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Homosexuality: Its History and Development in India

Aashish Sihra^a

^aGujarat National Law University, Gandhinagar, India

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For the decade transgender people are facing discrimination in multiple forms from childhood they have faced alienation from their family and friends, as well as being invisible and harassed at school, all of which result in mental illness, dropping out of school, homelessness, and many more serious mental issues. In adulthood, they have to face discrimination in jobs and they are bullied badly for their appearance what they are overall in one-word life is too harsh for them as compared to a normal person in the society. In the 21st century government also took landmark initiatives for their upliftment and their protection for example decriminalization of Section 377 and establishment of transgender welfare fund in many states. Still, after the Initiative of the government, they still are in the same condition nothing changed for them, because of the old stereotype of society. We cannot change every individual but are able to take a few incentives to assist them basically by halting bullying and respecting them since each and each individual within the society needs a conscious life.

Keywords: *discrimination, bullied, stereotype, conscious.*

INTRODUCTION

Lesbian, gay, bisexual, and transgender (LGBT) is a word used to describe people who are lesbian, gay, bisexual, or transgender. Homosexuals are another name for this group of people. Sexual orientation correspondence may be a well-known subject in today's society all over the world. This issue shows up to be displayed not only in today's society but moreover in the

past. In the past, homosexuality was not considered to break even and respectful rights were denied. Since their sexual introduction, these people involvement badgering, segregation, and the threat of savagery. The LGBT community is confronted with a slew of issues. Being a member of the LGBT community is considered a deadly sin in various countries. These individuals continue to experience discrimination, exclusion, and violence throughout society. The bulk of this community's members hides their sexuality for fear of losing their jobs. These adolescents faced alienation from their family and friends, as well as being invisible and harassed at school, all of which contributed to mental illness, dropping out of school, and homelessness. This prejudice has an impact on LGBT people's basic social needs, such as education, job, health care, and housing. Despite some legal and societal progress in the last two decades, lesbian, gay, bisexual, transgender, and intersex (LGBT) individuals in India and other nations continue to endure severe discrimination and violence. Discrimination and violence lead to exclusion, which has negative consequences for LGBTI people's lives as well as the communities and economies in which they live. Due to discrimination, bullying, and violence, LGBT individuals have inferior educational outcomes, greater unemployment rates, and a lack of access to sufficient housing, health care, and financial services, according to growing research. As a result, LGBTI people are likely overrepresented among the population's bottom 40%. According to a World Bank report, LGBTI people in Serbia have poorer socioeconomic outcomes as a result of prejudice, with the poverty rate rising from 16 percent to 20 percent for those who face discrimination.

WHAT IS GENDER?

Gender alludes to socio-economic, financial, ideological, and social characteristics and openings related to being a lady or a man. Diverse societies have diverse social translations of what it implies to be a man or a lady, and these definitions alter over time. Sexual orientation may be a sociocultural representation of specific characteristics and components leading to particular bunches of individuals based on their sex and sexual introduction.¹

¹ 'Gender Concepts and Definitions' (*Jhpiego*, 9 November 2018)

<<https://gender.jhpiego.org/analysistoolkit/gender-concepts-and-definitions/>> accessed 25 APRIL 2022

WHAT IS SEX?

Sex alludes to physically characterized and hereditarily procured varieties in guys' and females' physiology and regenerative powers or possibilities. Without surgery, it is far-reaching and generally unaltered.²

WHAT IS DISCRIMINATION?

Discrimination is when a person or people are treated unfairly because they belong to a certain group or category. In plain terms, discrimination is the act of excluding or restricting members of one group from opportunities that are available to members of other groups. "It entails treating a person differently and harassing them in a way that causes harm." Different treatment occurs for a variety of reasons, including gender, religion, nationality, and culture. Discrimination forces a person to do tasks that are simple for others. Bullying is one example, as is when someone refuses to let you join in an activity because of your race or religion.³

TYPES OF DISCRIMINATION

- *Indirect Discrimination:*

Indirect discrimination occurs when anything puts you at a disadvantage in terms of workplace policy or rules. Now, if any organization requires employees to work on Sundays, Christians will be at a disadvantage because Sunday is traditionally their day of worship.

