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Right to Employment and Exclusive Analysis on LGBTQ+ People and Employment Right

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ABSTRACT

The author examines the important topic of the right to work, concentrating on the LGBTQ+ community in India. It emphasizes how the Indian Constitution and the Universal Declaration of Human Rights, among other international and state legal frameworks, guarantee the fundamental human right to work. The study draws attention to the difficulties that the LGBTQ+ population in India faces, especially with regard to harassment at work, lack of access to education and training, and employment discrimination.

The study highlights the harsh realities of discrimination and societal barriers LGBTQ+ people must overcome, which can result in underemployment or unemployment, through the personal stories of a variety of LGBTQ+ people. These narratives effectively highlight how gender identity, sexual orientation, and employment rights are intertwined.

The report also examines a number of governmental and non-governmental programs designed to help LGBTQ+ people find better jobs in India. These include the Ministry of Social Justice and Empowerment's initiatives, the Transgender Persons (Protection of Rights) Act of 2019, and other state government programs. While these initiatives are a step in the right direction toward inclusivity, the paper makes the case that much more work needs to be done.

The author suggests a number of tactics to improve LGBTQ+ employment prospects. These include passing and upholding anti-discrimination legislation, providing financial aid to individuals in need, educating the public about workplace inclusivity, and implementing education and training initiatives. The study highlights how important these actions are for societal advancement in addition to being required by law.

Keywords: *LGBTQ+ Rights, Employment Discrimination, Human Rights, Indian Constitution, Workplace Inclusivity.*

I. INTRODUCTION

A fundamental human right that establishes the basis for a purposeful and happy life, the right to employment is a cornerstone of human dignity and well-being. In addition to addressing

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personal survival and comfort, this right—which is inextricably related to the necessities of food, shelter, and healthcare—also gives people the ability to actively participate in their communities and society as a whole. This right assumes a special significance in the Indian context, especially when considered from the perspective of the LGBTQ+ community. Even though this right is protected by a number of international and national legal frameworks, including the International Covenant on Economic, Social, and Cultural Rights and the Universal Declaration of Human Rights, its actual implementation frequently lags behind, particularly for marginalized communities like the LGBTQ+ community.

Author study explores the complexities of the right to work, with a particular emphasis on the obstacles and difficulties that the LGBTQ+ population in India faces. Based on the Indian Constitution's legislative framework, which recognizes the right to work as a fundamental one, this article clarifies the inequalities and discrimination faced by LGBTQ+ people in the workplace. The legal background for this topic is provided by Article 16 of the Constitution, which provides equal opportunity in government employment regardless of race, religion, caste, sex, descent, place of residence, or sexual orientation. Furthermore, as the Supreme Court of India has confirmed, Article 21, which defends the right to life, implicitly includes the right to labor, highlighting the significance of employment in maintaining human dignity and well-being.

The situation for many members of the LGBTQ+ community in India is very different, even with these fundamental protections. Through personal accounts and testimonies from a range of LGBTQ+ people, who describe experiences with exclusion, harassment, and discrimination in the workplace, the study examines this paradox. These tales serve as a moving reminder of the disconnect between the letter and the spirit of the law, as well as the social and professional difficulties that the community faces.

The article examines the initiatives taken by Indian governmental and non-governmental groups to enhance employment prospects for LGBTQ+ people in order to solve these issues. The impact and efficacy of initiatives like the Transgender Persons (Protection of Rights) Act 2019, different state government programs, and initiatives run by the Ministry of Social Justice and Empowerment are evaluated.

II. ANALYSIS

Human dignity and wellbeing depend on the capacity to employment. The basic requirements of people, such as those for food, shelter, and healthcare, are met. Additionally, it enables people to contribute to society and their communities.

A key human right that enables self-support is the right to employment. It is protected under the Universal Declaration of Human Rights, the International Covenant on Economic, Social, and Cultural Rights, and numerous national constitutions.

