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Social Hostility towards the LGBT+ Community in India

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ABSTRACT

In this research paper, the researcher has attempted to bring out the condition of the LGBT+ community in Indian society. The researcher has tried to explain that our original Indian culture created by gods never saw homosexuality or third-gender as a disease or sin with the help of texts and tales from religious scriptures and philosophies. India values its culture and many laws are made to preserve such cultures but homophobia isn't one of them. The true illness is homophobia, not homosexuality. The researcher gave focus on the origin of laws against the LGBT+ community in India, the legal journey from criminalization to the decriminalization of Section 377, problems faced by the LGBT+ community and the measures that can be taken to make this country a better place for them. We can only read, and think about the hell that the LGBT+ community has to go through to survive in this country as a homosexual, asexual, transgender, and all the other individuals. We should change society's perspective, not a person's identity or sexual orientation. Science has proved that the people of the LGBT+ community are nothing but normal people just like everybody else, it is high time when society begins to accept that and let them live in peace.

Keywords: *Discrimination, Equality, Homosexuality, Legal-rights, LGBT+, Section 377.*

“Some men like Jack and some like Jill

I'm glad I like them both but still

I wonder if this freewheeling

Really is an enlightened thing,

Or is its greater scope a sign

Of deviance from some party line?

In the strict ranks of Gay and Straight

What is my status: Stray? Or Great?”²

¹ Author is a student at Banasthali Vidyapith, India.

² Poem “Dubious” by Vikram Seth.

I. INTRODUCTION

It has been decades since many individuals and organization have knocked on the doors of our Indian Courts for the recognition of legal rights of lesbians, gays, bisexuals, transgenders, queer, intersex, asexual, and other individuals (LGBTQIA+) and it has been asked by the Courts that despite many important and urgent issues that have been pending in the Courtroom why would they consider this personal and minuscule issue. The answer is very simple, this minuscule topic can save many lives from getting discriminated against, exploited, harassed, and even killed because of their sexual orientation, gender identity, or gender expression. Constitution is the supreme law of India which everyone must abide and yet the basic constitutional rights of LGBT+ people have been snatched away by society and also by law. What are these constitutional rights which I am claiming to be “snatched away” from this community you might wonder, I am talking about the right to freedom of movement and residence within the border of each state, right to work, right to a standard of living adequate for the health and well-being of himself and his family, right to personal liberty, etc. Now ask yourself a question that how many people who are out of their closets live in your neighborhood or work in your organization? I believe the odds are very rare. Many people live their life secretly and could never dare to publicly accept that they are not heterosexual so that they can have a place to stay, work, and protect themselves against poverty, torture, mockery, violence, etc. Our legal system owes the LGBT+ community for all the misery which has been caused to them due to the lack of proper statutes and protection that has affected the mental peace of millions of people living in agony and despair.

It has been believed that homosexuality is a concept influenced by modern society but the truth is homosexuality is much older than that especially in Hinduism, in this paper many references from our religious scriptures have been mentioned which narrates the stories of homosexuals and how they were never seen differently or sinful in that period. On 6th September 2018, a ray of hope shone on the people of the LGBT+ community when the Hon’ble Supreme Court of India decriminalized consensual sexual intercourse between adults of same-sex by partly striking down Section 377 of the Indian Penal Code (IPC). This paper also elucidates the long battle of more than 70 years fought inside the Courtroom to scrap down the old British law criminalizing homosexuality. For the traditional families that are construed on the premises of heterosexuality, patriarchy, monogamy, and control of women’s sexuality, the LGBT+ community has become a challenge to their norms³. Indeed, the law cannot change the

³ Bina Fernandez (1999) *Humjinsi: A Resource Book on Lesbian, Gay and Bisexual Rights in India*, India Centre for Human Rights and Law.

perspective and belief of our society but yes it can protect the LGBT+ community from the wrong-doing of homophobes against these innocent people who are just paying the price of something natural and pure. Through this paper, I intend to put out the issues concerned by the LGBT+ community and the reality of their lives existing in silence, fear, suffering, and real danger and how law can play a big role in changing their lives once and for all.

II. PENALIZATION OF HOMOSEXUALITY IN INDIA

What is Section 377⁴?

Unnatural offences – “Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with ⁵[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.” *Explanation* - Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section.

Section 377 of IPC has a history, and to get a better understanding of the law it is important to trace its source and know exactly how the law came to be.

