Decriminalised but not equal:A critical analysis of LGBTQ+ Rights in India

ABSTRACT

This paper looks into the concept of LGBTQ+ identities and socio-legal issues concerning them focusing on the scenario in India. It first defines the meanings of LGBTQ+ and homosexuality stating sexual orientation as an intrinsic and natural element of human life based on biological, psychological and social factors. Then it moves on to the overall discrimination, social ostracism and marginalization faced by the LGBTQ+ persons in education, employment, healthcare and familial acceptance.

The paper focuses on how heteronormative institutions, societal norms and cultural ethos continue to contribute to the stigma, violence, denial of basic rights and how same sex love and relationships were part of many old civilizations including India, were accepted and acknowledged by scriptural texts, literature and art till before the colonizers arrival. Critically analysing the effect of Section 377 which criminalized consensual homosexual acts and later the various judicial pronouncements like Navtej Singh Johar v. Union of India and National Legal Services Authority v. Union of India that decriminalized it in India. However, it points out a still present gap between legal recognition and lived realities of LGBTQ+ people.

The paper discusses how despite legal recognition their rights to marriage, adoption etc are not given and systemic discrimination against them continues. Using a socio-legal and comparative perspective the paper looks at current legislations, policies and their implementation in different parts of the world with an aim of determining how they are deficient in some aspects and can be improved so as to create inclusive and better law for the entire spectrum of sexual minorities.

It concludes that although the pronouncements by the judiciary have led to increased rights for the LGBTQ+ persons in India, much needs to be done with respect to societal acceptance, adequate policies, continued legal reforms to attain true dignity and equality.

Keywords: LGBTQ+ Rights, Sexual Orientation, Section 377, Socio-Legal Discrimination, Equality and Dignity

INTRODUCTION

WHAT IS LGBTQ+?

The term 'LGBTQ+' is employed to refer to following sects of individual's -

1. Lesbian: A lesbian means, a woman who is sexually drawn towards a woman.
2. Gay: A gay means, a man who is sexually drawn towards the man.
3. Bisexual: A bisexual individual is an individual who is sexually drawn towards individuals of both sexes.
4. Transgender: It is a term to describe individuals whose gender identity and gender expression is not the same as that typically assigned to their birth sex.
5. Queer: Queer is a term to describe sexual and gender identities who are not heterosexual or cisgender (reverse of transgender). The word 'Queer' itself is a community because they mostly opt for using pronouns rather than being limited to, He, She etc.
6. The '+' in 'LGBTQ+' indicates that the above list is not an exhaustive one it contains other categories as well such as Pansexual, asexual, Intersex etc.

The community encompasses a wide range of identities, experiences and expressions[1]. The community includes diversity of human sexuality and gender identity. The acronym is not exhaustive, and individuals may identify with other labels or none at all.

The lives of LGBTQ+ people are deeply shaped by the societal and cultural environments in which they live. In much of the world, deeply embedded heteronormative values and strict gender roles lead to the exclusion of those who do not conform to these norms. This marginalization may take many forms, such as social exclusion, discrimination, and restricted access to necessary services. In contrast, those cultures that are inclusive and supportive of diversity are more conducive settings, in which LGBTQ+ individuals can be free to express themselves more openly and honestly. The community has long been the subject of systemic marginalization, social stigmatization, and legal discrimination across societies and through time.

[1] National Alliance on Mental Illness, *LGBTQ+*,(NAMI 2024,June 26)

In the last few decades, however, there has been a dramatic shift in cultural storylines, public policy, and scholarly focus around LGBTQ+ identity and experience.

The members of these groups typically experience elaborate societal structures that have long excluded non-heteronormative and non-cisnormative expressions. The changing discourse on LGBTQ+ rights and identity has led to an increasing number of scholarly studies that seek to comprehend the intricacies of gender and sexuality in modern society. This involves exploring how LGBTQ+ individuals negotiate social, cultural, educational, and political spaces, as well as how their identities are represented and contested.

WHAT IS HOMOSEXUALITY AND HOW DOES GENDER AND SEX AFFECT IT?

Homosexuality is a sexual orientation in which there is romantic and/or sexual attraction between people of the same gender[2].For instance, a man who is physically and emotionally drawn to other men is known as gay, whereas a woman who is drawn to other women is commonly known as lesbian. Homosexuality is one of a variety of orientations in the overall arena of human sexuality, and it is symbolized by the "L" (Lesbian) and "G" (Gay) of the LGBTQ+ acronym.

It is defined according to one's gender identity, not necessarily their biological sex. For example, an individual who identifies as a man and is attracted to other men would be homosexual, regardless of what sex they were born as. Likewise, a transgender woman who is attracted to other women can identify as a lesbian.

This differentiation is particularly important in inclusive discourse regarding sexuality, particularly for the LGBTQ+ community, where gender diversity and sexual orientation overlap in a complex manner. Identifying these variations assists in repositioning reductive, binary perceptions of sex and gender and ratifies the authenticity of diverse identities and orientations.

FACTORS CONTRIBUTING TO HOMOSEXUALITY

The emergence of homosexuality, as with all sexual orientations, is a multi-factorial process that results from the interaction of genetics, biology, childhood experiences, and social

[2] Schmidt N., *Sexual Orientation: 4 Common Questions*, (WebMD, last accessed,25,march,2026)

environment. No one factor "causes" an individual to be gay or lesbian. Rather, sexual orientation is conceived as an inherent and long-standing component of human identity—one that arises naturally in all cultures, throughout history, and among all populations.

Contemporary science is behind the idea that homosexuality is not a disorder or deviation but rather a normal variation of human sexuality[3].

Biological factors

1. Genetic Contributions

Genetic contributions to sexual orientation have most commonly been explored using twin studies. Evidence has shown that identical twins are more likely to share a homosexual orientation than fraternal twins, implicating a genetic component. A landmark 2019 genome-wide association study (GWAS) of more than 500,000 people concluded that although no single "gay gene" can be identified, several genetic variants contribute to same-sex sexual behaviour. These genetic markers also correlate with such traits as openness to experience and risk-taking, implying an indirect relationship.[4]

But genes are not enough to establish sexual orientation. Rather, genetic predisposition is combined with other biological and environmental factors.

2. Prenatal Hormonal Environment

The prenatal hormone hypothesis suggests that sexual orientation can be shaped by exposure to hormones in the womb. For example, differences in the level of androgens (like testosterone) at times of fatal development critical to the organization of the brain, especially in areas concerned with sexual behaviour, can influence sexual orientation.

