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Journey towards Equality: The Evolving Landscape of LGBTQ+ Rights in India

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ABSTRACT

In India, the LGBTQ+ community has gone through a difficult yet transforming path for equality. This article looks at the community's ongoing problems and important legal breakthroughs. An important turning point in LGBTQ+ rights was reached in 2018 when the historic Navtej Singh Johar v. Union of India ruling decriminalised homosexuality. In a similar vein, transgender rights were acknowledged in National Legal Services Authority v. Union of India (2014), upholding their self-identification and dignity. But there are also enduring problems, like as assault, societal stigma, and the lack of legal acceptance of same-sex unions. The latest Supreme Court ruling recognised the rights of transgender people to marry under current rules and queer people to cohabit, but it rejected the legalisation of same-sex weddings, citing legislative prerogative. The court suggested steps to shield LGBT people from police pressure and domestic abuse, even while it denied adoption rights and other legal rights. Even though there are many obstacles in the way, action, lobbying, and changing public perceptions point to a bright future. The article emphasises that in order to attain complete equality for the LGBTQ+ population in India, extensive legislative reforms, societal acceptance, and political activism are required.

Keywords: LGBTQ+, Equality, Decriminalization, Transgender, Rights, Discrimination, Protection.

I. INTRODUCTION

Whilst LGBTQ+ rights in India have advanced significantly in recent years, there is still more work to be done before complete equality is achieved. Due to regulations from the colonial era and deeply embedded cultural biases, the LGBTQ+ population in India has endured severe discrimination, criminalisation, and marginalisation for a significant portion of its history. One effective tactic used to stigmatise and silence LGBTQ+ people was the British 19th-century criminalisation of same-sex relationships under Section 377 of the Indian Penal Code. LGBTQ+ individuals were forced to the periphery of society by this law, social and cultural hurdles, and harassment, assault, and denial of their fundamental human rights. However, India's legal and societal acceptance of LGBTQ+ rights has advanced significantly in recent years. Greater

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acceptance and visibility of the LGBTQ+ community have been made possible by significant court interventions, most notably the Supreme Court's 2018 decision in *Navtej Singh Johar v. Union of India*, which decriminalised consensual same-sex relationships. The 2014 ruling in *NALSA v. Union of India*, which formally acknowledged transgender rights, further highlighted the increasing trend towards equality. Significant obstacles still exist, nonetheless, in spite of recent court rulings. LGBTQ+ people still experience societal stigma, violence, healthcare and job discrimination, and the absence of legal recognition for adoption rights and same-sex weddings.

By highlighting significant turning points in the legal and social acceptance of the LGBTQ+ community, this paper seeks to document the changing terrain of LGBTQ+ rights in India. It will examine important court rulings, the function of advocacy organisations, and the societal issues that still exist in spite of advancements. Through this examination, the piece will provide insights into the continuous fight for LGBTQ+ equality, emphasising the successes, challenges, and hopes for a society that is more inclusive and just. We may better comprehend the importance of the path ahead—one that necessitates ongoing legislative changes, social development, and cultural acceptance—by knowing the history and current state of LGBTQ+ rights in India.

II. HISTORICAL CONTEXT: THE ROOTS OF LGBTQ+ OPPRESSION

India's history of LGBTQ+ discrimination is intricately linked to its colonial past. The British criminalised same-sex relationships in 1860 by introducing Section 377 of the Indian Penal Code, which set the stage for social stigma and legal discrimination. With its wide definition of "carnal intercourse against the order of nature," this statute, which was draughted by Thomas Macaulay, essentially made gay activities illegal. Its ambiguous wording permitted widespread punishment and upheld Victorian moral rules, influencing India's ideas on gender and sexuality even though it was meant to target male homosexual behaviour.

India had a more complex conception of sexuality before British control. Gender variety and same-sex partnerships were recognised in ancient books such as the *Kamasutra* and in Hindu, Buddhist, and Islamic cultural practices. However, Victorian standards that denounced such behaviours as abnormal were enforced by British colonisation. The colonial-era Section 377 was still in effect after independence in 1947, continuing to criminalise and socially marginalise LGBTQ+ people.

The Indian state did not prioritise LGBTQ+ rights in the early years after independence, and colonial moral standards continued to shape conservative cultural views. But because to

international human rights movements, LGBTQ+ advocacy in India grew in the 1990s. The Naz Foundation's 1994 petition contesting Section 377's legitimacy was a turning point. Despite its initial failure, this endeavour set the stage for subsequent legal challenges.

The Supreme Court rejected the Delhi High Court's 2001 judgement to decriminalise consensual same-sex relationships, which marked the beginning of the judiciary's recognition of individual rights despite social constraints. Therefore, the fight for LGBTQ+ rights in India is a reflection of a complicated history of societal marginalisation, colonial pressure, and the unwavering efforts of activists who have campaigned for equality and acceptance. Given this historical background, India's path towards LGBTQ+ equality is only getting started.