The Indian Constitution recognizes the freedom to work as a basic right. The Constitution's Article 16 guarantees the right to equal opportunity in employment with the government. This states that all people are eligible to apply for public work regardless of their race, ethnicity, gender, sexual orientation, ancestry, or place of residence.

The Constitution also ensures the freedom to work, according to Article 21, which defends the right to life. The right to work is included in the right to life, according to the Supreme Court of India, because work is necessary to uphold human dignity and wellbeing.

Several important aspects of the right to work include:

- The freedom to pursue any employment one desires or accepts;
- The right to reasonable and favorable working conditions;
- The right to unemployment compensation.

Even though the right to work is a basic human right, it is not always respected in India. India has a huge number of unemployed or underemployed people. They may face discrimination at work because of their caste, religion, gender, or disability. Dangerous or harmful working conditions are also possibilities.

Unemployment and underemployment are disproportionately harmful to LGBTQIA+ individuals. This is caused by a multitude of factors, including job discrimination, a lack of access to education and training, and violence and harassment.

There are various non-governmental organizations (NGOs) that provide assistance to LGBTQIA+ people. After speaking with a number of people in India who support the LGBTQ+ community, they revealed some of their concerns, including

Anuj

"I have a bachelor's degree in technology." I was employed, however, not because of my qualities, but because I am gay and innately feminine; I have no control over who I am. Last year in 2022, I began working hard for a company in Delhi, but after a month, I left due to abuse and prejudice."

Fatima

"I'm transgender, and I'm proud of it, but this is a social curse." I opened my own food stand,

but I closed it after only 15 days. Do you understand why? Because somebody informed my customers that if they ate at my corner, they would go to hell. And then, one day, a group of four people came into my shop and began verbally harassing and physically abusing me because I'm transgender and operate my own business."

Sumitra

"I'm transsexual, I have a post-graduate MA in English, and I work as an English teacher in a private school in Nagpur. However, after three months, my school district fired me owing to complaints from parents who claimed that I didn't have the right to instruct their children because I'm transgender. As a result, I'm now unemployed, and the government is doing nothing to help."

Sachin

"I'm queer, and I'm proud of it, but my family isn't." I'm 32 years old, but I don't have a job, so I'm eager to satisfy my desires. Even though I don't want to, I work as a sex worker; I'm educated, but I don't have a job, and wherever I can find employment, people treat me like an animal because they only care about feeding their lust.

I noticed that LBTQIA+ people had a tough time getting work and sustaining themselves in their new surroundings after chatting with a variety of people. To address these concerns, the Indian government and various state governments have lately launched a variety of LGBTQIA+ employment initiatives. Among these initiatives are the following:

The following are the provisions of the Transgender Persons (Protection of Rights) Act, 2019:

- This Act provides transgender people with a range of rights and protections, including the right to employment without discrimination. Transgender persons are also recognized as a third gender.
- The Ministry of Social Justice and Empowerment's Development of Transgender Persons Scheme: Transgender people can get financial assistance through this program for a variety of purposes, including education, skill development, and employment.
- The National LGBTQ+ Issues Task Force was established in 2021 by the Ministry of Social Justice and Empowerment to create an inclusive strategy for the welfare of LGBTQ+ individuals in India. Employment is one of the task force's main interests.
- The Transgender Persons (Welfare and Development) Scheme of the Tamil Nadu government: This program offers transgender people in Tamil Nadu a monthly stipend, health insurance, and skill-development programs.