A similar effect is the fraternal birth order effect, where studies have determined that biological males with multiple older brothers are statistically more likely to be gay. The current theory is

[3] Kinney RL, *Homosexuality and scientific evidence: On suspect anecdotes, antiquated data, and broad generalizations*.(Linacre Quarterly, vol.82(4):- pg. 364-90, nov,2015)
[4] Wang, Joy Y., and Jennifer A. Doudna. "*CRISPR technology: A decade of genome editing is only the beginning.*"
(*Science*, vol. 379, no. 6629, eadd8643, 2023 January,23)

that the maternal immune system mounts a growing immune response to male-specific proteins in subsequent pregnancies, which may affect sexual differentiation in the fatal brain.

3. Brain Structure and Function

Neuroscientific studies have identified variations in brain structure and activity between homosexual and heterosexual people. For instance, a study by Simon LeVay in 1991 concluded that a particular nucleus in the hypothalamus (INAH-3) was, as an average, smaller in homosexual males compared to heterosexual males and more similar in size to that observed in females[5]. Other research has examined brain symmetry, amygdala connectivity, and brain activity in response to sexual stimuli with patterns indicating sexual orientation neurobiological correlates. While intriguing, these discoveries don't create causation but instead must be approached cautiously when interpreting.

Psychological and developmental factors

1. Child Gender Nonconformity

One of the best predictors of adult sexual orientation, especially in men, is childhood gender nonconformity[6]. This means behaviours, interests, or roles that are not in line with societal expectations for one's natal sex. Children who are interested in cross-sex roles, toys, or play are more likely statistically to be gay, lesbian, or bisexual as adults. Although not causal, this correlation lends evidence to the concept that early behaviour and temperament could be indicative of innate orientation.

2. Early Social and Emotional Experiences

Certain psychological models in the past suggested that sexual orientation could be influenced by early parent-child relationships (particularly an absent father or overbearing mother). These psychoanalytic frameworks (e.g., Freud) have since been discredited to a great extent and are no longer supported by contemporary empirical evidence. More recent perspectives focus on

[5] Votinov, M., Goerlich, K.S., Puiu, A.A. *et al. Brain structure changes associated with sexual orientation.* (Europe PMC,Sci Rep:11,art. No.: 5078,2021,March 3)
[6] Folkierska-Żukowska, M., Rahman, Q. & Dragan, W.Ł. *Childhood Gender Nonconformity and Recalled Perceived Parental and Peer Acceptance Thereof, Internalized Homophobia, and Psychological Well-Being Outcomes in Heterosexual and Gay Men from Poland. (*Arch Sex Behav Europe pmc vol no.5.,pg no.2199-2122,may 1,2022)

identity formation and affect awareness, wherein individuals start identifying and putting a name to their experience of attraction. Sexual orientation usually becomes apparent in adolescence, although most LGBTQ+ individuals have felt a sense of "difference" since childhood.

3. Trauma and Abuse

Some of the myths and harmful perceptions associate homosexuality with childhood sexual trauma or abuse. There is, however, no scientific evidence whatsoever to use abuse as a causative factor in homosexuality. Just like people from all orientations could be abused, abuse does not cause sexual orientation and should never be used in pathologizing LGBTQ+ identity.

Social and environmental factors

1. Cultural and Societal Influence

Cultural values, social norms, and acceptance levels can influence individuals in terms of how they perceive and articulate their sexual orientation. In open societies, it is easier for people to admit same-sex attraction as they feel more secure, but in conservative cultures, it may be suppressed or kept secret.

But culture does not produce homosexuality—it can at best affect its expression and visibility. Research indicates that homosexuality is present in all cultures, societies, and time periods, even in the strongest anti-LGBTQ+ cultures.

2. Peer and Media Exposure

While exposure to LGBTQ+ individuals and media representation may help people recognize and affirm their own orientation, there is no evidence to suggest that media or peer influence can “cause” someone to be homosexual. Such exposure may provide a sense of belonging or validation, especially for youth exploring their identities.

3. Religion and Internal Conflict

Religious teachings and moral beliefs can have a profound effect on one's views of sexual orientation, especially in settings where homosexuality is denigrated. This tends to result in

internalized homophobia, shame, or repression. Religious struggle is not a causative factor but may be central to the timing and process of coming out or self-acceptance.

THE LGBTQ:- STRUGGLES AND CONCERNS

LGBT persons have been fighting for their rights since many years. They face multiple marginalization and have been denied access to basic fundamental rights. Each of the identities that are encompassed within the spectrum of LGBT identities have specific concerns as well as problems that cuts across these identities. Broadly speaking LGBT persons are questioning assumptions of heterosexuality and conception of gender as a binary. These assumptions lead to a situation where they are forced into marriages, unable to continue or pursue their education, denied access to healthcare and are subjected to harassment by the police. The lives of LGBT persons are vulnerable and they live in constant fear of persecution and prosecution. Instances of police brutality and extortion highlight the problems faced by LGBT persons. In this chapter we will look into some of the broad sweeping concerns faced by LGBT persons. However, it is important to understand that identities are intersectional *i.e.* LGBT persons also belong to other marginalized groups. For instance, a person maybe lesbian and from the working class or a gay muslim man or a dalit transwoman. As a result LGBT persons may face double and triple marginalization as a result of intersectional identities.

Social exclusion is among the most prevalent and most destructive problems. LGBTQ+ people may be bullied or excluded in school environments at a young age because of their sexual orientation or gender identity.[7] Many are raised in homes where they are instructed to shame or fear who they are, which can result in low self-esteem and mental illness. Rejection by their family is a huge issue, with some being disowned, pushed into conversion therapy, or forced into heterosexual relationships. This discrimination can lead to **higher levels of homelessness** among LGBTQ+ youth, especially transgender youth, who are more vulnerable due to gender nonconformity.

Non-acceptance and violence from family, pressure to marry, hostile work environment and the constant fear of facing persecution or misuse of laws against them puts LGBT persons under tremendous **mental stress**.

[7] UN Free & Equal. (n.d.). *LGBTIQ+ youth: Bullying and violence at school*. (United Nations,2019,October 5)

Legal discrimination is still a bitter truth in most of the world. More than 60 nations continue to criminalize same-sex relationships, and in many of them, the penalty is life imprisonment or even death. Transgender people also encounter legal barriers to modifying their gender markers on identification documents, which can affect everything from work to travel. Where there are no sweeping anti-discrimination laws, LGBTQ+ people can be legally terminated from employment, evicted from housing, or denied services based solely on their identity. Even in those nations with protective laws, they can be poorly enforced, and cultural norms can continue to support climates of bigotry and hostility.

Healthcare discrimination is also a severe problem. LGBTQ+ individuals tend to have difficulty in finding healthcare professionals who are aware of or care about their requirements. Transgender individuals, especially, experience difficulties in accessing gender-affirming treatments like hormone therapy or surgeries, and a majority have reported being misgendered or being denied care altogether. Mental health care is often unavailable or not LGBTQ+-friendly, even though members of the community are statistically more likely to experience anxiety, depression, post-traumatic stress disorder (PTSD), and suicidal ideation because of chronic stress and social exclusion.

