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# EXCLUSION OF THE LGBTQIA+ COMMUNITY IN VARYING SPHERES: THE CASE OF INDIAN SOCIETY

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## ABSTRACT

We perceive ourselves to live in times where self-awareness and inclusivity is at its peak, but somehow continue to socially exclude certain individuals who conform to their nonheterosexuality. LGBTQIA is a collective term for people who identify as lesbian, gay, bisexual, transgender, queer, intersex, asexual and their allies. Although, there has been a huge jump in spreading awareness and prevalence about the community, homosexuality in

India remains a taboo subject. An individual is taught that it's an unnatural phenomenon leading to phenomenons such as biphobia, homophobia and transphobia. The community has been advocating for equal rights for decades but they continue to be discriminated against, harassed, experience intolerance or threat to violence due to their sexual orientation. As the Supreme Court now reviews marriage rights for the community, this paper is an attempt to look back at how the community, as a whole, has been sidelined and alienated since decades. Thus, in this paper, I aim to analyse how India has failed to become inclusive towards the LGBT community and the attitude of Indian youth towards homosexuality.

**Keywords:** Homosexuality, difficulties, insufficient representations, discrimination, exclusion of LGBTQ+ community, India.

## **INTRODUCTION**

Homosexuality is a phenomenon where individuals are physically and sexually attracted to the same sex or gender. As a sexual orientation, homosexuality is an “enduring pattern of emotional, romantic, and/or sexual attractions to people of the same sex” (American Psychological Association 2013). A few other acronyms of the same term are LGBTQA, LGBTQIA+, LGBT+ and these terms often include even those individuals who do not necessarily fall under the classification of being heterosexual but generally are just supporters or advocate for LGBT rights. Although, homosexuality is not a novel phenomenon and has existed since time immemorial, it continues to be considered deviant to what the normative order is (Sahni et al. 2016) Therefore, homosexual people are discriminated against, oppressed, harassed and socially excluded. Fear or hatred of homosexuality is what is referred to as homophobia; a phenomenon that is unfortunately still very common to-day. There are many a times where we, as a society, simply ignore homosexual beings like they don’t even exist. For instance- no access to public bathrooms, mentions of only two genders in forms and important documents etc. A few factors that enhance homophobia are moral, religious and political beliefs of groups larger in number (Kumar 2019). Despite the fact, that much of the world has progressed and supported the LGBT community in recent years, in some countries it is illegal and punishable to the extent of death penalty. Particularly, India has made some progress but still has a very long way to go to create a safe, sustainable environment for the LGBTQ+ community. Some factors that can be attributed to the fact that homosexuality is yet to be normalised in India are inadequate representation in literature and cinema, insufficient measures by government to safeguard them, lack of factual awareness amongst people etc.

According to a national survey conducted in 2021 in India, 3% of the Indians identify as gay or lesbian, 9% identify themselves as bisexual, 1% as pansexual and 2% as asexual. But, the numbers are significantly larger in reality (Ipsos 2021). One of the main reasons for such discrepancy is the fear in homosexual people “to come out of the closet” (announce one’s sexual preference/ gender identity). Societal attitudes towards homosexuality vary greatly among different cultures and countries but in India, the stigma affiliated with homosexuality is still very prevalent. Although national surveys depict that the outlook of heterosexuals towards homosexuals has become relatively tolerant in the recent years, prejudice against the community is evident in practicality. A few major impacts of such prejudice are: rejection from one’s own family, suffering verbal/physical abuse, limited or no access to education and health

care and no employment. “Homonegativity”: disapproval of homosexuals (Lottes & Grollman, 2010; Wrench, 2005) leads to phenomenons such as biphobia (dislike against bisexual people) and transphobia (hatred towards transgender individuals) and challenging dominant structures such as femininity and masculinity hinder the possibility of securing homosexuals a safe space in an Indian context.

## **RESEARCH PAPER**

In this paper I aim to analyse how India has failed to become a LGBTQ+ friendly country.

