
LGBTQ+ COMMUNITY AND THEIR CHALLENGES IN INDIA

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ABSTRACT

This paper aims to address the problems faced by the members of “LGBTQ+ community” and its members within India. This paper also aims to shed light on the harassment and cyber bullying of the community members and how they face others in public and social media for being open about their sexuality, plus how they are still considered to be stigmatic in the society even after many struggles to normalize themselves. Discrimination which persists across many aspects of life, including their family acceptance, mental and physical healthcare, education and employment. This paper tries to address the harassment and the biases that they face in workplace and the educational barriers and intersectionality, and the current legal provisions are not sufficient to dismantle the deeply embedded social biases.

Keywords: Stigma, discrimination, harassment, acceptance, trauma

CHAPTER 1

1.1. INTRODUCTION:

Despite India having an ancient and richly documented history of gender and sexual fluidity – evidently in classical texts and devotional practices the modern society continues to demonstrate a profound and contradictory resistance to the acceptance of same-sex relationships and diverse sexual identities. According to Chief Justice DY Chandrachud, and Justice SK Kaul “Queerness is a natural phenomenon known to India since ancient times”. Pre – colonial Indian philosophy and tradition frequently acknowledged and even revered expressions outside the male- female binary. The Azhwar poet-saints, for instance employed the concept of Madhura Bhava or Nayika Bhava whereby male devotees adopted this persona of yearning feminine lover to express the soul’s relationship with the divine. This shows the gender fluidity at the highest spiritual level.¹ Furthermore, medieval temples which are still show architecture which has explicit representation of the same -sex intimacy and diverse sexual practices, such as Khajuraho and Konark, which was served as tangible evidence that non-heterosexual expressions were acknowledged, if not always celebrated, within the fabric of ancient Indian life.² This further substantiated by text like the Kama Sutra, which detail the existence of a Tritiya Prakriti (third gender), acknowledging a recognize space for non-binary and transgender individuals in society.³ This paper argues that despite having legal freedom and protection from colonial criminalization, the LGBTQ+ community in India continues to face harassment and lack of social acceptance and systemic exclusion and the paper will first focus on the harassment and the cyber bullying that community members endure in both public and social media and highlighting social stigma.

This paper will also shed light on the wide-ranging discrimination faced by the community members when it comes to family acceptance, access to mental and physical healthcare, educational barriers and bias and bullying in workplace. Finally, the paper employs an intersectionality framework to examine how caste, class and regional disparities compound to the harassments and problems faced by the community members.

¹ A. V. S. Pillai, *The Bhakti Movement and Gender Fluidity in South India*, 25 J. Cultural Stud. 410, 415–17 (2009).

² D. Pattanaik, *Sexual Diversity in Ancient Indian Art and Texts*, 18 Erotic Art Rev. 102, 110–12 (2003).

³ V. S. Agrawala, *The Kama Sutra and Social Order*, 5 Kalinga J. Soc. & Legal Hist. 35, 40 (1998).

1.2. THE ENDURING SCAR OF STIGMA:

A) THE EXISTENCE OF SOCIAL STIGMA:

Even after the Supreme Court gave a judgement of constitutional equality in the case of “NAVTEJ SINGH JOHAR”, but still we can see the deep-seated prejudice ingrained by a century and half of colonial law remains highly visible. There is a social narrative of “queerness as unnatural” continues shaping the public behavior, which started to create a social stigma of hostility and fear for the LGBTQ+ individuals.⁴ This stigma is particularly pronounced in public spaces on digital platforms, where mere self-expression is becoming constant risk. Furthermore, the community remains vulnerable to harassment and extortion by local authorities and law enforcement, where their views on non-heterosexual expression as “unnatural” or “western imports” which became a dangerous legacy of the very laws the Supreme Court struck down.⁵

B) THE CYBERBULLYING AND DIGITAL VIOLENCE:

The development and rapid growth of social media platforms like Instagram, WhatsApp and X have been a big problem for the LGBTQ+ members because they are bullied, targeted hate speech against the members, threats of physical harm and misuse of their personal information and defamatory statements against the community members.⁶ These social media platforms are used as weapons where a person’s sexual orientation or their gender is revealed without their consent to their family members, friends and social circles, and acts causes long lasting problems like family rejection, job loss, and severe emotional and mental trauma, thereby re-criminalizing queer life through social punishment.⁷