In the **workplace**, LGBTQ+ individuals are sometimes forced to keep their identity under wraps to escape harassment, discrimination, or dismissal. This repression can cause mental anguish and stunt career growth[8]. There is little or no LGBTQ+ representation at leadership levels, and corporate policies frequently do not cover the particular issues of LGBTQ+ employees[9]. In most countries, there still exist no laws providing equal opportunity or workplace protection for LGBTQ+ individuals. As per a research study by Nam Cam Trau and Hartel (2004), gay men were often subjected to harassment at their workplace more often than not in the form of veiled jokes from colleagues.[10] Such jokes invariably lower their self-esteem causing everlasting psychological damage. This in turn then impacts their performance and success at work. In order to escape from this form of harassment, an individual generally chooses not to disclose his or her sexual identity forcing them to hide behind secrecy.

[8] Patterson, Eric. "*What Is Repression?" Choosing Therapy*, (2022, August 29)
[9] Medina, Caroline, and Lindsay Mahowald. *"Discrimination and Barriers to Well-Being: The State of the LGBTQI+ Community in 2022*."(*Center for American Progress*, 2023 January 12)
[10] **Nam Cam Trau and Hartel, Charmine E. J.,** "Engendering Attitudinal Divergence toward Gay Men in the Workplace", (*Journal of Management & Organization,*Vol. 10, No. 2, 2004, pp. 15–29)

Hate crimes and violence against LGBTQ+ individuals are shockingly common, and police in most places do not safeguard victims or even perpetuate violence. Trans women of colour specifically experience exceptionally high levels of violence and homicide[11]. In other places, LGBTQ+ individuals are preyed upon by police, mobs, or the state itself. This breeds an atmosphere of intimidation where people feel compelled to keep their LGBTQ+ identities hidden for fear of becoming victims.

Another issue that members of transgender community have to grapple daily is **lack of separate public toilets or gender-neutral toilets**. As there are no separate toilet facilities they are prone to sexual assault and harassment inside these public facilities. Supreme Court has recognized this and has directed the Centre and State Governments to take proper measures to provide separate public toilets and other facilities for members from the community. Further, they have been directed to operate separate HIV/ Zero-surveillance measures for Transgender persons since they are susceptible to a number of sexually transmitted diseases and other ailments related to sexual health. Since most of these rules are still just on paper and have not yet reached the implementation stage, members of the transgender community have been left voiceless and defenceless, vulnerable and exposed to diseases and maladies.

Moreover, **representation in media** is highly important in reaffirming unhealthy stereotypes or helping to bring about acceptance. Throughout history, LGBTQ+ people have been negatively stereotyped or have been virtually absent from mass media. Progress has been seen in some parts of the world, but the majority of the population still remain without access to positive, fair, and representative depictions of LGBTQ+ life. Underrepresentation leads to lack of understanding, stigma, and a lack of empathy among the general public.

In addition, **education systems** do not incorporate LGBTQ+ issues in their education, so young people are deprived of the knowledge they require to know themselves or help their peers. High level of stigmatisation, insensitivity and apathy of the teachers and peers towards them coupled with physical, sexual and emotional violence leads to most of them slipping out of the educational system. Comprehensive sex education with LGBTQ+ content is not common, and

[11] Human Rights Campaign. *An Epidemic of Violence: The Epidemic of Violence Against the Transgender and Gender Non-Conforming Community in the United States* (Human rights commission, 2023,November)

in some areas, even a mention of LGBTQ+ identities in schools is illegal. Lack of exposure in school education perpetuates the belief that being LGBTQ+ is strange or embarrassing.

Generally, the LGBTQ+ community is confronted with a complex and interlinked set of issues that affect their freedom to live, live safely, and live equally. Though some advances have been achieved in some regions of the world, particularly in legal recognition and social acceptance, there are still millions of LGBTQ+ people who continue to face everyday struggles for dignity, justice, and inclusion.[12] Ongoing advocacy, education, legal reform, and cultural transformation are necessary to tackle these enduring inequalities

RESEARCH PROBLEM

Despite significant legal advancements, including the decriminalization of same-sex relationships and evolving judicial recognition of LGBTQ+ rights, individuals belonging to the LGBTQ+ community in India continue to face entrenched systemic discrimination, social exclusion, and marginalization in everyday life. This persistent disparity between formal legal recognition and the lived experiences of LGBTQ+ individuals highlights the complex interplay between law, society, and cultural norms. This study seeks to explore these dynamics through a socio-legal and comparative lens, examining how legal reforms intersect with social attitudes and institutional practices, and drawing parallels with other jurisdictions to understand both the progress and the limitations of India's journey toward LGBTQ+ equality.

RELEVANCE OF TOPIC

This research offers a comprehensive examination of the legal rights and protections afforded to LGBTQ+ individuals in India, with particular emphasis on critically analyzing the existing legal framework, landmark judicial rulings, and public policy initiatives that shape the experiences of sexual and gender minorities. Despite notable milestones—such as the decriminalization of homosexuality in *Navtej Singh Johar v. Union of India* (2018) and the recognition of transgender rights under the *Transgender Persons (Protection of Rights) Act, 2019*—many laws remain inadequate, ambiguous, or poorly implemented, leading to continued marginalization and systemic inequities.

[12] United Nations News. "*India's LGBTQIA+ Community Notches Legal Wins but Still Faces Societal Hurdles to Acceptance, Equal Rights.*" (*UN News*, 2024,May 17)

The study investigates how legal systems conceptualize and respond to issues related to sexual orientation and gender identity (SOGI), focusing on critical areas such as anti-discrimination legislation, marriage equality, adoption rights, healthcare access, and the legal recognition of self-identified gender. It interrogates the limitations of current laws in offering substantive equality, and considers how judicial interpretations have either advanced or hindered the broader movement for LGBTQ+ justice.

The research explores jurisdictions with both progressive and restrictive legal climates—including, but not limited to, countries in South Asia, Europe, and Latin America—in order to contextualize India's legal trajectory within a global discourse. Through this lens, the study identifies legal and institutional gaps, highlights best practices, and evaluates how different legal systems address similar challenges in ensuring dignity and rights for LGBTQ+ populations.

Moreover, the research integrates a socio-legal perspective by analyzing how legal advancements translate—or fail to translate—into tangible improvements in the everyday lives of LGBTQ+ individuals. It considers how law interacts with cultural norms, religious beliefs, political resistance, and societal stigma, thereby shaping not only legal outcomes but also public attitudes and policy enforcement. By bridging legal critique with lived realities, the study contributes to broader conversations on equality, social justice, and human rights, and aims to inform more inclusive and responsive legal and policy frameworks in India and beyond.