III. THE PIONEERING STRUGGLES: EARLY ACTIVISM AND LEGAL CHALLENGES

The 1990s saw a dramatic change in the terrain of LGBTQ+ activity and legal difficulties as the movement for LGBTQ+ rights in India started to pick up steam. Although Section 377 of the Indian Penal Code (IPC) has made homosexuality a crime since the British colonial era, there was not much organised opposition to this rule in the early years after independence. But when international campaigns for LGBTQ+ rights became stronger, activists in India started to appear, aiming to overturn the long-standing legal and societal conventions that disadvantaged the group.

(A) The Emergence of LGBTQ+ Activism

LGBTQ+ rights in India started to receive increased public attention in the 1990s, mostly as a result of the HIV/AIDS pandemic. As the virus progressed, it became evident that same-sex partnerships had a significant role in HIV transmission, and public health initiatives to combat the pandemic gave LGBTQ+ concerns a platform to enter the political and social debate in India. After concentrating on health and sexual rights, NGOs and activist organisations started to organise around more general concerns of gender and sexual diversity.

The Naz Foundation was established in 1994 and was one of the first and most important groups in India's struggle for LGBTQ+ rights. The organization's initial goal was HIV/AIDS awareness, but it quickly realised that Section 377 was a major obstacle to public health initiatives. Because same-sex relationships were made illegal, many men who have sex with men (MSM) were reluctant to get medical attention or take part in education and preventive initiatives for fear of societal disapproval and legal repercussions. This realisation paved the way for a movement that started to connect LGBTQ+ advocacy, human rights, and public health.

In addition to the Naz Foundation, grassroots groups advocating for LGBTQ+ rights in India started to take shape, including Sahodaran in Tamil Nadu, The Humsafar Trust in Mumbai, and Queer Media Network. These organisations put in a lot of effort to spread knowledge, offer assistance, and foster togetherness among LGBTQ+ people. They also interacted with legislators at the same time, advocating for changes and the removal of Section 377.

An important turning point in the visibility and depiction of LGBTQ+ individuals in India was the 1999 publication of *Bombay Dost*, the country's first LGBTQ+ magazine. Following this, Delhi had its first Pride parade in 2008, which raised awareness of the issue and gave those calling for decriminalisation and wider social acceptability a stage. Even while these occasions were important for increasing awareness, they also brought attention to the extreme discrimination and societal stigma that the LGBTQ+ population faces.

(B) First Legal Challenges: The Naz Foundation Case and its Aftermath

As LGBTQ+ campaigners saw how critical it was to overcome the colonial legacy of Section 377, the early 2000s witnessed a shift towards legal challenges. In 2001, the *Naz Foundation v. Government of the NCT of Delhi* lawsuit was one of the most significant court cases in the struggle for LGBTQ+ rights.

Together with other advocacy organisations, the Naz Foundation petitioned the Delhi High Court to declare Section 377 unconstitutional, claiming that it infringed upon fundamental rights protected by the Indian Constitution, including the right to equality (Article 14), the right to life and personal liberty (Article 21), and the right to be free from discrimination (Article 15). They said that the law primarily harmed the LGBTQ+ community and was a holdover from colonial control that had lost any justification.

In a historic ruling in 2009, the Delhi High Court invalidated Section 377, which dealt with adults having consensual same-sex relationships. Because the statute violated the basic rights of LGBTQ+ people, the court declared it to be unconstitutional. Consensual same-sex partnerships are an essential component of personal liberty and identity, according to Justice A.P. Shah's ruling, which highlighted the value of individual privacy, autonomy, and dignity.

An important win for LGBTQ+ rights in India was this ruling. It was heralded as a landmark event that marked a change in the legal and social landscape towards a more accepting and acknowledged LGBTQ+ community. Millions of LGBTQ+ people in India, who had long had to live in constant fear of being prosecuted under Section 377, now have hope thanks to the verdict. Additionally, it sparked additional activity and lobbying, elevating LGBTQ+ concerns to the fore of Indian public conversation.

Nevertheless this triumph didn't last long. In the *Suresh Kumar Koushal v. Naz Foundation* case, the Delhi High Court's ruling was overturned by the Supreme Court of India in 2013, confirming Section 377's validity. In its ruling, the Supreme Court upheld the statute and ruled that the government, not the courts, should make the decision about decriminalisation. The ruling reaffirmed the discriminatory nature of the legislation and was a blow to LGBTQ+ advocates as it criminalised consenting same-sex relationships once more..

Both in India and abroad, the 2013 Supreme Court decision was greeted with a great deal of dismay and indignation. In response, LGBTQ+ groups and activists swiftly organised campaigns, marches, and open demonstrations. However, the decision also energised the LGBTQ+ community in India, resulting in a fresh drive for legislative changes and an expansion of the public conversation around LGBTQ+ rights.

