspectives on homosexuality. The United States and Western European countries exhibit significantly lower proportions of individuals who hold the belief that homosexuality is not justifiable.

England, recognized as a liberal nation, has notably legalized homosexuality. This fact carries a sense of irony when considering that as recently as 1861, the English were responsible for introducing the buggery law and section 377 into the Indian Penal Code throughout the period when India was under British rule. Presently, the ‘homeland’ country has advanced to bestow significant rights upon the LGBTQ community, while the ‘colony’, even post-independence, has struggled to move forward due to substantial societal opposition originating from various corners of the nation.

In the present day, individuals who identify as LGBTQ++ enjoy nearly identical legal rights as those who do not belong to this community. The UK stands as a global exemplar in offering substantial freedoms to its LGBTQ++ communities. In ILGA-Europe’s 2015 assessment of LGBTI rights, the UK garnered the top score in Europe, achieving an 86% rating for advancing ‘respect for human rights and complete equality’ among LGBTQ++ individuals, and an even higher 92% score in Scotland alone.^{xli}

Since October 1 217, same-sex marriage has been legally recognized in Germany, following the passage of legislation by Bundestag on June 30, 2017, which granted same-sex couples full marital and adoption rights. Prior to this, registered partnerships were accessible for same-sex couples, having been legalized in 2001. These partnerships offered most, though not all the same rights as marriages, and they were discontinued after the introduction of same-sex marriage. The ability for same-sex couples to adopt stepchildren was initially made legal in 2005 and was subsequently expanded in 2013, allowing an individual in a same-sex relationship to adopt a child already adopted by their partner. Protections against discrimination based on sexual orientation and gender identity vary throughout Germany, although nationwide prohibitions exist against unfair treatment in terms of employment and availability of products and offerings.

Numerous states have displayed a resolute commitment to enhancing human rights safeguards in various domains. A multitude of new legislations have been enacted, encompassing measures such as the prohibition of discrimination, the imposition of penalties for hate crimes motivated by homophobia, the acknowledgment of same-sex partnerships, and the facilitation of smoother processes for enabling transgender persons to obtain official document that precisely mirror their selected gender identity.

Despite the historical discrimination endured by the LGBTQ++ community, a considerable number of nations have taken significant steps toward achieving gender justice and advancement. While the majority of countries have acknowledged the legality of same-sex consensual intercourse, there remains a portion that has yet to legalize same-sex marriage but India has still not progressed in this particular aspect.

Despite the progress made, there is still progress to be made in order to attain complete acceptance and protection for every person, irrespective of their sexual orientation or gender identity. The journey towards a more inclusive and equitable world continues, driven by both the progress achieved and the challenges that remain.

Nonetheless, in the upcoming years, a significant amount of work remains essential to challenge biases and ensure the safety of LGBTQ++ individuals worldwide by combating violence and prejudice.

SUGGESTIONS / RECOMMENDATIONS

In light of the existing situation and challenges faced by the LGBTQ++ community, several suggestions and recommendations can be put forth for their future development and progress. The legal frameworks shall be strengthened to ensure protection against unfair treatment and acts of hate based on sexual orientation and gender identity. Implementing comprehensive sexuality education in schools shall be mandatory to promote understanding, tolerance, and acceptance of diverse sexual orientations and gender identities from an early age. This can help in dispelling stereotypes and biases.

Another suggestion is based on healthcare accessibility provided to the community. Work should be done towards ensuring accessible and LGBTQ++-friendly healthcare services, including mental health support. Healthcare practitioners should be encouraged to undergo sensitive training to provide inclusive care. The community shall be encouraged and supported for political participation by creating platforms and opportunities for them to contest elections and hold public office without facing discrimination or prejudice. In the workplace and business, people should promote diversity and inclusion initiatives to create safe and accepting working environments for LGBTQ individuals. Awareness campaigns should be fostered by

general people highlighting the challenges faced by the LGBTQ++ community, dispelling myths, and promoting inclusivity. This can help break down stereotypes and foster acceptance.

Media representation should be encouraged which reflects the diversity of sexual orientations and gender identities that will promote positive portrayals to challenge stereotypes and create empathy. Collaboration with international organizations and other countries will help in sharing best practices, experiences, and strategies for advancing LGBTQ++ rights and inclusion. Conducting workshops and seminars will help them to educate themselves about their legal and human rights by equipping them with the knowledge to navigate legal challenges they might encounter.

Policymakers should develop and implement policies that promote LGBTQ++ rights, social inclusion, and economic opportunities. Individuals who are not part of the community should be encouraged to become allies, amplifying the voices of the marginalized and challenging discrimination.

The journey towards full equality and inclusion of the LGBTQ++ community is ongoing. People should continue to advocate, protest, and raise awareness until all individuals, irrespective of their sexual orientation or gender identity, can live their lives without apprehension of discrimination or violence.

CONCLUSION

In conclusion, while significant strides have been made globally and locally to recognize and protect the rights of LGBTQ++ individuals, there is still a considerable journey ahead to achieve full equality and inclusion. The evolving landscape of LGBTQ++ rights has shifted from legal reforms to societal attitudes, and from advocacy efforts to impactful policy changes. The journey has been marked by challenges, setbacks, and triumphs, all of which have contributed to shaping the present landscapes.

Nonetheless, it is essential to recognize that the struggle for LGBTQ++ rights is far from concluded. Discrimination, violence, and prejudice endure in different regions of world, impeding the full realization of equal rights and acceptance. The complexities of cultural,

religious, and socio-economic factors continue to influence attitudes toward the LGBTQ++ community.

Moving forward, it is essential to maintain the momentum of change by fostering collaborations among governments, civil society organizations, and allies. The promotion of education, awareness, and open dialogues should be prioritized to challenge stereotypes and misconceptions that fuel discrimination.

As we reflect on the progress made so far, it is evident that while the road ahead may be challenging, the commitment to a world where every individual, irrespective of their sexual orientation or gender identity, can live without fear, prejudice, or discrimination remains steadfast. With continued advocacy, education, and collaborations, we can work ahead to a future in which the principles of equality, dignity, and dignity is upheld for everyone, regardless of who they are or whom they love.

ENDNOTES

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