
LAW AND LGBT RIGHTS: A CONSTITUTIONAL AND HUMAN RIGHTS ANALYSIS OF EQUALITY, DIGNITY, AND INCLUSION

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ABSTRACT

The study discusses the constitutional and human rights system used in ensuring protections for the LGBT rights in India and more specifically principles of equality, dignity, and inclusion. This study seeks to discuss the constitutional clauses protecting the rights of people of the LGBT community, and the effectiveness of the international human rights principles in enhancing legal safeguarding and encouraging social acceptance. A descriptive and analytical research methodology that is based on secondary sources is adopted with a complete reliance on the constitutional provisions, statutory laws, landmark judicial decisions, international conventions, legal reports, books and peer-reviewed literature. The results indicate that Articles 14, 15, 19, and 21 of the Constitution coupled with the progressive judicial interpretations in seminal cases have gone a long way in promoting the acknowledgement and safeguarding of the LGBT rights. The constitutional jurisprudence and inclusive legal reforms have also been further impacted by international human rights instruments, especially the Universal Declaration of Human Rights, the ICCPR, the ICESCR and the Yogyakarta Principles.

Keywords: LGBT Rights, Constitutional Law, Human Rights, Equality, Dignity, Inclusion.

1. Introduction

The recognition and protection of the rights of lesbian, gay, bisexual, and transgender (LGBT) persons have emerged as one of the most significant developments in contemporary constitutional and international human rights law¹. Once again, these form a significant part of the global norm of constitutional democracies wherein constitutional democracies are recognizing with the intention of equality before the law, liberty, dignity, liberty, privacy, and the absence of discrimination for all individuals regardless of their sexual orientation or gender identity. Traditionally, LGBT groups have been institutionally excluded based on legal penalties, social stigma, institutional discrimination, and cultural marginalization. This marginalization has had a negative impact on their access to education, health, employment, housing, political involvement and justice².

Constitutional structures of the democratic societies offer a solid base of protection of LGBT rights by ensuring equality before the law, non-discrimination, and freedom of speech, privacy, dignity and personal autonomy. The notion of equality forbids capricious classifications and stipulates equal treatment both legally and in practice. The constitutional right to dignity, in much the same way, acknowledges the inherent value of each person and safeguards the liberty of creating personal identity and relationships³. The constitutional guarantees have gotten widened by the judiciary to encompass LGBT individuals, thus overturning such discrimination on the basis of stereotyping and social bias. Constitutional adjudication has thus emerged as a potent tool in transforming the legal systems of exclusionary based components into inclusionary institutions in which diversity has emerged as a vital aspect of democracy governed through the legal system⁴.

The Indian constitutional experience is a compelling case of the development of LGBT rights by judicial activism and constitutional interpretation. The constitutional environment was altered significantly in terms of the landmark court rulings. The Supreme Court, in the case *National Legal Services Authority v. Union of India* (2014), observed the third gender and

¹ S.B. Shabalala & M. Campbell, *The High Price of Gender Noncompliance: Exploring the Economic Marginality of Trans Women in South Africa*, 13 Soc. Inclusion (2025).

² Aleksandra Matulewska & Anne Wagner, *Legal Semiotics and the Marginalized Body: Mapping Multiplicity of Marginalization and Neverending Human Rights Battle*, Int'l J. for the Semiotics of L. (2026), <https://doi.org/10.1007/s11196-026-10488-9>.

³ K. Hossain, *State's Constitution from Human Rights Perspective*, No. 159 Norwegian J. Dev. Int'l Sci. 63 (2025).

⁴ Gunawan Widjaja, *Legal Protection of the Rights of Lesbian Women in Indonesia: A Critical Analysis of Structural Discrimination, Social Norms and the Human Rights Framework*, 3 INJOSEDU: Int'l J. Soc. & Educ. 196 (2026).

confirmed that gender identity is part and parcel of constitutional provisions of equality, dignity and personal liberty⁵. Then in *Justice K.S. Puttaswamy v. Union of India* (2017), the Court made the right to privacy a fundamental right, considering sexual orientation as an inseparable feature of autonomy of individuals. The ruling confirmed once again that constitutional morality will have to outweigh social morality and that, equality, dignity, privacy and liberty are inseparable constituents of fundamental rights⁶.