There was also a political and judicial reaction to the ruling. Following the 2013 ruling, many applications were submitted to the Supreme Court requesting that the decision be reviewed. Furthermore, criticism from both domestic and foreign sources increased, with human rights organisations and LGBTQ+ organisations claiming that the decision went against India's commitments under international human rights legislation.

The movement for decriminalisation persisted in spite of the defeat. Activists persisted in their legal fight, and in 2018 they were ultimately successful when the Supreme Court ruled in the landmark *Navtej Singh Johar v. Union of India* case that Section 377 was unconstitutional when it came to adult, consensual same-sex relationships.

Early LGBTQ+ rights movements in India were characterised by tenacity, bravery, and fortitude. From the founding of groups like the Naz Foundation to the legal battles in the Delhi High Court and the final defeat in 2013, the campaign showed the community's enduring struggles and its will to fight for justice. The relevance of Section 377 as a representation of colonial oppression and a roadblock to the acceptance of LGBTQ+ rights was brought to light by the early court cases. These early battles ushered in a new era in the fight for LGBTQ+ equality in India by laying the groundwork for subsequent legal and social successes.

IV. LANDMARK JUDGMENTS AND LEGAL MILESTONES

A number of significant court rulings that have not only improved the rights of the LGBTQ+ community but also changed the legal environment for gender and sexual minorities in India have influenced the fight for LGBTQ+ equality in that nation. The Indian judiciary's developing views on human rights, individual liberty, and dignity are reflected in these decisions. The *Puttaswamy* case (2017), the *NALSA* case (2014), and the *Navtej Singh Johar* case (2018) are

some of the most important rulings. Collectively, these rulings have broadened the concept of gender, safeguarded individual privacy, and advanced LGBTQ+ rights, all of which have helped India's social and legal landscape embrace sexual and gender diversity.

(A) The Navtej Singh Johar Case (2018)

The *Navtej Singh Johar v. Union of India* case in 2018 produced one of the most significant and revolutionary decisions in the history of LGBTQ+ rights in India. The Supreme Court overturned the 2013 Suresh Kumar Koushal ruling, which had restored Section 377 of the Indian Penal Code, and decriminalised consenting same-sex relationships between adults. A group of petitioners, including activists and LGBTQ+ community members, challenged the validity of Section 377 in the Johar case, which was presented before the Court..

In the struggle for LGBTQ+ rights in India, the Court's ruling in *Navtej Singh Johar* was a major victory. Chief Justice Dipak Misra headed a five-judge panel that ruled that Section 377's provisions criminalising adults' consenting same-sex relationships were unconstitutional. The defence of basic rights including the right to equality (Article 14), the right to life and personal liberty (Article 21), and the right to non-discrimination (Article 15) served as the foundation for the Court's reasoning.

The key observations made by the Supreme Court were:

- **Individual Autonomy and Privacy:** The Court underlined that adults are free to get into voluntary partnerships without worrying about facing legal repercussions. It said that a person's individuality and dignity are inextricably linked to their ability to love, express themselves, and have close relationships.
- **Rejection of the 'Unnatural' Argument:** It was firmly denied by the Court that same-sex relationships were "unnatural." A member of the court, Justice Indu Malhotra, contended that "history owes an apology to the LGBTQ+ community for the oppression and discrimination they have faced."
- **Constitutional Morality Over Majoritarian Views:** The ruling upheld the constitutional morality concept above majoritarian morality, which states that minority rights shouldn't be influenced by the opinions of the majority. The Court emphasised that everyone's rights, including those of the LGBTQ+ community, must be upheld in a constitutional democracy.

The decision represented the LGBTQ+ community's great victory and the overturning of colonial-era regulations that made love and intimacy illegal. It established a precedent for

upcoming lawsuits addressing LGBTQ+ rights and gave legal support for wider societal acceptance.

(B) The NALSA Case (2014)

The 2014 ruling in the *National Legal Services Authority (NALSA) v. Union of India* case marked yet another important legal turning point in the struggle for equality. The legal recognition of transgender individuals as a third gender and the affirmation of their freedom to self-identify as such made this case a landmark decision for the transgender community in India. The National Legal Services Authority (NALSA), an NGO that defends the rights of transgender people, brought the case, contesting the prejudice they experienced in a number of societal domains, including as legal recognition, healthcare, employment, and education.

The Supreme Court, in a unanimous judgment, issued a comprehensive order that laid down several key principles:

- **Right to Self-Identify Gender:** The Court held that transgender people are entitled to self-identification, meaning they are free to select whether they are male, female, or third gender without the state interfering. This ruling acknowledged that gender is more flexible than the conventional male-female dichotomy.
- **Affirmative Action:** According to the ruling, the government must act to guarantee that transgender individuals are accepted into society and have equal access to healthcare, education, and social programs. Like other socially disadvantaged groups, the Court ordered that transgender individuals be granted reservations in employment and education.
- **Decriminalization of Transgender Identity:** Transgender identity and customs that were previously deemed unlawful, like hijra culture, which had been marginalised in Indian society for generations, were decriminalised by the ruling.
- **Social Stigma and Discrimination:** The decision recognised the systematic violence and societal stigma that transgender persons experience, especially in the fields of work and healthcare. It called on the government to act swiftly to end these discriminatory practices.