- The Transgender Persons (Welfare and Development) Scheme of the Kerala government: Transgender people in Kerala can benefit from this program in a similar way.
- The Transgender Persons (Protection of Rights) Rules, 2021 of the Karnataka government: According to these rules, public sector companies and government agencies in Karnataka must reserve at least 1% of open positions for transgender people.
- Transgender Persons (Protection of Rights) Rules for Maharashtra, 2021: According to these laws, transgender people must be awarded at least 2% of all open positions in Maharashtra's public and private businesses with more than 50 employees.
- The Delhi government issued the Transgender Persons (Protection of Rights) Rules, 2020: Transgender people must be given at least 1% of all available posts in Delhi government agencies and commercial firms with more than 100 employees, according to these legislation.
- West Bengal's administration has taken initiatives to ensure that transgender people have access to work and educational opportunities. A Transgender Development Board has been formed to address a number of challenges.
- Puducherry: Puducherry implemented legislation for transsexual employment and care. They have taken measures to provide equal chances in education and work.
- Telangana: The Telangana state government has indicated that it is committed to the well-being of transgender individuals. Even while specific employment measures may not have garnered much attention, the state has supported transgender rights.

There are various testimony of LGBTQIA+ people who have found employment through government programs;-

Sunita

"I'm a trans woman without a job, but thanks to the Tamil Nadu government's vocational training program, I learned to bake." I subsequently started my own baking show and made a lot of money."

Mohit

"I'm not sure how to convey my appreciation to the Karnataka government for their efforts, which resulted in my employment "

Numerous municipal groups have taken steps to accommodate LGBTQIA+ people in

mainstream society. for example,

The Pune Municipal Corporation (PMC) runs a number of social welfare activities focused at assisting transgender people. These efforts provide transgender people with opportunities for work, education, and training.

- One of Pune's most significant social welfare initiatives for transgender individuals is the Transgender Welfare Scheme. This program gives transgender people financial support for a range of needs, such as:
- Education: Transgender students in high school or college may be eligible for financial aid to help cover the cost of tuition, books, and other educational expenses.
- Development of skills: Transgender people can also apply for financial aid to pay for training courses. This can assist them in acquiring the skills necessary to secure employment.
- Employment The Transgender Welfare Scheme also offers financial support to transgender individuals who are launching their own enterprises or looking for employment.

The PMC sponsors a range of other social welfare programs that can help transgender people in addition to the Transgender Welfare Scheme. For instance, the PMC's ***Vocational Training Scheme*** offers training to members of underprivileged groups, including transgender persons. Additionally, the PMC offers a "Self-Employment Scheme" to help transgender people and other members of underprivileged communities launch their own enterprises.

Transgender people must have same access to opportunities as everyone else, according to the PMC. The social welfare programs run by the PMC are essential for assisting transgender people in realizing their full potential.

Examples of how the PMC's social welfare programs have benefited transgender persons include the following:

- A transgender lady who had previously been jobless received assistance from the PMC to launch her own tailoring business. She can now provide for both herself and her family.
- The PMC provided funding to another transgender lady who had previously worked as a sex worker so she could enroll in a program for vocational training. She is currently employed as a beautician and makes a respectable living.

- The PMC provided financial aid to a transgender guy who had previously left school in order for him to finish his education. He is a college student now working on an education degree.

These are just a few instances of how transgender individuals in Pune have benefited from the PMC's social welfare initiatives. Transgender people can live better lives and realize their full potential thanks to the services provided by the PMC.

In addition to these government programs, a number of NGOs and civil society groups are working to make it easier for LGBTQIA+ persons to get employment. For instance, the Naz Foundation (India) runs a program called the "Transgender Employment Project" that offers job training and support for placement to transgender people.

Despite these initiatives, much more has to be done to provide equal access to work opportunities for LGBTQIA+ individuals in India. Many LGBTQIA+ individuals experience employment discrimination, and many are unemployed or have part-time jobs. The most recent actions taken by the government and civil society organizations, however, are a positive development.

Here is a poem about the right to employment for all, by the South African poet **Mongane Wally Serote**:

The Right to Work

The right to work

Is the right to live

To feed a family

To send a child to school

The right to work

Is the right to dream

To build a home

To plant a tree

The right to work

Is the right to be

To contribute to society

To make a difference

The right to work

Is a human right

And it belongs to all

The poem mentioned above emphasizes the value of employment and makes no assumptions about a person's sex or sexual orientation.