The paper’s objective is to initially discuss the attitude of Indians towards the community through a survey I conducted as my primary source. Further, I will be discussing aspects of how the LGBTQ+ community faces exclusion and marginalisation despite the apparent change in the attitude of the Indians towards them in the recent years. I will be analysing the hurdles LGBTQ community faces at varying levels. Through analysis of academic work, national surveys and interviews conducted I aim to support my arguments. The paper shall reveal the inadequate representation of the community in literature and cinema. The paper also aims to establish the little progress made by the Indian legal system to secure the community with basic and equal rights. As part of my secondary sources, I will be using interviews of people, journal articles, newspaper articles to analyse and support my arguments.

## **SOCIAL OUTLOOK TOWARDS THE LGBT COMMUNITY AND THE SUBCONSCIOUS BIAS**

People tend to portray themselves as progressive individuals yet possess a set of societal biases in them. As a consequence, the LGBT community finds itself battling age-old stereotypes and beliefs that are enriched in India’s culture. In an era, where people give so much importance to progress and inclusivity, individuals appear to be liberal but remain antiquated in their beliefs. This can be demonstrated in the survey I recently conducted. Although, 98.2% revealed they were supportive of the queer community, 21.8% rejected to advocate for them in public. This particular findings suggest that people appear to have a positive outlook towards homosexuality but in reality, they don’t want to go against the societal norms. Further, 38.2% of the total respondents revealed that their families were against the community. This finding showcases the old-age norms and beliefs engraved in the minds of Indians. The prescribed gender norms of being masculine if you’re a male and feminine if you’re a female seem to create a lot of

challenges for those who have different gender identities to what they were assigned at birth. Breaking the normative order usually means breaking the traditional familial values and thus, dishonouring the family's pride. In India, where so much importance is given to traditional values and culture, the LGBT community struggles to find acceptance. 90.9% of the total respondents in my survey felt along similar lines; they agreed that India is not a LGBT friendly country.

Moreover, the hypothesis of a national survey suggests that people might show a positive or neutral attitude towards homosexuality but unconsciously this might not always be the case (Sahni et al. 2016). The findings of this particular survey suggests that the people who were in contact with a homosexual held a positive attitude towards homosexuality (30 out of 50

people) but those who weren't associated with anyone belonging to the community, held a negative attitude (40 out 50 people). The data from national surveys reveal that attitudes among heterosexuals concerning homosexuals have become less disparaging, yet evidence of brutality or acts of prejudice remain common (Dasgupta and Rivera 2006).

## **THE PREJUDICE AND ITS REPERCUSSIONS**

The Indian society appears to have inadequate knowledge on same sex orientations leading to human rights violations of people belonging to the LGBT community. To many, homosexuality seems like an unnatural phenomenon. Most families commit acts of verbal or physical abuse onto individuals who might go against the normative norms of society. Verbal abuse includes derogatory terms such as 'faggot', 'chakka' amongst others; something which should in no manner be promoted or enhanced. Families even evict their children out of their homes for causing "disgrace to the family" or for their own "inability of the child to fulfil his/her responsibilities". Since most homosexual individuals are kicked out of their homes, they lack any sort of social security. Lack of employment opportunities further leads them astray and excludes them from the society. If people who were completely rejected and kicked out with no means are compared to those homosexuals who were not wholly rejected by their families, data reveals the prior are more than 8 times as likely to have attempted suicide; nearly 6 times as likely to report high levels of depression; more than 3 times as likely to use illegal drugs; and more than 3 times as likely to be at high risk for HIV and STDs (Kumar 2019). Inadequacy in spreading correct information about the community has led them to be treated in an

extremely degrading manner. Consequentially, marginalisation and exclusion has created multifarious issues for the queer people such as some discussed ahead.