LITERATURE REVIEW

1. Arvind Narrain, The Queer Movement and the Reinstatement of Section 377, in Arvind Narrain & Gautam Bhan (eds.), Because I Have a Voice: Queer Politics in India 34 (Yoda Press, New Delhi, 2005).
2. Danish Sheikh, Law and Sexuality: Reading the Navtej Singh Johar Judgment, (2018) 10(2) NUJS Law Review 173.
3. Ratna Kapur, Out of the Colonial Closet: Unmasking the Legacy of the Indian Sodomy Law, (2009) 8(1) Sydney Law Review 38.
4. Alok Gupta, Section 377 and the Dignity of Indian Homosexuals, (2006) 41(46) Economic and Political Weekly 4815.
5. Yogyakarta Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity, March 2007.

6. Devdutt Pattanaik, Shikhandi and Other Tales They Don't Tell You (Penguin Books, India, 2014).
7. Law Commission of India, 172nd Report on Review of Rape Laws, Govt. of India, 2000.
8. Law Commission of India, Consultation Paper on Reform of Family Law, Govt. of India, 2017.
9. National Human Rights Commission, Study on Human Rights of Transgender as Third Gender, 2018.
10. ILGA World, State-Sponsored Homophobia Report, various years; Amnesty International, Annual Human Rights Reports, various years.

RESEARCH OBJECTIVES

1. To understand the social and cultural problems LGBTQ+ people face in today's society this includes looking at how discrimination, stigma, family rejection, and lack of acceptance affect their everyday lives and relationships with others.
2. To study the legal rights and protections LGBTQ+ communities have in different countries

   This involves comparing laws around issues like discrimination, marriage, adoption, and gender identity to see how well different legal systems protect LGBTQ+ people.
3. To look at how society's attitudes affect the mental health of LGBTQ+ individuals This means exploring how negative treatment and lack of support can lead to stress, depression, or other mental health challenges.
4. To examine the influence of education and media on how people see LGBTQ+ identities

   this includes looking at what schools teach, how LGBTQ+ people are shown in the media, and whether these messages are positive or negative.
5. To find weaknesses in current policies and suggest ways to make society more equal and inclusive. This includes pointing out what's missing in government programs or services and giving ideas for how things can be improved to support LGBTQ+ communities better.

RESEARCH METHODOLOGY

In the processing of this work the doctrinal method of research was adopted. The work does not involve any field study as lot of relevant material is available in the printed form. For the purpose of this study extensive survey of textual materials, articles, newspapers and write-ups formed the basis of preliminary study which was then expanded to cover a deeper survey of the literature. Ancient texts, Constituent Assembly Debates, Parliamentary Debates, Legislative Assembly Debates, relevant statutes and landmark decisions have been scanned and analysed in a systematic manner. The present work is thus based on the above referred material and is an original contribution to the problem studied.

HISTORY OF HOMOSEXUALITY IN INDIA

Speaking from literary evidence

Homosexuality is basically a concept which is not new in India rather it has been prevalent in India from a very long term. The term "homosexuality" refers to sexual desires or attraction towards a person of a same gender which means that a person is attracted towards same gender to which he/she belongs.

There were more than fifty words in Sanskrit, Prakrit and Tamil for non-heterosexual genders and sexualities in ancient India, says acclaimed mythologist, Dr. Devdutta Pattanaik - napunsaka, kliba, kinnara, pedi, pandaka. These have been noted in Veda, Itihasa, Purana, Kama-shastra, Natya-shastra, Ayurveda, and in Jain Agamas and Buddhist Pitakas.[13]

There are various literary sources which clearly prove that the concept of homosexuality is not new to India but is a concept which is prevalent since ancient times.

Here are some instances highlighting the existence of homosexuality and acceptance of homoeroticism in India.

[13]Pattanaik, Devdutt. "*The LGBTQ Movement in India*." (*Seminar*, Issue 713, January 2019)

Hindu scriptures

1. Valmiki's Ramayana states that when Lord Hanuman returned from Lanka after visiting Goddess Sita, he saw rakshasa women kissing and embracing women.[14]
2. Ved Vyas' epic Mahabharat refers to a very significant character who was "neither a man nor a woman"- Shikhandi, one of the most renowned personalities related to LGBTQ+ community. Shikhandi was born with female genitalia but brought up as a son and trained in warfare and statecraft by their father King Dhrupad. Shikhandi's presence was crucial in Pandava's triumph in the great war of Mahabharat.[15]
3. Matsya Puran also has a very fascinating story wherein the lord vishnu transformed into a beautiful women 'Mohini'. Later on when lord shiva saw. Mohini he fell in love with her and it led to birth of Lord Ayyappa.
4. Kamasutra says that lesbians were known as "Swarinis", who frequently married and brought up children in common. In addition to this, Kamasutra has spoken of trittiya prakriti, or the third nature of individuals who can neither be characterized as men nor women[16]. Pali texts like Vinaya Pitaka talk about 'pandakas' who could not be housed either in the men's or the women's side of Buddhist monasteries.
5. The Rig Veda mentions the story of Varun and Mitra, always quoted as Mitra-Varun. They are a homosexual pair thought to be the embodiment of the two halves of the moon.
6. The famous Indian epic, Ramayana, is a rich source of evidence about various factions, especially the one called hijras, which are portrayed as a composite male-male & female-female gender in one. The story goes that when Rama was exiled with his wife Sita and brother Lakshmana due to his father's wishes, he was accompanied to the river area just outside the forest by his followers. When he reached the starting point of the river, he addressed the following to his subjects 'Men and women, it is time you all turned back and continued to carry out your obligations' . Justice was however returned to Rama after he had expelled Ravana and returned to Ayodhya after fourteen years of hardship[17]. When she found that people stood at the very same place they requested him to explain why that had done so. They told Rama that they were 'neither men nor women' and hence did not see the need to abide by his prohibition. For such an act of

[14] Paul, Sumit. "*Time to Destigmatise Homosexuality*." *(Deccan Herald, 2022,October 9)*
[15] Pattanaik, Devdutt. "*On Krishna's Chariot Stands Shikhandi*." *(Devdutt Pattanaik, 2009,July 12)*
[16] Yadav, Aditi. "*A Brief History of LGBTQ+ in India." (The CBS Post, 2025,March 17)*
[17] Turaga, RP. *"The Role Models from Ramayana: Bharata."*(*Kasarabada.org,*

sheer patriotism, they were promised the grace of Rama. Third gender people are generally referred to in literature as a tritiya prakriti, literally meaning 'not man nor woman' which is an excellent title for hijras. This conception also developed in the literatures of Jains where they explained about three kinds of genders and three types of sexual transgressions.