The legalization of LGBT rights in the constitution is closely related to the overall context of international law of human rights. The UDHR 1948, and the ICCPR (1966) state that all humans are born free and equal before God and His dignity and rights, and that indiscriminate is forbidden, and the rights to equality, privacy, health, education, and participation in communal life are preserved⁷. In 2017, the Yogyakarta Principles plus 10 widened the scope of human rights legislation protecting people based on their gender, sexual orientation, expression of that gender, and other identifying traits. Subjects covered by these guidelines include citizenship, Non-discrimination, healthcare, education, employment, family, and state administration. Therefore, the international human rights standards have played their significant role in the constitutional jurisprudence practice and have encouraged the states to embrace the concept of inclusive laws and policies, which safeguard the sexual and gender minorities⁸.

The study is significant as it offers the full constitutional and human rights analysis of LGBT rights by uniting the domestic constitutional protection with the international human rights provisions to analyze the equality, dignity and inclusion in a single legal system. It serves to advance the body of legal knowledge by integrating constitutional texts, landmark judicial rulings, and international law using this synthesis to demonstrate how each supports each other to safeguard LGBT individuals as well as the presence of gaps in legislation and policy that could be addressed by refining the law concerning marriage equality, adoption, inheritance, and non-discrimination laws. The study provides important suggestions to policymakers, judiciary and legal practitioners, researchers and human rights groups, which form a basis of

⁵ A.K. Sihmar, *Role of Judiciary in Interpreting the Indian Constitution and the Concept of Judicial Activism*, 7 *Ianna J. Interdisciplinary Stud.* 138 (2025).

⁶ Vrinda Bhandari & Rishab Bailey, *Evolution of Privacy Jurisprudence in the Supreme Court of India: Evaluating the Impact of Puttaswamy*, 36 *Nat'l L. Sch. India Rev.* 7 (2025).

⁷ John C. Mubangizi, *Legislating Exclusion: Human Rights Implications of Criminalizing Same-Sex Relations in Africa with Specific Reference to Uganda, Nigeria, Tanzania and Ghana*, *Int'l J. Disp. & L.* (2026).

⁸ Jac Bastian & Hans Svennevig, *Citizenship Education for Trans Inclusion*, 9 *Int'l J. Hum. Rts. Educ.* art. 7 (2025).

future legal changes, inclusive policy and practices and advance of substantive equality and social justice to LGBT communities.

The study is organized into seven parts. The document's introduction is Section 1. Section 2 of the research also includes a literature review. In Section 3, we discussed the goals. Section 4 delves into a study approach. In Section 5, we go over the findings. In section 6, the topic is given in depth. Finally, Section 7 presents the results.

2. Literature Reviews

Singh, M. N., & Goswami, A. K. (2025)⁹ analyzed the policy implications and assessed the effectiveness of the existing legal provisions in India that protect the rights of the LGBT community. Researchers hope that this research will provide light on the state of progressive law and the larger implications of recent legislative initiatives to protect LGBT rights in the nation. The author focuses on the problems with the existing legislative framework to shed light on the areas that need improvement for the LGBT population.

Mishra, S.(2025)¹⁰ highlighted the ground-breaking decision of the Supreme Court in the 2014 case National Legal Service Authority (NALSA) v. Union of India, which acknowledged the right to self-identify as a gender and upheld the constitutional rights of transgender people, as guaranteed by Articles 14, 15, 19, and 21 of the Indian Constitution. Building on the forward-thinking foundation laid by the NALSA ruling, this study critically examines the 2019 Transgender Persons Act, casting doubt on its anti-discrimination, self-identification, welfare, educational, and medical elements.