- *Direct Discrimination:*

Direct discrimination occurs when a person is treated differently than others. Now that you have the requisite qualifications and experience for the job, your application has been rejected because you are too young or too old.

² 'What is Sex?' (SERC, 12 June 2018) <<https://serc.mb.ca/sexual-health-info/the-basics/what-is-sex/>> accessed 25 April 2022

³ 'Discrimination' (Amnesty International, 1 June 2021) <<https://www.amnesty.org/en/what-we-do/discrimination/>> accessed 27 April 2022

- ***Discrimination by Association:***

Discrimination by association occurs when you are treated differently because a person you know belongs to the same character. Now, if you're rejected for job service because you're with someone of the same race, what should you do.

- ***Discrimination by Perception:***

Discrimination by perception is when you are treated differently just because someone believes you belong to a group with protected characteristics. Now, if you are heterosexual but the estate agency refuses to rent you a flat because they believe you are gay based on their perceptions of how gay people dress, act, and seem.

- ***Harassment:***

Harassment is defined as unwelcome behaviour that irritates or shames another individual. Physical indications, abuse, jokes, spoken and written comments, or rude emails and expressions are examples of unwanted behaviour. Now, in a gym, a male gym member making sexual comments to a female gym member may be harassed.⁴

HISTORY OF HOMOSEXUALITY IN INDIA

Hindu Scriptures

Concurring to different accounts of the Mahabharata, certain characters, such as Shikhandi, who is in some cases claimed to be born as a female but recognizes as male and in this way weds a lady, alter sexual orientations. Homosexuality is rebuffed in several ways within the Manusmriti. A developed woman who had sex with a virgin young lady was rebuffed by having her head shaved or two fingers excised, as well as being constrained to ride a jackass. Sexual union between two individuals in a bullock cart would result in caste misfortune for gay person guys, concurring to the Manusmriti. A few depictions of gay person exercises may

⁴ Karen Falconer, 'The 4 types of discrimination: what every employer needs to know' (*HR Solutions*, 25 January 2021) <<https://www.hrsolutions-uk.com/4-types-of-discrimination/#:%7E:text=There%20are%204%20main%20types,Harassment>> accessed 27 April 2022

be found within the Hindu Khajuraho sanctuaries, which are known for their sexual figures. History specialists have long contended that in pre-colonial Indian society, same-sex connections were never vilified or alienated. In spite of the fact that a few writings restrict homosexuality, outstandingly among clerics, Hinduism has continuously respected homosexuality as normal and blissful.⁵

Mughal Empire

Islam does not permit butt-centric sex undoubtedly among hitched couples, so homosexuality is completely prohibited. A few pre-existing Delhi Sultanate directions were merged into the Fatawa-e-Alamgiri amid the Mughal Realm, setting up a similar group of sanctions for unlawful intercut (Zina), which also have homosexuality. A slave may well be subjected to 50 lashes, a free heathen to 100, or a Muslim to passing by stone.⁶

British Empire

The British codified the wrongdoing of gay person conduct with Section 377, which remained in impact for more than 70 a long time after India's freedom. In Portuguese India, the Goa Examination rebuffed the capital wrongdoing of gay person action but not lesbian workout, though the British Raj vilified butt-centric intercut and verbal - genital (for both heteros and gay people) beneath Section 377 of the Indian Correctional Code, which went into impact in 1861 and made it unlawful for an individual to intentionally and eagerly lock-in in "carnal-intercut against the arranging of nature." Agreeing to researchers, the first objective of Section 377 was for the British Raj to use it to assist the police and control the bodies of colonial subjects. These subjects were seen as suggestively evil and in require of inconvenience in colonial Victorian morality. In a judgment on the arraignment of a hijra in 1884, a court in north India famous that a physical examination of the denounced uncovered she "had the makings of a periodic catamite" and lauded the police's crave to "control these awful exercises." The British classified the hijra individuals as a "criminal tribe" in 1871.