Muslim scriptures

1. The founder of the mughal emperor, Babur was not himself devoid of attraction towards same sex. In Baburnama he recites his attraction towards a boy named Baburi in Kabul[18]. He mentioned him in his memoir and wrote a poem on it.
2. Another tale involves story of Sarmad Kashni who was American merchant who later became a sufi saint. He fell in love with Hindu boy named Abhai Chand while travelling to India for trade.
3. Another Sufi Saint Shah Hussain asserts his affection for a Hindu boy named Madho Lal in his writings. Shah Hussain and Madho Lal were eventually buried side by side in Lahore. Their ashes in various works represent divine love that went beyond their lifetimes[19].
4. Johan Stavorinus, a Dutch traveller, has described male homosexuality among Mughals in Bengal in his Voyages to the East Indies. In his book, he has mentioned: "The sin of Sodom is not only universal in practice among them, but extends to a bestial communication with brutes, and in particular, sheep. Women even abandon themselves to the commission of unnatural crimes[20]."

LGBTQ+ COMMUNITY LEGAL STRUGGLE OVER TIME AND FIGHT AGAINST SECTION 377 IPC

Homosexuality is sexual or emotional desire for same-sex individual. An old diplomatic document – Arthasastra – does not approve homosexual sex. It was regarded as a terrible minor crime. In Manusmriti lesbianism was a serious crime and with punishments. Muslim Shariat law also considers homosexualism as a serious crime. History states that it was the 18th century

[18] Maldahiyar, Aabhas. "*Babur Fell Hopelessly in Love with a Boy Called Baburi. Roamed Love-Sick Like a Madman*." *(ThePrint,* 2024 February 23)
[19] Sharma, Saurabh. "*Book Review | The Sufi's Nightingale*." (*The Hindu*,2024,March)
[20] Yadav, Aditi. "*A Brief History of LGBTQ+ in India*." (*The CBS Post,* 2025,March 17)

British regime that criminalized and banned homosexual relationships in India under section 377 of IPC stating that it's against the order of nature.

The section reads that:

Offenses against nature: "***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 either with or without hard labour for a term extending to ten years, and shall also be liable to fine.***" [21]

The tyrannical law not only aimed at homosexuals, but also at all other types of non-traditional sexual intercourse, including heterosexual relationships. This resulted in a rapid fall in the tolerance of this group. It was a crime to have "carnal intercourse" voluntarily against the order of nature. This section criminalized all types of non-procreative sexual intercourses

Effects of criminalization

The criminalisation of homosexuality triggers discrimination. Access to health care is limited to LGBTQ individuals. It is an obstacle to getting access to HIV prevention, testing, and treatment. Public health evidence reveals their non-acceptance in society makes them drug addicts, indulge in violence, become isolated, and suffer mental illness.

The following are multiple arguments brought in opposition to IPC Section 377. They explain that the section violates human dignity. The Indian constitution compels us to treat all with equality and hence it is every individual's including the LGBT right to put forth their thoughts, desires, and preferences. The section ignited the problem of non-acceptance of the LGBT individuals which existed since ages. It serves as an obstruction to the upliftment of the community and economic development of the nation

Criminalization goes against the fundamental basic rights of the LGBT individuals as a citizen who is holding the Indian constitution.

1. Article 14 grants the right to equality. It reads that nobody shall be denied equality before the law and equal protection of law.[22]

[21] Indian Penal Code, 1860, S377 (India)
[22] Constitution of India, 1950, Art. 14 (India)

2. Article 15(1) and 20 forbids discrimination of an individual on any grounds such as sex, religion, race, caste, or place of birth. It is the discrimination based on sex that the LGBT section does not have educational and employment facilities and is deprived of equal pay for equal work. The Indian constitution says that even though the word 'sex' means male and female, it is wide enough for sexual orientations to encompass in it.[23]
3. Article 19 grants such freedom of expression and speech to all the citizens.[24]
4. Article 21 guarantees the right to life and private liberty which includes the right to privacy. The Indian Constitution does not specifically include the right to privacy as a fundamental right, but it has been stressed from time to time by the Supreme Court in certain cases so it is regarded as being in the vicinity of fundamental rights. Therefore, it must not be breached by the state's right to privacy.[25]

Section 377 appears to shorten these rights of the LGBT section and hence was indispensable to decriminalize homosexuality so that the LGBT individuals can live a life with dignity and respect.

The Law Commission of India in its 172nd report in 2000 suggested the repeal of IPC Section 377 stating that it directly affects homosexual's life and is injurious to the public. It further said that if homophile relations are prohibited then it can create illegal means of same sex acts in private.[26]

The Naz foundation V Government of NCT Delhi, commonly referred to as the Naz judgment of 2009[27] by Delhi high court, was the first instance where a court in India held section 377 as unconstitutional. This case was instituted as a PIL by a Delhi based NGO. The finding was on the grounds that the section is violative of Articles 14, 15, and 16 of the Indian constitution. This ruling was appealed at the Supreme Court in the case of *Suresh Kumar Kaushal V Union of India*[28].The High court ruling was set aside by the apex court and homosexuality was recriminalized again holding that the IPC Section 377 was not contravening any articles stated

[23] Constitution of India, 1950, Art. 15(1) & Art. 20 (India)
[24] Constitution of India, 1950, Art. 19 (India
[25] Constitution of India, 1950, Art. 21 (India)
[26] Dhananjay Mahapatra, *'Law Commission had recommended Section 377's deletion 13 yrs ago'*, (*The Times of India*, 13 December 2013)
[27] Writ Petition (C) No. 7455 of 2001, Del HC, 2 July 2009, 160 (2009) DLT 277 (India)
[28] (2013) 1 SCC 1

in the previous high court ruling. The court also ruled that the parliament is obligated to repeal the section or to modify it.

The landmark judgment that legalized homosexuality in India, *Navtej Singh Johar V Union of India was delivered in 2018*[29]. The ruling was the culmination of numerous PILs by the different LGBTQ communities and was largely based on an individual's independent right to select their own partner, irrespective of sex.

Judicial Approach Towards LGBTQ+ Rights in India

NAVTEJ SINGH JOHAR V. UNION OF INDIA (2018)

Background: After the overruling of the Delhi High Court judgement in 2013, homosexuals were again considered as criminals. As the LGBT rights protests intensified in India, particularly with the involvement of some notable names, including hotelier Keshav Suri, Ritu Dalmia, dancer Navtej Singh Johar, and many others, they agreed to file the petition filed before the Supreme Court to challenge the constitutional validity of section 377 of IPC.[30]

Arguments: The Supreme Court agreed that it will refer the issue to a larger bench and heard various petitions in this regard. The Government had said that it will not intervene and leave the matter to the wisdom of the court. Arguments were made that section 377 infringed the constitutional rights of the petitioners to privacy, freedom of expression, equality, human dignity and protection from discrimination.