The *NALSA* ruling marked a significant advancement in the integration of transgender individuals into India's societal structure. It upheld transgender people's dignity and guaranteed them the same rights as regular citizens by acknowledging their fundamental human rights.

(C) The Puttaswamy Case (2017)

The *K.S. Puttaswamy v. Union of India* case in 2017 had a significant influence on the legal arguments in favour of LGBTQ+ rights, especially the question of privacy in sexual interactions, even though it had nothing to do with LGBTQ+ rights specifically. The case focused on the constitutionality of the right to privacy, which was contested in light of the government's data collecting and monitoring methods. In a unanimous decision, the Supreme Court ruled that Article 21 (the right to life and personal liberty) of the Indian Constitution guarantees the right to privacy as a fundamental right.

This judgment had far-reaching implications for LGBTQ+ rights in India:

- **Privacy in Sexual Relations:** The decision acknowledged that one of the most important components of individual liberty is sexual privacy, especially the ability to have private, consenting intercourse. This was a major justification for decriminalising consensual same-sex relationships since people's right to privacy shielded them from unjustified government meddling in their private affairs.
- **Dignity and Autonomy:** The *Puttaswamy* ruling highlighted the link between individual dignity and privacy, especially in close relationships. The Court successfully set the stage for future rulings that would defend the autonomy and dignity of LGBTQ+ people by reaffirming the right to privacy.
- **Strengthening the Case for Decriminalization:** In the *Navtej Singh Johar* case, the *Puttaswamy* ruling was pivotal because it supported the legal contention that the criminalisation of same-sex relationships infringed upon a person's right to privacy, autonomy, and dignity. Citing the *Puttaswamy* decision, the Supreme Court said in *Johar* that consenting persons have the fundamental freedom to have sex without worrying about legal repercussions.

By reaffirming that every person's right to privacy is unalienable and that sexual orientation is an intrinsic element of an individual's identity, the *Puttaswamy* case contributed to the framing of LGBTQ+ rights within the larger human rights discourse.

These historic rulings—the *Puttaswamy* case, the *NALSA* case, and the *Navtej Singh Johar* case—have collectively played a significant role in changing the legal and social environment for LGBTQ+ people in India. These decisions have provided crucial safeguards against discrimination and cleared the path for a more inclusive society by upholding the values of autonomy, equality, privacy, and dignity. Even though there have been notable court rulings, issues including societal acceptability, anti-discrimination laws, and marriage equality still face

obstacles. However, these rulings serve as the legal cornerstone for continued initiatives to achieve complete equality for LGBTQ+ people in India.

V. KEY ISSUES AND CHALLENGES POST-DECRIMINALIZATION

Even though India's decriminalisation of same-sex relationships in 2018 was a significant legal win for LGBTQ+ rights, it was just the start of a longer fight for equality and respect. Although Section 377 of the Indian Penal Code was overturned in the Navtej Singh Johar case, the LGBTQ+ community still faces major obstacles to legal protections, social acceptance, and wider acknowledgement of their rights. In this regard, a number of significant obstacles still stand in the way of India's complete LGBTQ+ equality, such as the lack of anti-discrimination legislation, the fight to legalise same-sex marriage, the continuous difficulties with transgender rights, and the enduring prevalence of violence and social stigma.

(A) Absence of Anti-Discrimination Laws

The absence of comprehensive anti-discrimination laws is one of the most urgent problems LGBTQ+ people in India are now facing after decriminalisation. Although decriminalising homosexuality was a big step in the right direction, LGBTQ+ people are still not explicitly protected by the law in many spheres of life, such as public services, work, education, healthcare, and housing.

LGBTQ+ individuals continue to face harassment and discrimination in public places, workplaces, and educational institutions in the absence of a national anti-discrimination framework. For instance::

- **Employment:** LGBTQ+ workers frequently experience prejudice in hiring, the job, and promotions. Many LGBTQ+ people feel compelled to conceal their gender identity or sexual orientation in order to prevent discrimination from coworkers or employers. Conservative sectors and businesses without inclusive strategies are most affected by this problem.
- **Education:** In schools, LGBTQ+ children still experience harassment, exclusion, and bullying. While some schools have begun to provide LGBTQ+ students with assistance, such as by establishing inclusive environments and anti-bullying guidelines, these initiatives are mainly isolated and not widely implemented.
- **Healthcare:** Accessing HIV/AIDS medication, mental health assistance, and gender-affirming care is extremely difficult for LGBTQ+ persons, especially transgender people. Many LGBTQ+ people experience stigmatisation or outright refusal of care, and

healthcare practitioners might not be sensitive to these difficulties. Furthermore, discrimination in hospital contexts is not specifically protected by law.