There are numerous ways to give LGBTQIA+ people in India the ability to work. Here are some suggestions:

1. Passing laws that forbid workplace discrimination based on sexual orientation and gender identity is one of the most important steps that can be taken to ensure that LGBTQIA+ people have access to the right to employment.

People who identify as LGBTQIA+ and experience workplace discrimination may find it challenging to land and keep a job. Numerous unfavorable effects, such as financial hardships, social isolation, and mental health problems, may occur from this.

Laws that forbid workplace discrimination on the basis of sexual orientation and gender identity can protect LGBTQIA+ individuals from these negative effects. These guidelines may also help to create a more welcoming and inclusive work environment for all employees.

Here are a few specific examples of how legislation against discrimination in the workplace on the basis of sexual orientation and gender identity may be enacted and enforced:

- Governments have the power to pass legislation that expressly forbids discrimination in the workplace based on sexual orientation and gender identity. All aspects of work, such as hiring, progression, termination, and remuneration, should be covered by these standards.
- Governments can set up enforcement measures to ensure that employers abide by anti-discrimination laws. This can entail creating a human rights commission or another institution to look into claims of discrimination.
- Governments can offer tools and support to employees who have experienced prejudice at work. Services including job placement, counseling, and legal aid may fall under this category.

A critical step toward guaranteeing that LGBTQIA+ people have access to the right to work is the enactment and enforcement of laws that prohibit workplace discrimination based on sexual orientation and gender identity. It is also a vital step in achieving more inclusivity and equality

for all people in society.

2. LGBTQIA+ people can learn the skills essential to find and keep jobs in a variety of ways with the aid of education and training programs.

To begin with, these programs can help LGBTQIA+ people acquire technical skills, which are necessary for many jobs. For instance, a person who identifies as LGBTQIA+ and wants to work as a software engineer could enroll in a coding course.

Second, initiatives for education and training can help LGBTQIA+ people acquire the soft skills necessary for success in the workplace. For instance, these programs can instruct LGBTQIA+ people in effective communication, teamwork, and dispute resolution.

Third, programs for education and training can help LGBTQIA+ individuals widen their networks in the workplace. These networks can help LGBTQIA+ individuals find employment opportunities and mentors who can help them advance their careers.

Education and training programs for LGBTQIA+ people can provide them with specialized support to help them overcome professional challenges in addition to these general advantages. For instance, these workshops can show LGBTQIA+ individuals how to deal with discrimination at work and how to create a supportive workplace environment.

Here are some instances of training and education initiatives specifically geared toward the LGBTQIA+ community:

- LGBTQIA+ individuals can acquire the skills needed in fields including software engineering, customer service, and healthcare through job training programs.
- Programs for career counseling help LGBTQIA+ individuals determine their professional objectives and create a strategy to reach those objectives.
- LGBTQIA+ people can find seasoned professionals who can offer guidance and assistance through mentoring programs.
- Networking groups: These organizations give LGBTQIA+ people the chance to connect with other LGBTQIA+ professionals and build connections that may result in job opportunities.

To help LGBTQIA+ people realize their full potential at work, education and training programs are essential. By giving LGBTQIA+ people the tools and support they need to thrive, these initiatives can contribute to the development of a more inclusive and equitable society.

3. For a number of reasons, it is essential to provide an inclusive and welcoming work environment for all employees, regardless of their sexual orientation or gender identity. It is first and foremost the right thing to do. Whatever one's identity or relationships, everyone needs to be treated with respect and dignity. Second, an inclusive workplace produces more. When workers feel supported and protected, they are more likely to be involved in their work and give it their best effort. Third, it's more tempting to work somewhere that's inclusive. Top talent is looking for businesses that emphasize diversity and inclusion more and more.