Judgement: The Court pronounced its judgement on ***6th September 2018*** and it can be summarised as follows:

1. The Court found unanimously that Section 377 is unconstitutional as it violates the fundamental rights of autonomy, identity and intimacy, and decriminalised homosexuality by reading down Section 377 not to include consensual sex between consenting adults of the same sex/gender.
2. The Court explained its position by stating that Section 377 is vague and does not create intelligible and differentiation between what is "natural" and what is "unnatural". The

[29]WP(Crl) No. 76/2016, Supreme Court of India, decided on 6 September 2018, reported in (2018) 10 SCC 1.
[30] **Navtej Singh Johar v. Union of India**, (2018) 10 SCC 1 (India)

Court's position here was that it also restricts the freedom to express one's sexual identity, which is the right to freedom of expression protected under Article 19 of the Indian Constitution.

3. The Court went on to say that sexual orientation is a fundamental part of self-identity and denying it is denying their right to life, and that their demographic insignificance could not be a valid rationale for denying them this right.
4. The Court also very heavily and openly rejected the Koushal judgement and described it as irrational, arbitrary and clearly unconstitutional. The Court stated that discrimination based on sexual orientation is also unconstitutional in the sense that it operates as a natural occurrence reliant upon biological and scientific fact.
5. The Supreme Court also ordered the government to educate the public about LGBT rights and to eliminate the stigma against LGBT people. The judges also elaborated on the mental health issues, dignity, privacy, right for self-determination and transgenders.

NATIONAL LEGAL SERVICES AUTHORITY V. UNION OF INDIA

Background: The transgender community in India has been the most victimized group of the entire LGBT+ community in respect to the reverse social, educational and economic degradation. These individuals have never been included as part of society, they have always faced exploitation, discrimination, humiliation and violence at the hands of either society or authorities in power. Due to being constantly rejected and not having access to basic social resources, these individuals often turn to begging or prostitution making them more exposed to discrimination, STDs and act as prey to human traffickers. But in 2014 the Judgement of the Supreme Court changed all this and gave hope and euphoria to the transgender persons in that for the first time in history this group of individuals was recognized as a third gender.

Issue: In National Legal Services Authority v Union of India, the Supreme Court was tasked with the question of *whether there is a need to recognize hijra transgender individuals as a third gender to enable social justice in respect of the areas of public health, public education, employment, reservations and other welfare measures or schemes*.[31]

[31] **Human Rights Law Centre**, "*Indian Supreme Court Recognises Third Gender"*, (15 April 2014)

Judgement: In the Hon'ble Supreme Court of India's historic ruling it created the category, or status, of "third gender" for hijras or transgender persons[32]. Previously transgender persons had to identify themselves as either male or female. Now following this ruling they can identify themselves as transgender. But beyond this, what made this judgement special was that it laid out a framework to guarantee the transgender community a whole range of basic human rights which in summary was:

1. The court took the stance that the non-recognition of their identities was a violation o of Article 14,15,16 and 21 of the Constitution of India.
2. The Supreme court further ordered the Government of India to treat the members of "Third Gender" as socially and economically disadvantaged class.
3. It also put the responsibility on the government to make reasonable policy decisions for the transgender community in light of Articles 15(2) and 16(4) in order to assure equality of opportunity in education and employment, the third gender would be included in other backward classes (OBC) to give them the benefits of reservation in respect to government employment and educational institutions
4. The court also took into account the idea that a difference between one's gender at birth and the gender one identifies with is not necessarily disordered. Instead of a "treatment of the disorder" the focus is on "treating the distress of incongruity."

In simple words the court recognized the distinction between gender and biological things—biological and anatomical characteristics include one cannot ascribe to a genital, secondary sexual characteristics, the chromosomes you inherit from your parents etc. Gender attributes include everything about a person's self-image i.e. one's deep emotional or psychological sense of sexual identity and character which is not limited to the male-female binary but rather exists on a wide spectrum.

K.S. PUTTASWAMY V UNION OF INDIA

Background: In the Suresh Kumar Koushal V. Naz Foundation judgment when the Naz Foundation contended before the Supreme Court that Section 377 of IPC violated the right to privacy, the Supreme Court went to great length explaining the constitutional jurisprudence and evolution of the right to privacy. But having established the extreme importance of this

[32] **Associated Press,** "*India Recognises Transgender People as Third Gender*," (*The Guardian,* April 15, 2014)

right, the Supreme Court discounted the argument based on the right to privacy in relation to 377. The Supreme Court noted that while there has been some misuse of Section 377 against the LGBT+ community compromising their right to privacy and integrity for the purposes of blackmail, harassment or torture and in general, this is not the object of the section itself and Section 377 neither approves or authorises such treatment or laws and thus seems to not be the reason to show that such a law is way beyond the vires of constitution.

Judgment: However in K. Puttaswamy V. Union of India (popularly known as Aadhar judgment). Justice Chandrachud similarly had an opinion which included a sub-title "discordant notes". A section where there were two Supreme court judgments:-

The first was the well-known case of Additional District Magistrate, Jabalpur v. S.S. Shukla[33] which upheld the denial of fundamental rights, while the second part concerned the Koushal case rejecting the rhetoric of "so-called" rights of the LGBIQ+ community.

Justice Chandrachud noted that sexual orientation is also covered within the expansive right to privacy.[34] Also, notes of the Puttaswamy decision criticized the minimal hypothesis principle applied in the Koushal judgement, and stated that because the LGBT+ population is minuscule, this cannot be a reason to deny basic fundamental rights, and that even if there were only a few, and not a large number of people subjected to hostile treatment, the thrust of a fundamental right cannot be held tolerable.

The Supreme Court's constitutional principles in ruling that there is a right to privacy as an intrinsic fundamental right under Article 21 of the Indian Constitution, created anticipation among the queer community that the Court would eventually strike down Section 377.[35]

CONCLUSION AND RECCOMENDATIONS

CONCLUSION

This research, *"Decriminalised but not equal:A critical analysis of LGBTQ+ Rights in India,"* has undertaken a comprehensive and multidisciplinary exploration of the legal, socio-cultural,

[33] (1976) 2 SCC 521 (India)
[34] **Thyagarajan Narendran**, "*Privacy: A Recurring Theme in Justice Chandrachud's Landmark Judgments"*,(Supreme Court Observer, October 22, 2022)
[35] **Julie McCarthy**, "*Indian Supreme Court Declares Privacy a Fundamental Right"*, (NPR, August 24, 2017)

historical, and international dimensions of LGBTQ+ identity, with a primary focus on the Indian context. Through this study, it becomes evident that the struggle for LGBTQ+ rights is not merely a legal battle but a deeply embedded social and cultural challenge, shaped by both historical narratives and contemporary governance structures.