The Buggery Act, 1533

The buggery Act of 1533 was enacted under the reign of King Henry VIII, which defined ‘buggery’ as an unnatural sexual act against the will of God and man. Thus, criminalizing anal penetration, bestiality, and in wider sense homosexuality. This Act did not expressly target sex between men, as it was also applied to men and women engaged in sodomy and a person with an animal. However, convictions between men under sodomy were most common and well-publicized. Punishment under the Buggery Act was death.⁶

Offences against the Person Act 1861

In 1828, the Buggery Act, 1533 was repealed and replaced by the new Act known as, “Offences against the Person Act, 1828”, it broadened the definition of an unnatural sexual act and provided for the easier prosecution of the rapists, but also homosexuals. This Act is considered as the motivation behind the enactment of Section 377 of the Indian Penal Code. Later, this Act was repealed by the British Government and replaced by the Offences against the Person Act, 1861.

⁴ The Indian Penal Code, 1860, ACT NO. 45 of 1860

⁵ Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

⁶ Laws and Statutes. VIII. Chronological Series. Henry VIII. [1509-1547] Londini: In aedibus T. Bertheleti, [1535]

Section 377 was drafted by Thomas Babington Macaulay in 1838 but was brought into effect in 1860 which was based on Britain's anti-sodomy act in light of the Sepoy Mutiny (First War of Independence) 1857.

Eventually, homosexuality was decriminalized in the United Kingdom under the Sexual Offences Act, 1967. Interestingly British Government legalized same-sex marriage but the Indian Government still hasn't shown any interest in legalizing same-sex marriage and in providing them equal rights just like the other individuals of the nation.

III. IS HOMOSEXUALITY A MODERN CONCEPT?

It is a myth that homosexuality is a modern trend or something which is influenced by foreign culture or a part of modernization. If we look into the religious scriptures and Indian philosophy, there are many references to homosexuals, the existence of the third gender, and the co-existence of different sexual identities which are ignored by many religious gurus who are now criticizing the LGBT+ community and calling them sinners.

The Mahabharata tells the story of Ambi, the princess who was forcefully abducted by Bhishma Pitamah to marry a warrior who had taken a vow of celibacy and rejected to marry her. To avenge the insult, Ambi was reborn as Shikhandini, daughter of King Dhruvada. She prayed for transformation as a man- Shikhandi to fight against Bhishma and became the cause of his death.

In one of the chapters of Mahabharata, Arjun was cursed to spend a year as a eunuch, he then transformed into Brihannala- a woman and lived as a music and dance teacher.

Markandeya Purana carries the story of Avikshita, son of a King who refused to marry because he believed that he was a woman.

It is also believed that Lord Ayyappa was born out of the union of Lord Vishnu in the form of Mohini and Lord Shiva. In other stories, Lord Shiva himself takes the form of a woman during a love play with Parvati. This suggests the fluidity of gender in sexual interaction. Also, men disguised as women in traditional roles are compared to Lord Shiva⁷.

Not only in Hinduism, but other religious scriptures, poems had shown the presence of homosexuals in early period. For instance, Sayyid Sirajuddin, "Siraj Aurangabadi" (1715-1763) was a Sufi Poet who first used to write in Persian and then Urdu. He wrote a beautiful poem Bustan-i-Khayal⁸ (The Garden of Delusion) about the narrator's heartbreak after losing

⁷ Ruth Vanita and Saleem Kidwai, *Same-Sex Love in India*, Palgrave Macmillan, 2001.

⁸ *Kulliyat-i Siraj*, ed. Abdul Qadir Sarvari (Delhi: Qaumi Council Barai Farosh-i Urdu Zaban, 1998), 149-246.

his male beloved, he then seeks the company of courtesans who understood his plight and tried to cheer him up.

The story of Teeja and Beeja, two women who were inadvertently promised to one another in marriage by their fathers still resonated in Rajasthan's folklore. Beeja was brought up as a boy and was married to Teeja as a "man", later Teeja suggested Beeja return to her true self as a woman. But the villagers drove them out, so they prayed to ghosts to turn Beeja back as a man to be more socially acceptable. Teeja started hating her husband's bullying in society and runs away. The story concluded with them living together as women in the forests along with ghosts.