C) PSYCHOLOGICAL IMPACT:

The LGBTQ+ individuals in India experience significant psychological impacts due to social stigma, discrimination, and prejudice, which contribute to higher rate of depression,

⁴ See N. Darr & S. Rao, *Queer Lives, Queer Laws: The Social Aftermath of Navtej Singh Johar v. Union of India*, 5 Ind. J. Pub. L. 125, 130–32 (2020).

⁵ See A. Sharma, *The Public Space as a Site of Prejudice: Violence Against Queer Persons*, 10 J. Gender & Soc. Pol'y 45, 50–51 (2018).

⁶ See C. D. Smith, *The Social Penalty: Doxxing, Outing, and the Mental Health Crisis in Indian Queer Youth*, 3 Int'l J. Psych. & Law 78, 85–88 (2021)

⁷ See C. D. Smith, *The Social Penalty: Doxxing, Outing, and the Mental Health Crisis in Indian Queer Youth*, 3 Int'l J. Psych. & Law 78, 85–88 (2021)

anxiety, suicidal ideation, substance abuse and PTS. These outcomes become worse for the reasons like family rejection, lack of societal acceptance and not getting equal mental healthcare services.⁸ The mental health of the community is further complicated by challenges like social exclusion in educational and professional settings. Studies show that there is high rate of anxiety and depression among the members of the LGBTQ+ community individuals in India, within the transgender community being particularly vulnerable.⁹

CHAPTER 2

2.1. THE ABSENCE OF MARRIAGE AND PARTNERSHIP EQUALITY:

Although the Supreme Court confirmed the dignity and identity of LGBTQ+ citizens in 2018, the Indian state has yet to fully grant civic equality in legal forms, the most important of which is the right to marry or an equivalent registered partnership.¹⁰ This lack of formal legal recognition of relationships represents a major institutional barrier, placing same-sex relationships in a second-class category. In 2023, the Supreme Court was expressly petitioned to legalize same-sex marriage, however the verdict ultimately legislated the responsibility to the Legislature and thereby preserved the institutional status quo denying the fundamental right to marry to the community. The failure to provide marriage equality is not only a form of symbolic recognition but also a stripping of essential legal protections for LGBTQ+ couples that are afforded to heterosexual couples as a matter of personal law.¹¹ These legal protections include some of the most basic rights, such as inheritance and property succession, medical consent (where one partner cannot make life-or-death decisions for their partner), joint bank accounts, and tax benefits for couples who are legally married. Denying marriage equality also denies LGBTQ+ families many fundamental rights to family-building such as joint adoption and surrogacy while creating legal precarity for LGBTQ+ families.¹² So even after the court's strong direction, the legislative silence following that decision displays a systemic inability to move forward from decriminalization to equal citizenship, and, in a legal explicitly

⁸ See World Health Org., *The Mental Health of LGBT Youth in South Asia: A Report* 15–18 (2023).

⁹ See R. Menon & P. Verma, *Cyber Safety and the Queer Citizen: Loopholes in India's IT Act*, 9 Media & Comm. J. 112, 118–20 (2021).

¹⁰ See S. D. Gokhale, *The Limits of Judicial Intervention: Decriminalization vs. Marriage Equality in India*, 11 Hum. Rts. L. Rev. 301, 305–07 (2024).

¹¹ *Supra* note 1 (discussing the *Supriyo v. Union of India* judgment and the deferral to the Parliament).

¹² See N. P. Menon, *Unmarried and Unequal: The Socio-Economic Consequences of Denying Partnership Rights in India*, 20 J. Fam. L. & Ethics 450, 455–58 (2023).

differentiates between types of romantic love, continues to perpetuate social stigma and differentiate sexual orientation.