Antai, G. O. (2024)¹¹ examined the growing conflict between indigenous traditional practices and global human rights standards, with a specific emphasis on the Anti-Homosexuality Act of Uganda of 2023. A potential clash between global standards and local culture, as well as a violation of fundamental human rights principles, were highlighted by the Act's criminalisation of same-sex relationships. Infringing on rights to privacy, dignity, and equality, the Act violates

⁹ M.N. Singh & A.K. Goswami, Gender Equality in Legal Framework: Analysis of the Rights of LGBT Community in India, 2 Int'l J. Soc. Sci. Res. 8 (2025).

¹⁰ Sachin Mishra, Human Rights of Transgender People in Reference to the Transgender Persons (Protection of Rights) Act, 2019: An Analytical Study, 2 Infinite 70 (2025).

¹¹ Godswill Owoche Antai, Universality versus Cultural Relativism in International Human Rights: A Case Study of the Anti-Homosexuality Act of Uganda 2023, 11 IAA J. Mgmt. 1 (2024).

universal human rights standards, according to the findings.

Singh, A., et al.,(2024)¹² explained the production of legislation's that specifically target the protection of transgender persons and how such laws could be created, in this instance, the Transgender Persons (Protection of Rights) Act, 2019. Although this act offered some rights, it is also a measure of the current fight to achieve a total legal rights and protection of transgender people. Social discrimination against many transgender people persists in many areas of their life such as education, health care, and employment.

Fonceca, C. M., et al.,(2024)¹³ investigated how the society perceives LGBT equality and inclusion, discussing the place of myths, cultural beliefs and discrimination. Purposive sampling was used to acquire 801 young adults aged between 18 and 29 in Tamil Nadu to investigate their understanding of LGBT rights in matters of education, employment, health, and town life. The findings show a majority of 77.9 percent of those surveyed believe that LGBT persons should have equal access to education and employment opportunity, whereas 65.5 percent of the respondents are in support of the LGBT individuals getting equal access to public facilities.

Bandi, S., & Nandeshwar, J. (2024)¹⁴ studied the monumental win, there are still many legal and legislative hurdles that must be overcome before the LGBT community in India may enjoy full equality and freedom. There are several areas where people are fighting for equal rights, including as marriage, surrogacy, child adoption, child custody, the right to divorce, spousal support, the capacity to sue one's spouse, and the transfer of a husband's assets. Despite all of these attempts, there is still a lack of parity in these areas.

Mala, J., & Thakur, S. (2023)¹⁵ examined how homosexuality was already accepted in ancient Indian and foreign literature and emphasizes the urgency of the LGBT+ community to be granted equal rights to marry, have adoption privileges, and enjoy privileges to divorce. Moreover, it discusses key judicial precedents which highlight their status as recognized by the

¹² A. Singh, M.T.A. Sunny, R. Kr & S.R. Shrivastava, Constitutional Safeguards for the Rights of Transgenders in India: A Legal and Social Analysis, 24 Meerayan J. 37 (2024).

¹³ C.M. Fonceca, H.D. Ambrose & N. George, Gender Justice and Equality: A Gandhian Perspective on LGBT Rights and Inclusion, J. Indian Sch. Pol. Econ. (2024).

¹⁴ Sayali Bandi & Jayshree Nandeshwar, Legal Status under Family Law of LGBT Community in India: A Review of Research on the Status of Same-Sex Marriage Pre and Post Navtej Singh Johar v. Union of India (2018), 7 Int'l J.L. Mgmt. & Human. 1603 (2024).

¹⁵ Jai Mala & Shivanshi Thakur, Unveiling Equality: Paving the Way for Inclusive Marriage Rights, in Marriages and Divorces in Indian Society 57 (2023).

Indian judiciary. The study seeks to provide a course of action towards legalizing same sex marriages as well as promoting coexistence and respect to laws set by individuals.

The judicial case, rights of transgender people, legislative trends, and social approval of LGBT individuals are the major themes of reviewed sources, and particular legal matters, including marriage, family rights and anti-discrimination are also addressed. Nonetheless, not much study has been done to encompass the constitutional protection and international human rights to deliver a coherent analysis of equality, dignity and inclusion within a signed legal system. The existing literature also does not give enough attention to the interplay between the constitutional jurisprudence and global human rights standards in the creation of inclusive legal reforms. Thus, there is a major research gap in providing the holistic constitutional and human rights analysis of the LGBT rights in present-day India.