There are many things employers can do to create a diverse and accepting work environment for LGBTQIA+ employees. Here are some suggestions:

- Create a simple and transparent anti-discrimination policy. This policy should forbid discrimination based on sexual orientation and gender identity in all facets of employment, such as hiring, promotion, pay, and termination.
- Employees ought to receive training on how to create a welcoming workplace. This training should cover topics like implicit bias, microaggressions, and how to handle discrimination.
- Employee resource groups (ERGs) for LGBTQIA+ workers and their allies ought to be established. ERGs can assist educate other employees about LGBTQIA+ issues while also providing LGBTQIA+ employees with support and networking opportunities.

Use inclusive language in all communications at the office. This entails using gender-neutral pronouns and refraining from using language that is heteronormative or gendered.

Celebrate the festivals and events for LGBTQIA+. This shows staff members that their distinctive identities are valued and respected.

By taking these steps, employers may create a work environment where all employees feel valued, supported, and secure.

In addition, the actions listed below can be implemented to develop a welcoming and inclusive work environment for LGBTQIA+ employees:

- Verify whether your workplace has restrooms and change areas that are gender-neutral.
- Give employees the freedom to use their preferred pronouns and names.
- Employees should receive training on how to support LGBTQIA+ people.
- Support local LGBTQIA+ organizations.
- Defend LGBTQIA+ rights and condemn prejudice.

4. Provide financial assistance to LGBTQIA+ individuals who are jobless or underemployed. This might make it easier for LGBTQIA+ people to pay for things like job training and placement as well as meet their fundamental needs.

There are numerous ways to help LGBTQIA+ people who are unemployed or underemployed financially. These strategies include:

- Government initiatives: Governments can offer financial assistance to LGBTQIA+ persons who are unemployed or underemployed through a variety of programs, including unemployment benefits, social safety nets, and job training programs.
- Nonprofit organizations can also assist LGBTQIA+ individuals who are jobless or underemployed. These organizations could offer a wide range of services, such as financial support for living expenses, job training, and assistance with job placement.
- Individuals and organizations can also give money to LGBTQIA+ people who are unemployed or underemployed. Donations to LGBTQIA+ groups or direct assistance to LGBTQIA+ individuals in need are two ways to do this.

Here are some specific examples of how to give LGBTQIA+ people who are unemployed or underemployed financial assistance:

- Those enrolled in job training programs who identify as LGBTQIA+ should be able to apply for grants or scholarships. This can help LGBTQIA+ individuals acquire the skills they need to land jobs and keep them.
- LGBTQIA+ individuals should be given financial support when starting their own businesses. This can help LGBTQIA+ people start their own businesses and employ others as well as themselves.
- Give money to LGBTQIA+ people who are jobless or underemployed and have a hard time paying for necessities like food and housing. This can help LGBTQIA+ individuals meet their basic needs while concentrating on their job search.
- Give LGBTQIA+ individuals who experience workplace discrimination financial assistance. This can help LGBTQIA+ individuals fight discrimination and stand up for their rights.

It is important to emphasize that helping LGBTQIA+ people who are unemployed or underemployed can take many different forms. Additional forms of support are also required, including help with networking, networking opportunities, and emotional support.

By providing financial aid and other forms of support, we can assist LGBTQIA+ people who are unemployed or underemployed in overcoming their obstacles and realizing their full potential.

5. Spread awareness of workplace inclusion issues and the challenges faced by LGBTQIA+ people. Public awareness campaigns and training programs for both employees and employers could achieve this.

Employees who identify as LGBTQIA+ face a number of challenges at work, including:

- LGBTQIA+ individuals may experience prejudice during the hiring, promotion, and termination procedures. Additionally, they could experience bullying and harassment at work.
- Inclusion: Employees who identify as LGBTQIA+ may feel excluded from the workplace culture and may be reluctant to be authentic. Social isolation and decreased productivity may arise from this.
- Access to services: People who identify as LGBTQIA+ may have problems getting access to services that satisfy their needs, such as health insurance and employee assistance programs.