2.2. HEALTHCARE VULNERABILITIES: ACCESS, BIAS, AND MENTAL HEALTH:

The constitutional acknowledgment of LGBTQ+ identity in India is undoubtedly historic, but it also coexists within a broader context of significant barriers and systemic discrimination within the nation's health care systems. For the LGBTQ+ community, seeking health care is commonly far more than a health care provider; it is often an activity that exposes a member of the LGBTQ+ community to humiliation, misdiagnosis, or denial of care altogether.¹³ Access is frequently inhibited because no LGBTQ+ individual, specifically transgender persons, may delay or refuse care based on an unambiguous history or anticipated fear of discrimination or poor treatment from healthcare personnel. Along with their fears is the general lack of cultural competency on the part of the providers, as many healthcare providers have no training on the population's distinct health issues or needs, resulting in disrespectful treatment that breeds distrust. Finally, and in addition to providers' biases, financial and structural barriers to care, such as lack of adequate insurance coverage for important services like gender-affirming care, pose tangible barriers to obtaining health treatment. These systemic problems lead to a significant amount of minority stress that, in turn, causes elevated rates of mental health crises causing depression, anxiety, and extremely high rates of suicidal ideation and attempts, far greater than the general population. These overlapping vulnerabilities illustrate the need for robust healthcare policy and provider education reforms to provide affirming, equitable care to all LGBTQ+ members.¹⁴

2.3. DISCRIMINATION IN EMPLOYMENT AND HOUSING:

The members of the LGBTQ+ community face constant economic inequality due to the existence of discrimination in housing and employment, which leads to the increase of unemployment, underemployment and even poverty which results in people getting homeless

¹³ P. T. Reddy, *Discrimination in the Clinic: Health Access Barriers for LGBTQ+ Individuals in India*, 15 Pub. Health J. 115, 120–22 (2022).

¹⁴ Ilan H. Meyer, *Prejudice, Social Stress, and Mental Health in Lesbian, Gay, and Bisexual Populations: Conceptual and Empirical Foundations*, 19 PSYCHOL. BULL. 674 (2003) (detailing how social stigma leads to negative health outcomes).

this rate is higher compared to the non-LGBTQ members. The individuals often face both underemployment and unemployment, and the rate is increasing day by day, Studies clearly shows that the member typically earn less than cisgender, heterosexual peers in India. And the members frequently experience refusal to rent or sell properties which is significant widespread of discriminations like verbal, harassment, and higher demand of rent in the housing market. Insufficient, legal protection, social stigma, and lack of awareness about housing related loss are also a cost for the discrimination the community members face.¹⁵ Many LGBTQ youth members become homeless after being abused by families, which makes them lack basic, educational and suicidal support during the formative years, and which leads to increased risk of substance abuse when you come into employment it is also a barrier to the members who are often denied job opportunities and also experience lower wage and disproportionate poverty rates. Even though there is a lot of laws the members still face workplace discrimination, and stigmatization, which results in reduce the lab, force, participations, player, productivity, and adverse economic outcomes for both individuals and the broader economy. Decrease discriminations results in many living without any resources, and including transgender people in particular who severe exclusion from mainstream occupations, which results in them in informal work, such as sex workers and. When we look at the economic insecurities faced by the members in India, it is very compound by overlapping issues of class caste gender, identity, and rural/admin divides.¹⁶

When we look at the lesbian and bisexual woman who encounter unique barriers due to social stigma against unmarried woman, impacting their ability to access their basic rights, services and economic opportunities. When the members tried to open about themselves in their schools they get harassed and excluded from the society which further reduces their educational attainment which is seen with lower literacy rates among the transgender populations which correlates with reduced job prospects and wage disparities.

¹⁵ Brad Sears & Christy Mallory, *Employment Discrimination Against LGBT People: Existence and Impact*, in Research Summary: LGBT People and the Workplace 1, 1–2 (2018), <https://escholarship.org/uc/item/9qs0n354> (documenting widespread discrimination leading to negative economic impacts).

¹⁶ M.V. Lee Badgett, *The Economic Cost of Stigma and the Exclusion of LGBT People: A Case Study of India*, World Bank Working Paper 94040, at 19 (2014) (finding that the exclusion of LGBT people in India leads to lower productivity and output). See also Kaustubh Rajput, *Socio-Economic Costs of LGBTQIA+ Exclusion: A Primary Data Study in India* 1, 6 (Indian Econ. Serv., Working Paper, 2024), <https://www.ies.gov.in/pdfs/Research-Paper-Kaustubh-Rajput.pdf> (quantitatively finding that workplace exclusion creates wage disparities for LGBTQIA+ individuals in India).