3. Research Objectives

- To examine the Constitutional provisions protecting the rights of LGBT persons.
- To evaluate the role of International Human Rights principles in protecting LGBT rights.

4. Research Methodology

The study adopts the descriptive and analytical doctrinal research design to analyze the constitutional provisions that encompass the rights of the LGBTs and to analyze how the international human rights principles play a role in protecting the rights of the LGBTs. The research belongs to the doctrinal (non-empirical) approach to the law research, i.e. the systematic interpretation and analysis of the provisions of the Constitution, as well as statutory laws, judicial rulings and international legal documents. This study relies solely on the secondary data that is gathered out of the Constitution of India, applicable legislations, judicial precedents of the Supreme Court and High Courts, international convention and declarations, reports of national and international bodies, law commission reports, books, peer-reviewed journals, and other valid legal sources. The research tool employed in organisation, documentation, analysis and presentation of the research findings on legal material and findings in a systematic format includes MS Word.

5. Results

Hypothesis 1: Constitutional provisions play a significant role in protecting the rights of LGBT persons.

The study demonstrates that the LGBT persons' rights to equality, dignity, liberty, privacy, and non-discrimination are well-protected under the Indian Constitution. Although neither sexual orientation nor gender identity is explicitly mentioned in the Constitution, the courts have interpreted Articles 14, 15, 19, and 21 in a way that guarantees LGBT individuals constitutional protection¹⁶. Article 14 guarantees everyone equal treatment under the law and equal protection under the law; Article 15 forbids discrimination based on sex, which has been interpreted by courts to include gender identity and orientation. In addition to the right to freely express one's gender identity and sexual orientation (as guaranteed by Article 19), the right to life and personal liberty (as guaranteed by Article 21) includes the right to dignity, independence, privacy, and identity¹⁷.

A set of historic judicial declarations have strengthened the constitutional obligation to LGBT rights. In the case *National Legal Services Authority (NALSA) v. Union of India* (2014), the Supreme Court considered transgender individuals to be a third-gender and confirmed the gender identity as a part of personal autonomy guaranteed in Articles 14, 15, 16, 19, and 21. Later, the Court in *Justice K.S. Puttaswamy vs. Union of India* (2017) stated that the right to privacy is a fundamental right and privacy entails the freedom to take intimate personal choices, such as choices concerning sexual orientation¹⁸. More recently, so, though the Supreme Court did not acknowledge same-sex marriage in existing legislation, *Supriya Chakraborty v. Union of India* (2023) reaffirmed the position LGBT individuals enjoyed equal constitutional rights and require action by the State to address discrimination and guarantee their equal treatment. These judicial trends show that the constitutional interpretation has improved legal acceptance and safeguarding of LGBT rights, but some problems, like that of marriage equality or broad

¹⁶ Debamoy Pal, Bulbul Roy Chowdhury, Prodipta Barman & Joydeb Patra, LGBTQ Inclusion as a Pillar of Good Governance: Towards Equality, Dignity, and Social Justice, 36 *Enter. Dev. & Microfin.* 37 (2026).

¹⁷ J. Waweru Ruiru, Reappraisal of the Right Against Discrimination: An Assessment of the Definition, Application, Implication and Complication in the Interpretation of the Provisions of Article 27(4) & (5) of the Kenyan Constitution (2026).

¹⁸ Mukkatira Palangappa Chengappa & Simarpreet Kaur, Tracing Judicial Decisions from Naz to Navtej: Transformative Constitutionalism and the LGBTQI, in *Transformative Constitutionalism and the LGBTQI*.

anti-discrimination laws still require legislative efforts¹⁹.

Hypothesis 2: International human rights principles play a significant role in protecting and promoting the rights of LGBT persons.