⁵ Ruth Vanita, 'Homosexuality in India: Past and Present' (2002) 29 (5) Global Humanities and Religions Faculty Publications <https://scholarworks.umt.edu/libstudies_pubs/5> accessed 28 April 2022

⁶ *Ibid*

DISCRIMINATION IN MODERN INDIA

Disability Discrimination

Some people have voiced apprehension about pursuing legal protections for transgender people based on disability due to misconceptions and misunderstandings regarding disability laws. However, in anti-discrimination laws, the term "disability" is not used in the popular or colloquial sense, and it does not refer only to people who are severely disabled or appear to be ill.

Sexual orientation Discrimination

People who are transgender are harassed because they are thought to be gay. Assumptions regarding a person's sexual orientation frequently arise as a result of their clothing or their gender presentation, which can be subtler than their clothing.

Discrimination in the family

When families learn that their children are transgender, some choose to disown and send them away rather than encourage and support them. This is what drives them to engage in further immoral behaviours, knowing well that they no longer have a family.

Discrimination in employment

Hijras have a very tough time finding acceptable employment. The majority of them are forced into sex work as a result of societal prejudice in the workplace. In addition to social prejudice, the community's poor literacy levels maintain the community's social, economic, and political weakness.

GOVERNMENT INITIATIVE FOR THE PROTECTION AND UPLIFTMENT

Our Constitution itself prohibits all forms of discrimination as is clearly mentioned in Article 15.⁷The UGC Direction on Checking the Danger of Ragging in Higher Educational Institutions

⁷ Constitution of India, 1950, art.15

(Third Amendment), 2016 denies separation, bullying, and ragging coordinated at an understudy based on their sexual introduction or sex character.

After the 2019 common election, a government bill, the Transgender People (Protection of Rights) Bill, was reintroduced to Parliament. The charge was affirmed by India's Cabinet on July 10th. Agreeing to the charge, transgender individuals incorporate those whose "sexual orientation does not coordinate the sex given to that individual at childbirth, counting cross or genderqueer, people with intersex variations, gender-queers, and people with social distinguishing proof such kinnar, hijras, aravani, and jog. An individual would have the alternative of recognizing as male, female, or "transgender." Transgender individuals, on the other hand, must go to an area officer to have their sexual orientation personality certified, and they must give confirmation of sex reassignment surgery. Partiality against transgender people is disallowed in nine regions, counting the scholarly community, work, and restorative. The bill looks to make a "National Committee for Transgender," which will be comprised of an assortment of government and community agents and aims to prompt the Union Government on the definition of approaches relating to transgender individuals, screen and assess the effect of said approaches, arrange the exercises of all divisions managing with all these issues, and change transgender people's grievances. With respect to sexual ambush; it gives for a greatest of two a long time in jail for sexually attacking a transgender individual, while the least punishment for assaulting a cisgender lady is ten a long time. The bill was approved in Lok Sabha on 5 August 2019, and Rajya Sabha on 25 November 2019. On December 5, President Ram Nath Kovind signed it into law as the Transgender Persons (Protection of Rights) Act, 2019.⁸ On April 22, 2019, Tamil Nadu's high court declared that the phrase "bride" under the Hindu Marriage Act, 1955, covers trans-women. Marriages between a male and a transsexual woman must be formalized, according to the law.

Tamil Nadu and Kerala were the primary Indian states to actualize a transgender welfare arrangement. Concurring to the approach, transgender individuals can get free sex

⁸ Rik Glauert, 'Controversial transgender bill to be reintroduced to India's parliament' (*Gay Star News*, 6 June 2019) <<https://www.gaystarnews.com/article/controversial-transgender-bill-to-be-reintroduced-to-indias-parliament/>> accessed 29 April 2022

reassignment surgery (SRS) in government clinics (as it were for male-to-female), free lodging, different citizenship records, affirmation to government colleges with full grants for higher instruction, elective sources of pay through the arrangement of self-help bunches (for investment funds) and the usage of income-generation programs (IGP). Tamil Nadu was also the primary state to set up a transgender welfare board comprised of transgender individuals. In 2016, Kerala started advertising free surgery in government healing centres.