CHAPTER 3

3.1. LEGILATIVE AND POLICY RECOMNEDATIONS TO END THE DISCRIMINATION:

To successfully end the systemic discrimination against the LGBTQ members in India, we need a multi layered legislative and policy approach. This should start with a comprehensive anti-discrimination based on sexual orientation and gender identity across employment, education, housing, healthcare, and the public services, with a clear application to both the public and private sector services, strong enforcement mechanisms, and avenues for redress.¹⁷ Legal reforms must also ensure the recognition of queer relationships and queer families, conferring upon them the rights to joint accounts, inheritance, and healthcare decision-making regardless of whether marriage equality has been legislated.¹⁸

Efforts must be made to strengthen affirmative action policies for transgender and other marginalized LGBTQ+ population through “**Horizontal Reservation**” for educational opportunities and public sector employment, for example, better access to improved healthcare services that uphold the queer inclusive health care practices including, but not limited to, gender affirming treatment, mental healthcare, and a complete prohibition of harmful practices, including conversion therapy.

Institutional training for police, court professionals, and healthcare provider on issues related to gender and LGBTQ+ rights, along with heightened advocacy and support for protection against hate crime and family violence or corrective rape, must be instituted to address the social stigma and the violence against the members of the community. Housing policy should also prohibit the discrimination made against the LGBTQ members, provide shelter to the members who are displaced, and enhance local service agencies to strengthen social inclusion.¹⁹

¹⁷ M. S. V. D. S. Karthik, *Do India's laws protect queer people from discrimination?*, INDIA DEV. REV. (Aug. 22, 2025), <https://idronline.org/article/rights/do-indias-laws-protect-queer-people-from-discrimination/> (advocating for a comprehensive anti-discrimination law covering public and private sectors).

¹⁸ Supriyo @ Supriya Chakraborty v. Union of India, AIR 2023 SC 5064, (while denying same-sex marriage, the Supreme Court directed the Union to set up a committee to define rights and entitlements for non-heterosexual couples, like those concerning joint bank accounts, insurance, and medical consent). See also RIGHT OF LGBTQ COUPLES IN MATRIMONIAL LAWS IN INDIA, BISANI LEGAL (Jan. 27, 2025), <https://bisanilegal.com/right-of-lgbtq-couples-in-matrimonial-laws-in-india/>.

¹⁹ See Transgender Persons (Protection of Rights) Act, 2019, (e) (mandating government to take measures for the rescue, protection, and rehabilitation of transgender persons, including providing shelter homes). See also M.

3.2. CONCLUSION:

Despite some legal progress, the entrenched discrimination against LGBTQ+ individuals has resulted in profound socio-economic disadvantages; discrimination against LGBTQ+ individuals continues with respect to housing and employment in India. Its documented consequences include neglect, underemployment, homelessness, decreased income, and lack of access to medical services, all of which will persist because of entrenched stigma and lack of safeguards to counter inequality. To combat this injustice, it is vital that an anti-discrimination law that encompasses all aspects of socio-economic life is enacted, comprehensively implemented, and routinely overseen with a process for grievances. Policies to address disparities and rights based on sexual orientation, legal recognition of LGBTQ+ relationships, access to queer-affirming healthcare, and dedicated programs of education and sensitization are important factors or action items to create inclusive context or environments and to reduce stigma at the community and institutional levels. Intersectional issues related to caste, class and gender identity also need to be addressed to create equity in access to rights and opportunities. Collective efforts that engage the government, civil society, and community must be invested in the legal rights into real life experiences through successive investments, accountability, and change. Only through comprehensive and collaborative action can India live by its promise to the dignity, equality, and economic justice to the LGBTQ+ population as full citizens that identify and co-exist without discrimination or exclusion.

S. V. D. S. Karthik, *supra* note 1 (advocating for explicit inclusion of queer families in housing schemes and provision of queer-friendly shelter homes).

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