The study shows that international human rights principles have been a ground-breaking factor in promoting the recognition and protection of LGBT rights worldwide. It is true that sexual orientation or gender identity is not specifically mentioned in several international treaties, but the non-discrimination principle, the principle of equality, the principle of dignity, privacy, and the freedom of cruel, inhuman and degrading treatment have been used to cover LGBT persons²⁰. The right to be free from discrimination and to enjoy equal protection under the law is guaranteed in multiple international covenants, including the Economic, Social, and Cultural Rights Covenant, the International Covenant on Civil and Political Rights, and the Universal Declaration of Human Rights (1948). International human rights law should be applied to sexual orientation and gender identity in a more detailed manner in the Yogyakarta Principles (2007), which provide detailed recommendations for the actions that the state should do to ensure that LGBT people are guaranteed equality, legal recognition, healthcare, education, employment, and protection from violence²¹.

The role of international human rights norms can be seen even in the judicial developments, both at the international and national levels. The United Nations High Commissioner for Human Rights ruled in the case of *Toonen v. Australia* (1994) that laws criminalising same-sex relationships between consenting adults violated their right to privacy under the International Covenant on Civil and Political Rights' Article 17 and that discrimination based on sexual orientation violated the Covenant's prohibition on discrimination. Also, in the case of *Oliari and Others v. Italy*, the ECtHR ruled that Italy violated the right to privacy and family life under the European Convention on Human Rights because it did not recognise same-sex couples as legally recognised²². The Indian Supreme Court's decision in *Navtej Singh Johar v. Union of India* drew on principles of individual autonomy, dignity, equality, privacy, and

¹⁹ Victoria Miyandazi, *The Role of Kenyan Courts in Tackling Persistent Inequalities: Navigating Deference and Accountability*, 26 Ger. L.J. 234 (2025).

²⁰ *Ibid.*

²¹ Tanja Karakamisheva-Jovanovska, *The 1966 International Covenant on Civil and Political Rights (ICCPR) and the UN Human Rights Committee*, in *The Universal Protection of Human Rights 221* (Péter Kovács & Nóra Béres eds., 2026).

²² Lisa McIntosh Sundstrom & Freek van der Vet, *Activists in International Courts: Theorizing the Roles of Rights Activists between International Human Rights Courts, States, and Societies*, 27 Int'l Stud. Rev. viaf016 (2025).

consent to decriminalise same-sex relationships, which are comparable to principles of international human rights. Similarly, transgender people were recognised in the case of National Legal Services Authority (NALSA) v. Union of India, which drew on international human rights principles to demand non-discrimination, equality, and legal recognition²³.

6. Discussion

The study explores the constitutional clauses of India that consider the rights of LGBT persons under the provisions of equality, dignity, liberty, privacy, non-discrimination. The outcomes show that the constitutional understanding of the basic rights has been gradually extended to make sure that the LGBT individuals obtain the same rights of protection and admiration legally Pal, D., et al.,(2026)²⁴. These results suggest that the constitutional values have changed to not only ensuring formal equality but also substantive equality and social justice among the marginalized groups. The results can be related to those of Singh and Ehirim, U. G. (2025)²⁵who found that the Indian constitutional system has created the legal protections of the LGBT individuals over time by providing a progressive interpretation of the basic rights. In the same manner, Bhuiyan, E., & Hossain, R. (2025)²⁶highlighted that constitutional safeguards have greatly promoted the acknowledgment of gender identity and human dignity, and another study conducted by Tomar, S. S. (2025)²⁷asserted that constitutional guarantees have dispatched a considerable lawful ground of transgender rights in spite of the on-going difficulties in education, medical care, and employment.

Equally, the study showing that the postulates of international human rights have played a significant role in the protection and promotion of LGBT rights. Such results correlate well with the study by Marques, M., & Moradel-Vásquez, J. J. (2025)²⁸, who was able to conclude that universal human rights principles will offer a fundamental basis when it comes to safeguarding sexual minorities against discrimination and exclusion. Similarly, Donahue, D.,

²³ I. Ahmad & A. Kashyap, Transformative Power of Constitution of India: A Study in Light of Navtej Singh Johar v. Union of India, in AG Volumes 187 (2025).