In 2017, the Karnataka government drafted and published a detailed Karnataka State Policy on transgender people. The policy recognizes the Supreme Court decision in *NALSA v Union of India*, as well as the structural discrimination experienced by transgender people and the lack of recognition of their rights in various criminal and civil statutes. The policy's goal is to empower transgender people and protect their fundamental rights. It encourages all government departments to include transgender development in their programs and schemes.⁹ The Rajasthan government has adopted a draught action plan for transgender people's inclusive development and granted a budgetary allowance of Rs 8.98 crores for its implementation. In the state budget for 2021-22, Chief Minister Ashok Gehlot recommended the establishment of an upliftment fund for the transgender population with initial funding of Rs 10 crore. A Transgender Protection Cell would be established in the office of the Director-General of Police, according to a proposal from the Department of Social Justice and Empowerment. The Maharashtra government set up a "Transgender Welfare Board" in February 2019 to conduct wellbeing programs and give formal instruction and business openings to transgender individuals. The board offers ability improvement programs to help transgender individuals in finding work, as well as free lodging for those looking for grants. That same month, a similar board was built up within the neighbouring state of Gujarat. The Gujarat board offers an assortment of welfare programs for work and instruction, as well as collaborates with state divisions to guarantee that the transgender community can take advantage of government programs. An instructive campaign was too propelled to raise open

⁹ 'Karnataka State Policy on Transgender' (*South Asian Translaw Data Base*) <<https://translaw.clpr.org.in/reports-and-policies/karnataka-state-policy-on-transgenders-2017/>> accessed 29 2022

mindfulness.¹⁰In July 2019 Bihar government announced the establishment of a transgender welfare board, which would investigate and report on social and legal challenges faced by transgender people in the state, and the state will also provide financial assistance up to 1,50,000 for the gender surgery.¹¹

DECRIMINALIZATION OF SECTION 377

On 6 September 2018, a five-judge seat of the incomparable court of India decriminalize Segment 377 of the Indian Correctional Code which rebuffs any 'carnal intercut against the arranging of nature with any man, lady, or animal'. The segment will stay in impact as it were in cases of brutishness, carnal intercut with minors, and need of assent. Area 377 was in constrain from the British period which was a colonial time but over time things must alter all over and within the 21st century, everybody needs uniformity. It is one of the foremost opposite Areas of the Indian corrective code which negate the foremost principal rights of people groups given by our structure. With the annulling of Section 377, gay person connections ended up legitimate, clearing the way for the LGBTQ community to be perceived as break-even with citizens, with rights to marriage, appropriation, get to all gracious administrations, work openings, and other principal rights ensured by India's structure.

CONCLUSION

Things have changed a lot in the final 5-6 decades in the event that we compare it to ancient history, in this advanced time each individual within the society requests the Right to Uniformity, and people groups have rights and they are competent sufficient in choosing their claim accomplice and sexual inclinations but in India due to needing of instruction and information, certain stereotypes still winning within the society and individuals in India are still not prepared to acknowledge the truth that two individuals of the same sex can drop in

¹⁰ 'Maharashtra Govt Sets Up Transgender Welfare Board' (News18, 23 February 2019)
<<https://www.news18.com/news/india/maharashtra-govt-sets-up-transgender-welfare-board-2046269.html>>
accessed 29 April 2022

¹¹ 'Bihar to help transgenders with Rs 1.5 lakh for sex change operation' *The New Indian Express*, 16 July 2019)
<<https://www.newindianexpress.com/nation/2019/jul/16/bihar-to-help-transgenders-with-rs-15-lakh-for-sex-change-operation-2004729.html>> accessed 29 April 2022

cherish and spend their lives together. Indeed after the activity of government and social activists, gay people proceed to battle to discover a put in Indian society. After the decriminalization of area 377¹² of the Indian Correctional Code, the LGBT community thought this will be a noteworthy step for their upliftment, but before long they realized the unforgiving reality, and still they had a long way to go. Permitting them to have private consensual sex has not given them any other rights that a hetero individual would have. Each day, they must battle fights. The increment in gay person suicides is making a disturbing circumstance that shouts to us that it is time to pay consideration to the desires of the LGBT community. Concurring to a ponder suicide rate within the LGBT community individuals is higher than common suicide. We cannot change every individual but are able to take a few activities to assist them basically by fair halting bullying them and regarding them since each and each individual within the society needs a conscious life, this little activity will make a tremendous impact.

¹² Indian Penal Code, 1860, s 377