The trajectory of LGBTQ+ rights in India reveals a long arc of marginalization—beginning with the erasure and criminalization of non-normative sexualities during the colonial era, followed by decades of social invisibility and legal suppression. Post-independence, resistance and advocacy grew gradually, culminating in landmark judicial interventions such as the *Navtej Singh Johar v. Union of India* judgment, which decriminalized consensual same-sex relations. More recently, laws like the Transgender Persons (Protection of Rights) Act, 2019, have attempted to institutionalize rights for transgender individuals. However, these developments, while symbolically powerful, have not translated into comprehensive, lived equality.

The research underscores a key paradox: ancient Indian texts and cultural traditions often embraced gender fluidity and sexual diversity, yet modern Indian society—shaped heavily by colonial-era legal and moral frameworks—has come to reject these identities as alien or immoral. This dissonance points to the entrenched nature of societal stigma, which continues to marginalize LGBTQ+ individuals despite growing legal recognition.

When placed in a global context, India's progress appears uneven. Countries like the United States have advanced beyond decriminalization to affirm same-sex marriage, adoption rights, and protection from discrimination. In contrast, India’s journey remains largely judicially driven, with minimal proactive legislation or executive policy leadership. This over-reliance on the judiciary, while valuable, cannot substitute for the broad systemic reform that true equality demands.

Therefore, this study argues for a paradigm shift—from isolated legal reforms to a cohesive, cross-sectoral strategy involving legislative clarity, inclusive policy design, widespread sensitization, and genuine cultural change. True citizenship for LGBTQ+ individuals cannot be achieved through symbolic measures alone; it requires a fundamental rethinking of societal values and institutional practices. Without such a transformation, LGBTQ+ people will remain caught in an incomplete transition—decriminalized by law, yet not fully embraced by society

RECOMMENDATIONS

To fill the legal and social gaps and ensure inclusive integration of LGBTQ+ members in Indian society, the following specific recommendations are suggested:

General Principles for the Treatment of LGBTIQA+ Individuals

1) All LGBTIQA+ individuals must be treated with dignity and respect by state authorities, including police, judges, and prison staff.

2) No verbal, emotional, physical, or sexual abuse should be directed toward LGBTIQA+ persons.

3) Authorities must not:

    a) Ask intrusive or offensive questions about identity or sexuality.

    b) Demand proof of gender or sexual orientation.

    c) Make dehumanising remarks or gestures.

4) Discrimination is prohibited; authorities have a duty to create a safe and inclusive environment.

5) A neutral stance is not enough—positive measures (e.g., in-camera hearings, identity protection) may be required to ensure fair access to justice.

6) Complaints involving LGBTIQA+ persons must be handled sensitively, without moral judgment or unnecessary inquiry into personal relationships.

7) Police must avoid supporting false complaints from families against consenting adult LGBTIQA+ individuals.

8) FIRs should not be filed if adults have left home voluntarily; authorities must respect their autonomy.

9) Officials must not let personal beliefs (e.g., homophobia or transphobia) influence their actions.

10) Judicial processes involving LGBTIQA+ persons must be timely, sensitive, and just.

11) Courts and authorities should acknowledge and address structural barriers faced by the community.

12) Police stations, courtrooms, and prisons must provide inclusive and safe infrastructure.

13) Do not assume gender or sexual identity—ask individuals how they wish to be identified.

14) Criminal law should not be misused to target LGBTIQA+ individuals.

Action-Based Institutional Reforms for the Judiciary

1. **Supportive work environment -** Judicial institutions must strive to create a workplace culture that is inclusive and supportive of LGBTIQA+ employees. This includes ensuring non-discrimination, addressing bias in recruitment, and fostering a culture of respect and equality.

2. **Use of correct pronouns -** Judges, lawyers, and court staff must respect and use individuals' self-identified pronouns. Instead of assuming gender based on appearance or name, authorities should ask individuals how they prefer to be addressed, affirming their identity and dignity.

3. **Inclusion of judicial training -** All levels of judicial training—especially in national and state judicial academies—should include mandatory modules on LGBTIQA+ rights. These modules must address legal challenges, lived experiences, and strategies for inclusive adjudication.

4. **Diversity in judicial employment-** Employment of LGBTIQA+ individuals within the judicial system—across clerical, administrative, and judicial roles—is essential. Increased representation can help normalize queer presence in legal spaces and build trust among the community in accessing justice.

5. **Systematic data collection and review -**Judicial bodies should conduct data collection exercises involving judges, clerks, and staff to identify challenges in adjudicating LGBTIQA+ cases. This can guide the development of informed judicial guidelines and identify areas needing reform.

Development of judicial protocols

Based on common trends (e.g., denial of employment, identity recognition, family violence against queer couples), judicial academies should develop standardized protocols to guide judges on handling such cases with empathy and legal clarity.

Mandatory awareness workshop for staff

Beyond judges, all court staff must regularly attend sensitization workshops that focus on gender and sexual diversity. These workshops should highlight the lived experiences and unique challenges faced by individuals across the LGBTIQA+ spectrum.

Disciplinary Action against Misconduct

1. Courts should actively examine whether **disciplinary or penal action** is warranted in cases where police or state authorities are found to have **harassed or mistreated LGBTIQA+ individuals.**

2. This includes not only direct harassment of queer persons but **also targeting of activists, NGO workers, or allies** who support or assist them in exercising their legal rights.

3. Such accountability measures are essential to deter state overreach, reinforce legal protections, and signal that **discrimination or abuse based on gender or sexual identity will not be tolerated.**

4. Courts may recommend internal departmental inquiries, suspension, or criminal proceedings depending on the severity of the misconduct.

Sensitisation Programmes for Authorities

Courts should mandate regular **sensitisation and training programmes** for police, judicial officers, and court staff focused on LGBTIQA+ rights, identities, and legal protections.

These programmes must include:

a) Education on the **constitutional and legal rights** of LGBTIQA+ persons.

b) Training to eliminate **bias, stereotyping, and prejudiced behaviour** in handling complaints or providing services.

c) Sessions led by **community members, experts, and human rights organisations** to provide real-life perspectives and foster empathy.

Such programmes should be **institutionalised** within police academies and judicial training institutions to ensure **long-term attitudinal change**.

Periodic assessments should be conducted to measure the effectiveness of these programmes and update content based on evolving legal and social frameworks.