²⁴ Debamoy Pal, Bulbul Roy Chowdhury, Prodipta Barman & Joydeb Patra, LGBTQ Inclusion as a Pillar of Good Governance: Towards Equality, Dignity, and Social Justice, 36 Enter. Dev. & Microfinance 37 (2026).

²⁵ U.G. Ehirim, Public Morality and Constitutionalism in Restricting LGBTQ+ Rights: A Legal Analysis of Nigeria, Ghana, and Uganda, 1 Int'l J. Const. & Admin. L. 42 (2025).

²⁶ Evmat Bhuiyan & Rajib Hossain, The Juridical Status of Human Dignity: An Investigation, 9 J. Creative Writing 19 (2025).

²⁷ S.S. Tomar, Constitutional Equality and Statutory Protection of Transgender Persons in Agra: A Critical Socio-Legal Study of the Transgender Persons (Protection of Rights) Act, 2019, Anusandhanvallari 3889 (2025).

²⁸ Marcelo Marques & Juan José Moradel-Vásquez, Juridification Through Rights: How the European Court of Human Rights Shapes Higher Education, 40 J. Educ. Pol'y 1039 (2025).

et al.,(2025)²⁹noted the rising popularity of the idea of equal educational, being employed, and societal prospects of LGBT individuals, which manifests the larger impact of international human rights principles. Also, Singh, A., & Mp, M. (2025)³⁰found that in spite of improvements in constitutional and legal changes to improve the rights of the LGBT community there are still multiple legislative gaps in the domains of family rights and social protection. Therefore, the study finds that the principles of international human rights have been transformative to support the constitutional rights of LGBT persons, and further legislative changes, policy enactment, as well as social and popular awareness, are all needed to realize significant equality, dignity, and social inclusion.

7. Conclusion

The study comes to the conclusion that both constitutional guarantees and the principles of international human rights have contributed to the substantial push of LGBT rights protection. The judiciary has gradually given an interpretation of the rights to equality, dignity, liberty, privacy, and non-discrimination of LGBT individuals to the Constitution of India, especially Articles 14, 15, 19, and 21. Some of the landmark cases that have changed the circumstances in the constitutional domain, namely *NALSA v. Union of India* (2014), *Justice K.S. Puttaswamy v. Union of India* (2017), and *Navtej Singh Johar v. Union of India* (2018), have brought gender identity recognition, ensuring that the notion of privacy is viewed as the priority right, and that consensual same-sex relationships are decriminalized. Simultaneously, the foreign human rights documents, such as the Universal Declaration of Human Rights, the ICCPR, the ICESCR, the Yogyakarta Principles, have been instrumental in the development of inclusive constitutional jurisprudence and influence over legal changes.

The study has significant implications as it identifies the constitutional provisions and global human rights principles as a compelling legal basis to promote the equality, dignity, liberty, privacy, and non-discrimination of LGBT individuals, and the expansion of equitable legislation, efficient policy execution, accountability in bureaucracy, and popular culture as the key to guaranteeing that equality remains substantive. But the research is flawed by its doctrinal, non-empirical methodology with no analysis of the lived experiences of LGBT or

²⁹ David Donahue, Lori Selke, Maria Autrey Noriega & Mauro Sifuentes, *IJHRE Vol. 9: Queering Human Rights Education: Research, Praxis and Liberation for LGBTQIA2S+*, 9 *Int'l J. Hum. Rts. Educ.* art. 1 (2025).

³⁰ A. Singh & M. P. Mp, *From Legal Recognition to Structural Reform: Integrating LGBTQIA Families into Indian Family Law* (2025).

empirical assessment of the actual application of legal protections. Future studies must embrace empirical or mixed methodologies, comparative legal studies and explore emerging phenomena like marriage equality, adoption, employment relationships and access to healthcare, and the efficacy of recent judicial and legislative efforts to enhance substantial societal integration and equal rights of LGBT individuals.