The mental and physical health of LGBTQIA+ individuals, as well as their productivity at work, may be significantly impacted by these challenges.

For LGBTQIA+ employees as well as other employees, the workplace must be inclusive. When workers feel involved in their work environment, they are more likely to be engaged and productive. Additionally, they have a higher likelihood of continuing to work for the same employer over time.

Employers can promote LGBTQIA+ inclusion in the workplace by engaging in a range of activities, such as:

- Establish anti-discrimination regulations. Discrimination on the basis of sexual orientation or gender identity should be prohibited under these regulations.
- Employees should receive training on how to create a welcoming workplace environment. Employees ought to participate in this training to understand about issues relating to LGBTQIA+ people and how to handle discrimination.

- Create a support network for employees who identify as LGBTQIA+ and their allies. This group can provide resources and networking opportunities for LGBTQIA+ workers.
- Provide extensive employee benefits, such as health coverage for spouses and children of the same sex.

By taking these steps, employers may create a more welcoming workplace for all workers, including LGBTQIA+ individuals.

(A) Suggestions

Here are some suggestions for increasing public understanding of the difficulties LGBTQIA+ individuals face at work and the need of workplace inclusion:

- Talk about these issues with your loved ones, close friends, and coworkers. Share both your own and the experiences of people you know.
- Participate in LGBTQIA+ pride celebrations and other activities that advance inclusivity and diversity.
- Support businesses and organizations run and owned by LGBTQIA+ people.
- Contribute to foundations and charities that support LGBTQIA+ people.
- Ask your elected officials to support LGBTQIA+ rights and workplace inclusion by contacting them.

It's also critical to recognize that, in addition to being a legal problem, the right to employment for LGBTQIA+ individuals is a societal one. There is a need to alter how LGBTQIA+ employees are viewed in the workplace. Campaigns for education and awareness can achieve this.

Fostering a welcoming atmosphere for LGBTQIA+ staff is also essential. Through networking groups, mentoring programs, and other initiatives, this can be achieved.

III. CONCLUSION

The Author exhaustive examination of the LGBTQ+ community's right to employment in India discloses a terrain characterized by both obstacles and advancement. The universal application of the fundamental human right to work, which is grounded in the values of human dignity and welfare, is inconsistent, with marginalized communities such as the LGBTQ+ community in India being particularly affected. Notwithstanding the existence of legal safeguards proclaimed in the Indian Constitution and global human rights frameworks, numerous LGBTQ+ individuals

endure employment-related discrimination, exclusion, and adversity.

The study's personal narratives illuminate the challenging circumstances that LGBTQ+ individuals encounter when seeking employment. In addition to being personal accounts of tribulations, these narratives also serve as reflections of systemic problems that require attention. Significant barriers include workplace harassment and discrimination against members of the LGBTQ+ community on the basis of their gender identity and sexual orientation. These obstacles further contribute to the underemployment and unemployment of many members of the LGBTQ+ community.

The paper begins by expressing appreciation for the endeavors undertaken by the Indian government and several non-governmental organizations to enhance the employment environment for individuals who identify as LGBTQ+. Prominent measures towards achieving inclusivity and equality include the Transgender Persons (Protection of Rights) Act of 2019, several state government programs, and the Ministry of Social Justice and Empowerment's endeavors. While these efforts are noteworthy, they highlight the continued necessity for more all-encompassing and focused strategies to guarantee fair and impartial employment prospects for members of the LGBTQ+ community.

Practical and essential are the author's recommendations for enhancing the employment prospects of the LGBTQ+ community. Social imperatives and legal requirements include anti-discrimination legislation, LGBTQ+-specific educational and training programs, inclusive work environments, financial aid for the destitute, and workplace inclusivity awareness campaigns. In addition to attempting to reconcile the divide between legal principles and practical implementation, these suggestions endeavor to cultivate a community that values and safeguards the dignity and rights of each person, regardless of gender identity or sexual orientation.

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