- **Housing:** There is still a lot of discrimination in housing, especially against LGBTQ+ and transgender persons. LGBTQ+ persons are forced to live in hazardous or segregated environments because many landlords refuse to rent to people based on their sexual orientation or gender identity.

LGBTQ+ people are left defenceless in daily life in the absence of a cohesive and all-encompassing anti-discrimination law, which feeds the prejudice and stigma they experience in society. Legal changes that guarantee the LGBTQ+ community equitable treatment and opportunity in all areas of life are desperately needed.

(B) Same-Sex Marriage and Family Rights

The acceptance of same-sex weddings and family rights is another important LGBTQ+ issue that is still controversial in India. The Indian legal system has yet to acknowledge same-sex couples' legal status or their rights to marry, adopt children, or inherit property, despite the fact that decriminalising same-sex relationships was a significant legal success.

The petitioners in the same-sex marriage case, which is presently before the Supreme Court of India, contend that the constitutional rights of equality, dignity, and liberty grant legal legitimacy to same-sex marriages. The lawsuit, which has sparked intense discussion in both legal and social circles, aims to overturn current regulations that only recognise marriage between a man and a woman. The petitioners contend that:

- According to Article 21 of the Indian Constitution, a person's right to life and personal liberty includes the right to marry.
- Legal protections like as inheritance rights, social security benefits, and adoption rights should be granted to same-sex couples in the same way as they are to heterosexual couples.

Nonetheless, there is still a lot of resistance to same-sex marriage, especially from conservative and religious organisations who maintain that marriage should only be regarded as a relationship between a man and a woman. The Supreme Court's ruling on this petition might have a significant impact on same-sex couples as well as the larger LGBTQ+ community, influencing the nation's legal environment for LGBTQ+ rights for years to come. Without legal recognition, same-sex couples cannot enjoy the same legal rights as married couples, including inheritance rights, tax breaks, and the capacity to make medical choices for one another. Furthermore, same-

sex couples encounter prejudice and societal isolation while attempting to start and raise kids, therefore India must move closer to granting LGBTQ+ people legal equality in marriage and family rights.

(C) Transgender Rights and the Transgender Persons (Protection of Rights) Act (2019)

The 2019 passage of the Transgender Persons (Protection of Rights) Act was heralded as a turning point in India's legislative acceptance of transgender rights. The law sought to provide transgender persons legal recognition, outlaw discrimination in public services, healthcare, education, and employment, and create a procedure for transgender people to self-identify as gender nonconforming.

Despite being a huge advancement, the law has drawn a lot of criticism for a number of flaws that still have a detrimental effect on the transgender community:

- **Self-Identification:** Although the legislation acknowledges transgender people's ability to self-identify as gender nonconforming, it also mandates that they seek for a certificate of identification from a district screening committee. Critics contend that transgender persons may suffer greatly as a result of this time-consuming, invasive, and stigmatising bureaucratic process. Additionally, there is potential for discrimination because screening committees may refuse to acknowledge someone's gender identification or impose additional restrictions.
- **Gender-Affirming Healthcare:** For many transgender people, access to gender-affirming medical treatment is crucial, but it is not specifically guaranteed by the law. Economic, societal, and medical hurdles continue to prevent many people from accessing gender-affirming treatment, including hormone replacement therapy (HRT) and surgeries. The shortage of qualified medical personnel and the expense of these operations are not addressed by the law.
- **Recognition of the Third Gender:** Despite acknowledging the third gender, the legislation has come under fire for promoting the idea that transgender individuals must fit into a "third" category rather than recognising the legitimacy of a wider range of gender identities. This restriction has the potential to further marginalise those who don't fit into stereotypical gender roles.

Notwithstanding these obstacles, the Transgender Persons (Protection of Rights) Act's enactment marked a significant advancement in the acceptance of transgender rights. To guarantee that transgender persons may live with dignity, obtain healthcare, and fully engage in society without worrying about prejudice or violence, the legislation must be significantly

improved.

(D) Social Stigma and Violence

The continued violence and societal stigma that the LGBTQ+ population in India faces is one of their biggest problems. The visibility and acknowledgement of LGBTQ+ people have significantly improved as a result of legislative decriminalisation and court decisions, but the group is nevertheless marginalised by ingrained societal preconceptions and discriminatory attitudes.

LGBTQ+ people still have to deal with harassment, assault, and discrimination on a daily basis, especially in conservative and rural areas. Due to a lack of societal acceptability, particularly in familial contexts, many LGBTQ+ individuals face forced marriages, conversion therapy, or social exclusion. LGBTQ+ persons, particularly transgender people, frequently experience physical, psychological, or financial assault and harassment that remains unreported out of fear of more abuse or social rejection.