## **POLITICAL AND LEGAL EXCLUSION**

Besides being excluded from the social and economic sphere of life, the LGBT+ community is excluded from political participation as well. Involving queer voices in politics is an important step towards progress and acceptance. The numbers of such voices is scarce in Indians politics but a few that exist are Shabnam Bano, the first transgender Indian to become an Member of Legislative Assembly; her father gave her away to “protect” his family image ( Delliswararao and Hangsing 2018). Another example is that of Madhu Kinnar who is

India’s only open mayor. Previously, Kamla Jaan and Kamala Kinnar, India’s two transgender municipal leaders, lost their candidacy because contesting in female category was announced ‘null and void’.

Legal issues are complex for people who manage to change their sex and for those who are gender-variant (Kumar 2019). Legal issues include: legal recognition of their gender identity, same-sex marriage, child adoption, Inheritance, wills and trusts, immigration status, employment discrimination, and access public and private health benefits. Lack of legal recognition has important consequences in getting government ration (food-price subsidy) shop card, passport, and bank account ( Delliswararao and Hangsing 2018).

## **THE RURAL SCENARIO**

Especially in rural areas, where homosexuality is believed to be an unnatural phenomenon, the existence of different sexualities and gender identities remains an intolerant phenomenon.

Families sometimes force individuals to go to “conversion therapies” that attempt to “cure” homosexuality. There have been instances of “corrective rape” which is a hate crime where people rape a person due to his sexual orientation in an attempt to “correct” the individual’s sexuality. For instance - Arun Kumar, a resident of a village in Uttar Pradesh expressed in an interview that his family took him to quacks and shamans because they believed homosexuality to be a “curable disease”. He was locked up in his room all by himself for a week on the suggestion of a shaman (Pandey 2018). Another instance is the experience of Rahul Singh who lives in Bihar, he is a gay man but has a wife and two children. He says,

“It’s the society that troubles us, people believe that a gay person doesn’t have the right to be respected or loved.” (Pandey 2018).

## **CONVERSION THERAPY**

Taking away something from a person what they have got from nature is not just against morals but against the concept of humanity. Families who consider homosexuality a mental illness, force persons against their will into conversion therapy. The whole practice in itself has no validity or efficacy. The attempt to “cure” someone’s sexuality is an immensely vile act and is torture for the person undergoing it. The therapy seeks to correct a person’s gender identity and sexual orientation through psychological, physical or spiritual methods. Again, this whole concept is based on the importance of following the “normative order”. Whilst committing such acts, people tend to ignore the natural diversity and reject acknowledging it.

Prince Manvendra Singh Gohil who is the world’s first openly gay prince and a leading LGBT activist recalled in an interview how his family demanded for a surgery or shock therapy to get ‘cured off the illness’ (Bullock 2021). This example highlights how shock therapy is seen as a viable option to get rid of someone’s sexuality. A key point that can be deduced from this is how opposed people actually are to the whole concept of homosexuality and to what extent they can go to get rid of it while ignoring the very natural existence of it.

## **RESTRICTED REPRESENTATION**

There are a few aspects as to why people continue to maintain such a negative and demeaning attitude towards the LGBT community. Firstly, the insufficient representation in literature and cinema has played a major role in maintaining such an outlook towards homosexuality. This is the common sentiment amongst people I surveyed as well; 79.5% of the respondents believed that in the recent years some progress has been made to highlight existence of the community but there’s a long way to go. In Bollywood, gay men and lesbians are included in the movies as comic reliefs, for instance, *Dostana* (2008); *Partner*, (2007); *Student of the Year*, 2012. Meanwhile, movies depicting homosexuality in its true essence have either been banned (for example, *Fire*, 1996) or been given an "A" certificate by the censor board of India (for example, *Aligarh*, 2016). More recently, movies such as *Kapoor & Sons* (2017) , *Ek Ladki Ko Dekha Toh Aisa Laga* (2019), *Margarita with a straw* (2014) have somewhat helped in creating awareness and enhancing knowledge of the Indian youth. Such incorporation of homosexuality

related issues in the society can help reduce prejudice towards the sexual minority in our country. While there are some books in literature that include homosexual people such as Kamala Das' *Ente Khata*, *Mohanaswamy* etc, they are extremely limited. Mentions of the queer community is close to non-existent in academics as well. Particularly, in CBSE books there is very little mention of the community or what it inculcates. This becomes a key reason as to why Indians have limited or false information about the queer people.