Executive & Policy-Level Recommendations for LGBTQ+ Inclusion

Inclusive Access to Government Welfare Schemes

Ensure explicit inclusion of LGBTQ+ individuals in flagship government programs such as Ayushman Bharat, Pradhan Mantri Awas Yojana (PMAY), Skill India, and MGNREGA. This should be accompanied by targeted outreach efforts and sensitization of implementation staff to eliminate discrimination and improve accessibility.

Formulation of a National Policy on LGBTQ+ Rights

Develop and implement a comprehensive National LGBTQ+ Equality Policy that aligns central and state efforts under a unified framework—modeled on best practices like Kerala's Transgender Policy. This should cover anti-discrimination measures, legal recognition, access to services, and socio-economic inclusion.

Adoption of Gender-Neutral Documentation Standards

Revise all government-issued forms and identity documentation to be gender-neutral, offering non-binary and self-identification options beyond "male" and "female." Procedures for changing gender markers should be simplified, non-intrusive, and based on self-declaration.

Inclusion in Census and National Surveys

Integrate LGBTQ+ identities into the decennial Census, National Sample Surveys (NSSO), and other official data collection mechanisms. Ensure disaggregated data by gender identity and sexual orientation to inform evidence-based policymaking and identify inclusion gaps.

Education and Sensitization: Policy Recommendations

Curriculum Reform

Integrate LGBTQ+ inclusive content into school and university syllabi to build understanding from an early age. Topics such as gender identity, sexual orientation, and human rights should be mandatory in subjects like civic education, social science, and health. Representation of LGBTQ+ individuals in literature and history should be normalized to counter stigma.

Mandatory Sensitization for Public-Facing Professionals

Introduce compulsory sensitivity training for teachers, police officers, healthcare workers, and government officials. Training should focus on respectful engagement, understanding LGBTQ+ identities, and upholding anti-discrimination laws. This will improve public service delivery and reduce institutional bias.

Anti-Bullying Policies in Schools

Establish and enforce anti-bullying policies in all schools, with specific protections for LGBTQ+ students. Ensure clear reporting mechanisms, consequences for bullying behavior, and support systems (e.g., counselors, safe spaces) for affected students. This will promote a safer, more inclusive learning environment.

International Commitments

1. Yogyakarta Principles Alignment
   India should clearly integrate the Yogyakarta Principles on the implementation of international human rights law with South Asia and sexual orientation and gender identity in its legislative and policy.
2. Active Participation in Global LGBTQ+ Forums

Engage actively in global human rights processes (such as the UN Independent Expert on SOGI) and regional cooperation on LGBTQ+ issues across South Asia.

In the end, while legal milestones—such as the reading down of Section 377—have laid an essential foundation, the journey toward full LGBTQ+ equality in India cannot rest solely on judicial achievements. True progress demands more than legal reform; it requires tangible inclusion, systemic overhaul, and a transformation in societal attitudes. This dissertation affirms that the rainbow does not end at decriminalization—it begins there. The path forward must be paved with sustained collective will, cross-sector collaboration, and the embracing of diverse identities. Only then can we envision and build a society that is not just lawful, but also truly
inclusive, equitable, and just.

BIBLIOGRAPHY

STATUTES AND LEGISLATIONS

1. The Constitution Of India
2. The Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Act, 2017
3. The Indian Penal Code,1860
4. The Mental Healthcare Act, 2017
5. Occupational Safety, Health and Working Conditions Code, 2020
6. The Transgender Rights Of Protection Act,2019
7. The Protection Of Women From Domestic Violence Act, 2005
8. The Sexual Harassment Of Women At Workplace (Prevention, Prohibition And Redressal) Act, 2013
9. The United Nations Convention Against Torture And Other Cruel Inhuman And Degrading Treatment Or Punishment, 2008
10. The Universal Declaration Of Human Rights, 1948
11. Yogyakarta Principles On The Application Of International Human Rights Law In Relation To Sexual Orientation And Gender Identity, 2006

BOOKS

1. JOHN RAWLS, JUSTICE AS FAIRNESS, The Philosophical Review (1958)
2. JUDIT BUTLER, GENDER TROUBLE: FEMINISM AND THE SUBVERSION OF IDENTITY, 22 (Routledge 1999).
3. AMARTYA SEN, THE IDEA OF JUSTICE, MASS: BELKNAP PRESS OF HARVARD University Press, Cambridge 2009
4. GAUTAM BHAN, BECAUSE I HAVE A VOICE: QUEER POLITICS IN INDIA 468(2003)

REPORTS

1. Law Commission of India, 172nd Report on Review of Rape Laws, (2000).

2. Law Commission of India, Consultation Paper on Reform of Family Law, (2017).

3. National Human Rights Commission (NHRC), Human Rights of Transgender as Third Gender in India, (2018).

4. The Yogyakarta Principles: Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity, (2006)

5. United Nations General Assembly, Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810 (1948)

6. Amnesty International, Annual Reports and LGBTQ+ Human Rights Campaigns,

7. ILGA World, State-Sponsored Homophobia Report, (latest ed.)

JOURNALS AND ARTICLES

1. Arvind Narrain, *The Queer Movement and the Reinstatement of Section 377*, 2 NUJS L. Rev. 2 (2009).
2. Danish Sheikh, *Law and Sexuality: Reading the Supreme Court's 377 Decision*, 9(2) NUJS L. Rev. 185 (2016).

3. Ratna Kapur, *Out of the Colonial Closet, but Still Thinking 'Inside the Box': Regulating 'Perversion' and the Role of Tolerance in Decriminalising Sodomy in India*, 2(2) NUJS L. Rev. 381 (2009).
4. Alok Gupta, *Section 377 and the Dignity of Indian Homosexuals*, 41(46) Economic and Political Weekly 4815 (2006).
5. Shruti Vidyasagar, *Beyond the Binary: Understanding Gender in Legal Discourse*, 4(1) Indian J. Const. L. 34 (2010).
6. Oishik Sircar, *Unframing the "Norm": Nation, Rights, and Sexuality in Contemporary India,* 3(2) Jindal Global L. Rev. 75 (2011).
7. Vikramaditya S. Khanna and Anurag K. Agarwal, *The Law and Economics of Marriage in India*, 5(1) Indian J. L. & Econ. 20 (2014).
8. Devdutt Pattanaik, *Queering Indian Mythology*, 6(1) Indian J. Gender Stud. 1 (2011).

WEBSITES

1. www.scconline.com
2. www.manupatra.com
3. www.feministlawarchieves.pldindia.org
4. www.economictimes.indiatimes.com
5. https://digiscr.sci.gov.in/
6. https://yogyakartaprinciples.org](https://yogyakartaprinciples.org)
7. https://www.un.org/en/about-us/universal-declaration-of-human-rights