- **Transgender Individuals:** Those who identify as transgender experience some of the highest rates of prejudice and violence. Because they are rejected by their families, communities, and workplaces, many are compelled to engage in sex work or begging in order to exist. Additionally, transgender people continue to experience hate crimes, sexual assault, and police brutality, all of which are frequently disregarded or not sufficiently addressed by law enforcement.
- **Mental Health:** Numerous mental health issues in the community, such as increased rates of drug addiction, depression, anxiety, and suicide, are exacerbated by the stigma associated with LGBTQ+ identities. These difficulties are made worse by societal rejection, prejudice, and a lack of support networks.

Even while India's court rulings have helped spread knowledge, eradicating prejudice and gaining complete public acceptance are still difficult tasks. More has to be done to educate the public, alter cultural perceptions, and guarantee that the legal rights granted to LGBTQ+ people are adequately enforced and respected at all societal levels.

Though LGBTQ+ rights have advanced significantly in India, there is still more work to be done before full equality is achieved. The biggest obstacles still facing the LGBTQ+ community include the lack of anti-discrimination laws, the fight for acceptance of same-sex marriage, transgender rights, and the societal stigma that keeps them at the margins. It will need sustained legal activism, legislative reform, and social change to overcome these challenges. It will take a profound cultural transformation towards acceptance, tolerance, and inclusion at all societal

levels to win the battle for equality; it cannot be achieved in the courts alone.

VI. SOCIAL MOVEMENTS AND PUBLIC AWARENESS

The fight for LGBTQ+ equality in India has been greatly influenced by social movements and advocacy organisations that have dedicated their lives to promoting awareness, opposing discriminatory legislation, and helping those who are marginalised. These movements have been crucial in changing how the general public views LGBTQ+ people, as have changing media portrayals and social attitudes.

- **The Role of Advocacy Groups and Pride Movements**

In India, LGBTQ+ advocacy organisations have led the way in social and legislative reforms. The Naz Foundation, Sahodaran, and the Queer Azadi March are just a few of the organisations that have played a significant role in promoting legal decriminalisation, increasing public awareness of LGBTQ+ rights, and offering support services. These organisations provide a forum for under-represented views by planning pride marches, legal advocacy campaigns, and community assistance programs. For instance, the 2001 challenge to Section 377 was spearheaded by the Naz Foundation, and the Queer Azadi March has become a yearly occasion to call for societal acceptance and equal rights. Through these initiatives, these groups have fostered a sense of belonging and solidarity among LGBTQ+ people in addition to advancing legislative reforms.

- **Increased Visibility in Media and Popular Culture**

In the last several decades, there has been a notable shift in how LGBTQ+ people are portrayed in Indian media. More diversified and genuine portrayals have emerged in recent years, although early depictions were frequently restricted to unfavourable stereotypes. LGBTQ+ characters have been portrayed in Indian TV series and films such as "*Aligarh*," "*Shubh Mangal Zyada Saavdhan*," and "*Made in Heaven*" in a variety of nuanced and complicated ways, showcasing the range of experiences within the community. Additionally, social media has been an effective instrument for exposure, enabling LGBTQ+ people to campaign for their rights, share their stories, and have discussions about acceptance and identity. Growing media depiction of LGBTQ+ individuals has aided in dispelling myths and influencing public perceptions of them.

- **Public Attitudes and Cultural Shifts**

In India, public perceptions of LGBTQ+ people have changed dramatically, especially among younger generations. Many younger people support marriage equality and other legal

safeguards, and they are usually more tolerant of LGBTQ+ rights. More societal acceptability has resulted from the visibility of LGBTQ+ individuals in public life, including as politics, activism, and the arts. There are still issues, though, especially in rural places and among more orthodox social groups. Nevertheless, the ongoing efforts to increase awareness, education, and representation are progressively creating a more welcoming atmosphere where LGBTQ+ people are viewed as equal members of society.

The advancement of LGBTQ+ rights in India has been greatly aided by the work of advocacy groups, growing media attention, and changing public perceptions. Even though there has been progress, more advocacy, legislative changes, and cultural shifts are necessary to guarantee LGBTQ+ people complete equality and acceptance.

VII. THE ROAD AHEAD: THE FUTURE OF LGBTQ+ RIGHTS IN INDIA

With the legislative acknowledgement of transgender rights in 2014 and the decriminalisation of same-sex relationships in 2018, India has made significant strides in promoting LGBTQ+ rights. But in order to guarantee complete equality for LGBTQ+ people, there are still many obstacles to overcome and a long road ahead. More legal changes, more societal acceptability, and overcoming cultural and religious resistance will be crucial for the future of LGBTQ+ rights in India. This section examines some of the most important areas that require transformation as well as the actions that must be made to achieve full equality.