## LIMITED LEGAL MEASURES

Another extremely important aspect to discuss is the Indian legal system, which has made minimal efforts to safeguard and protect the minorities. Even in their limited attempts, there have been times where the government has failed to achieve what it aimed to. On 6 September 2018, in the landmark judgment of *Navtej Singh Johar & Ors. V. Union of India*, the Supreme Court of India abolished the oppressive Article 377 from the Indian Penal Code (IPC). The colonial-era provision which criminalised gay sex was termed “irrational, indefensible, and manifestly arbitrary”. Section 377 declared “carnal intercourse against the order of nature” punishable by imprisonment for life (Kidanagoor 2018). Section 377 in this judgment was considered to be violative of the right to equality and dignity. Further, the court

ruling added that the “the LGBTQ possess the full range of constitutional rights, including sexual orientation and partner choice, LGBT has equal citizenship and equal protection of laws” (Kidanagoor 2018). While the landmark judgment made a huge difference in the lives of persons belonging to the LGBT+ community, there is still a lot that needs to be done. Even today, individuals from the community live in fear of revealing their true sexuality and identity to their family. India has failed to safeguard and protect the people of the LGBT community. Even in the survey I conducted, 89.1% of those who responded, strongly believed that the Indian government is not making enough measures in the favour of the oppressed community. In order to provide relief to them, it is significant to take into consideration the whole shield of fundamental rights. Article 14 requires equal protection of all people before the law; Article 15 prevents discrimination on the basis of sex, religion, caste or place of birth. In the judgment case of *Navtej Johar*, the Supreme Court of India extended the boundaries of sex and included sexual orientation in it as well. Article 21 also talks about protection of life and personal liberty which has been interpreted as Right to Dignity, Right to Privacy (Kidanagoor 2018).

The rights might protect the LGBT community theoretically, but in practicality it is quite the opposite. In an era, where privatisation is at its zenith, it appears that the state and its instruments cannot provide any regulation to safeguard the queer people. The Transgender Persons (Protection of Rights) Act, 2019 failed to keep in check ground realities and was basically a failed attempt to provide employment opportunities to the people concerned (Gupta A and Gupta S 2020). Firstly, the very idea of getting approved their identity by the government is in itself very derogatory. Secondly, Section 18 of the Act provides that sexual abuse against transgender people is a punishable offence; maximum punishment being of two years imprisonment (Gupta A and Gupta S 2020). But, the punishment for the same crime committed on cisgender (straight) people is much higher (Gupta A and Gupta S 2020). Lastly, the bill also failed to provide any reservation even after the direction of the apex court in *National Legal Service Authority (NALSA) v. Union of India*. Consequentially, coming out of the closet for Indian people still remains a multifaceted concern.

## CONCLUSION

The paper has discussed how the LGBT community in India is struggling with the old age societal norms to achieve the recognition and rights it truly deserves. The paper has showcased how the community is marginalised and how often their existence is ignored. Although, Indians might appear to have become progressive, the norms and expectations carved out by the society which are antiquated and often lack logic, remain extremely prevalent. Indian judiciary has attempted to rescue its citizens by providing a broad interpretation to the existing legal regimes but it is high time that it brings in specific regulations to protect the people of the queer community (Gupta A and Gupta S 2020). The legislation should provide various guidelines for their security and impose sanctions on private institutions in case of discrepancy (Gupta A and Gupta S 2020). The government should follow the principles of equality and dignity mentioned in the fundamental rights to ensure that the homosexual citizens get the respect they deserve and get the security and relief any human deserves (Gupta A and Gupta S 2020). Initiatives need to be taken in higher numbers to realise the existence of the most secluded people of the country by spreading awareness to the masses and attempting to change the antiquated mind set of the Indian society. The need for upliftment and acknowledgement of the LGBT community is the need of the hour.

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## APPENDIX

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