(A) Legal Reforms and the Need for Same-Sex Marriage Recognition

The acceptance of same-sex marriage is one of the most important issues facing LGBTQ+ rights in India at the moment. Marriage equality continues to be a controversial topic even after the historic decriminalisation of consenting same-sex relationships in 2018. The Supreme Court of India is now considering a case for same-sex marriage, arguing that the right to marry is a fundamental component of the equality, dignity, and personal freedom protected by the Indian Constitution.

For marriage equality to be realized, significant legal reforms will be required:

- **Amendment of Family Laws:** Marriage is defined as a relationship between a man and a woman by existing laws such as the Hindu Marriage Act, the Special Marriage Act, and others. To accommodate same-sex couples, these laws would need to be changed.
- **Adoption and Inheritance Rights:** In addition to marriage, same-sex couples now have legal obstacles regarding inheritance rights and child adoption. Same-sex couples would have the same rights and protections as heterosexual spouses in these places if marriage

were legally recognised.

- **Impact of Supreme Court Judgment:** It will be crucial to see how the Supreme Court rules on same-sex marriage. It will be a historic ruling if the Court upholds marriage equality, which may change the legal landscape for LGBTQ+ people and give them equal standing under family law. However, LGBTQ+ couples will continue to experience social and legal exclusion, maintaining their unequal standing in society, if the Court finds against marriage equality.

The legal right to marry is only one aspect of marital equality for many LGBTQ+ people; another is the right to be viewed as equal members of society. Therefore, the battle for same-sex marriage acceptance is essential to the larger campaign for LGBTQ+ equality in India.

(B) Comprehensive Anti-Discrimination Laws

Even though there have been great advancements, the lack of comprehensive anti-discrimination legislation that particularly protect LGBTQ+ people in India in all spheres of life remains one of the most urgent problems for them. Although the Transgender Persons (Protection of Rights) Act of 2019 provides certain safeguards for transgender people, there are currently no national regulations that address gender identity and sexual orientation in all areas, such as healthcare, education, work, and housing.

Comprehensive anti-discrimination laws are crucial for:

- **Ensuring Equality in Employment:** LGBTQ+ workers frequently experience prejudice in the workplace, in hiring, and in promotions. Laws should protect against harassment and require nondiscrimination in the workplace.
- **Access to Education:** In school environments, LGBTQ+ kids experience harassment, marginalisation, and bullying. Anti-discrimination legislation would guarantee LGBTQ+ students a safe and welcoming environment at schools and institutions.
- **Healthcare Access:** Particularly transgender people frequently experience prejudice in healthcare settings, as medical personnel may abuse them or refuse to treat them. Legal safeguards would guarantee that LGBTQ+ people may obtain necessary medical treatment without worrying about prejudice or discrimination.
- **Social Inclusion and Housing:** Landlords and housing providers frequently discriminate against LGBTQ+ people, especially transgender people. Anti-discrimination legislation would give those who are excluded because of their gender identity or sexual orientation legal remedy.

To put it briefly, robust anti-discrimination legislation are required to provide LGBTQ+ people equal access to opportunities, protection from harassment, and dignity in all spheres of life. Enacting such legislation is a critical first step in guaranteeing LGBTQ+ people's complete equality.

(C) Transgender Rights and Social Justice

The transgender community still faces many obstacles, even with the 2019 passage of the Transgender Persons (Protection of Rights) Act. The Act itself has come under fire for failing to adequately meet the requirements of transgender people, particularly in regards to legal recognition, gender-affirming healthcare, and work possibilities.

Key areas for improvement include:

- **Gender-Affirming Healthcare:** One of the biggest problems facing transgender persons in India is still the lack of access to gender-affirming healthcare. Access to gender-affirming procedures and hormone therapy, which are essential for the physical and emotional health of many transgender people, is severely hampered. Policies must be established to ensure that these services are available, reasonably priced, and discrimination-free.
- **Employment:** Due to prejudice in the official labour market, transgender people frequently experience unemployment or are compelled to participate in marginalised occupations like begging or sex work. To guarantee that transgender people have equal access to work opportunities and that companies implement inclusive hiring practices, legislative and policy changes are required.
- **Legal Recognition and Self-Identification:** Even while the law acknowledges transgender people's freedom to self-identify, getting a gender certificate from a screening committee is still a difficult and stigmatising process. It is crucial to streamline this procedure and guarantee that transgender individuals may self-identify without encountering administrative obstacles.
- **Social Inclusion:** Particularly in more orthodox regions of India, transgender persons still experience a great deal of violence and social shame. To remove these obstacles, social initiatives that educate the public about transgender concerns and provide transgender support networks are required.

It is important to consider the fight for transgender rights as a component of the broader social justice movement. Legal changes are necessary for true inclusion, but so is a shift in culture that

treats transgender people with decency and respect in all spheres of life.

(D) Challenges of Religious and Cultural Opposition

Religious and cultural resistance is one of the biggest obstacles to the establishment of LGBTQ+ rights in India. Many religious organisations still maintain firmly held beliefs that LGBTQ+ rights should not be recognised, especially conservative segments of the Christian, Muslim, and Hindu societies. It is more difficult to enact more reforms when this opposition takes the shape of political pushback, legal challenges, and public protests.

It is vital for the state to strike a balance between religious convictions and constitutional principles. All Indian citizens, regardless of their gender identity or sexual orientation, are guaranteed fundamental rights under the Indian Constitution, including equality, dignity, and freedom of speech. But the Constitution also guarantees religious freedom, and the difficulty is striking a balance between upholding the equality and dignity guaranteed by the Constitution and honouring religious and cultural traditions.

Key challenges include:

- **Legal Resistance:** Conservative political organisations may utilise religious justifications to thwart reforms like anti-discrimination legislation and the legalisation of same-sex marriage.
- **Cultural Norms:** LGBTQ+ issues are still quite taboo in many places, and religious leaders may sway public opinion against LGBTQ+ rights. Because of these strongly ingrained cultural standards, LGBTQ+ people may find it challenging to live freely and openly.

The constitutional need for equality and nondiscrimination is unaffected by this disagreement. Despite cultural and religious opposition, the Indian government must keep protecting the rights of LGBTQ+ people. This calls for social justice and human rights-minded leadership, as well as a populace that is becoming more accepting of the notion that all people are created equal.

LGBTQ+ rights in India have a bright future, but there are still obstacles to overcome. Important objectives that need to be pursued immediately include the acceptance of same-sex marriage, the enactment of comprehensive anti-discrimination legislation, and the promotion of transgender rights. However, in order to promote a more welcoming and inclusive society, ongoing lobbying, education, and discussion will be necessary in the fight against religious and cultural resistance.

It is crucial that the government, civil society, and LGBTQ+ activists keep collaborating as

India advances down this road in order to guarantee that the rights and dignity of LGBTQ+ people are completely acknowledged and upheld. Legal change alone won't be enough to achieve complete equality; society as a whole must also change to be more accepting, understanding, and inclusive.

VIII. CONCLUSION: A CONTINUING JOURNEY

In India, the path to LGBTQ+ equality has been a protracted and difficult one, filled with important legislative turning points and fierce struggles for societal acceptance. The LGBTQ+ community has seen significant triumphs that have redefined its legal rights, ranging from the colonial legacy of criminalisation under Section 377 to the current historic Supreme Court rulings. A more inclusive future has been made possible by the decriminalisation of same-sex relationships in 2018, the acceptance of transgender rights in 2014, and the ongoing legal challenges to same-sex marriage. However, there are still many obstacles along the way, especially when it comes to getting full legal recognition for same-sex couples, guaranteeing complete rights against discrimination, and gaining full social inclusion for transgender people.

LGBTQ+ rights have advanced thanks to court rulings like *Navtej Singh Johar* (2018) and *NALSA v. Union of India* (2014), but the group still confronts major obstacles in terms of social acceptability. The achievement of comprehensive equality is nevertheless hampered by problems including the absence of anti-discrimination legislation, the continuous fight for acceptance of same-sex marriage, and the insufficient application of gender-affirming laws for transgender people. Social stigma, violence, and exclusion are still widespread, especially in conservative and rural areas where prejudice against LGBTQ+ individuals is still fuelled by deeply ingrained cultural and religious beliefs.

Nonetheless there are plenty of reasons to be hopeful in spite of these obstacles. A strong foundation for change is provided by the LGBTQ+ community's tenacity and resiliency, which are reinforced by an expanding network of advocacy organisations, allies, and the increased visibility of LGBTQ+ individuals in the media and public life. A societal transition towards more tolerance and diversity is being facilitated by younger generations, who are especially more receptive and supportive of LGBTQ+ rights. The optimism for gender equity, anti-discrimination measures, and marriage equality is growing as legal challenges advance and public opinion shifts.

Although there is still a long way to go, the progress done thus far cannot be denied. It is evidence of the bravery and tenacity of people who have battled for equality, sometimes at tremendous personal expense, as well as the strength of unity and group effort.

It is imperative that we keep advocating for more legislative reforms, societal acceptance, and cultural transformation as we look to the future. Until the LGBTQ+ group is protected in all areas of life, free from discrimination, and given the same rights and recognition as other citizens, its rights will not be completely realised. The pursuit of equality is an ongoing process that calls for persistent lobbying, legal action, and a dedication to building a society in which everyone is treated with respect and dignity, regardless of their gender identity or sexual orientation.

Let's pledge to continue this fight and make sure that LGBTQ+ people's rights are fully recognised in both the legal and social spheres. Even if there is still a long way to go, change is not only possible but inevitable if one persists.

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