Kamasutra written by Sage Vatsyayana devoted a whole chapter to homosexual intercourse and said that "it is to be engaged in and enjoyed as for its own sake as one of the arts". It also defines a third order of humans known as the "Tritiyaa Prakriti" or third nature. The third nature is mentioned in the initial classificatory chapter. It has defined the sexual intercourses and practices between men who desire men and called it a long-term union between men.

The deeper we dig, the more stories and references we find which prove that homosexuality and transgenders existed centuries ago and were never treated as sick and abomination to the nature of the universe, then why today? Homosexuality became a crime during the colonial period as shown earlier, which changed the perspective of people to this date. We got rid of all the toxic traits after the independence but homophobia got stuck under the skin of people of India and it became a "culture" to hate the LGBT community. How is it justifiable? We were supposed to move forward with our thoughts and knowledge but in this matter why do people hesitate to accept the LGBT+ community as who they are. There is no logical explanation behind this and never will be. Recently, on the matter of legalizing same-sex marriage, the Indian Government stated that it is against Indian culture but our Indian history and mythology are proving the opposite. It was never an Indian culture to discriminate against the LGBT+ community, it is a concept given to us by those who left our country with nothing and still we are entertaining those rules for no reasonable purpose.

IV. LEGAL BATTLE OF LGBTQ+ RIGHTS IN INDIA

This last decade has been very crucial for the LGBT+ community in reshaping their legal rights. We are all aware of the historical judgment of September 2018 which partially struck down Section 377 of the Indian Penal Code and decriminalized consensual sexual intercourse between two homosexual adults. But was that the first time the Indian Courts have given their judgment on LGBT rights? 5 landmark judgments have paved the way for the legal development of the LGBT+ community in India.

Delhi High Court in the case of *Naz Foundation v. Government of NCT of Delhi*⁹ struck down Section 377 and legalized consensual homosexual activities between adults. Naz Foundation is a non-governmental organization working in the field of HIV/AIDS intervention and prevention, sexual education, and health since 1994. In 2001, the organization filed a Writ Petition in Delhi High Court challenging the constitutional validity of Section 377 of IPC, claiming the law was in violation of Articles 14, 15, 19, and 21. In 2004, Delhi High Court dismissed the petition for which the organization approached the Supreme Court. SC, deeming it worthy of consideration, directed the Delhi High Court to examine the matter.

The Court evaluated the validity of impugned law and examined its compatibility with Articles 14, 15, 19, and 21. Held that sexual preferences fall within the ambit of the right to dignity and privacy of the individual, section 377 constitutes a direct infringement on these rights and consequently violates Article 21. The Court further adjudicated that there is no reasonable nexus between child sexual abuse and consensual sexual relation between two adults. It was held that Section 377 is *prima facie* discriminatory towards the LGBT+ community and thus violates Article 15. The Court applied the doctrine of severability and decriminalized the consensual sexual relationship between two adults.

But in 2013, the decision of the Delhi High Court was challenged by the Apex Court in the case of *Suresh Kumar Kaushal & another. v. Naz Foundation & others*¹⁰. Supreme Court put aside the Delhi High Court and re-criminalized Section 377 by stating that it does not violate 14, 15, 19, and 21. The bench also held that this sort of relationship is harmful to society because these sexual relations have led to the growth of HIV/AIDS in India from 1% to 8%. The Court maintained that Section 377 does not criminalize a particular person or a community. It is gender-neutral and it does not discriminate against anyone, it merely identifies certain acts if committed as an offense regardless of gender identity and sexual orientation. Therefore, the plight of the sexual minority could not be used as a valid argument against the constitutionality of Section 377.

In the *National Legal Services Authority v. Union of India and others*¹¹, (also known as the NALSA case) the court was dwelling upon the status of identity of the transgenders. Radhakrishnan J. opined that gender identity is one of the fundamental aspects of life. A person's sex is defined by birth but a small number of the population's gender identity incorporate with the one assigned at birth. He further stated that discrimination on the ground

⁹ WP(C) No.7455/2001, DELHI HIGH COURT; Decision on 2nd July, 2009

¹⁰ (2014) 1 SCC 1

¹¹ (2014) 5 SCC 438

of sex under Articles 15 and 16, includes discrimination on the ground of gender identity. The term “sex” used in the Articles is not limited to biological sex i.e., male or female but also includes people who do not consider themselves either male or female. In the aspect of Human rights, Sikri J. observed that there is no reason why a transgender should be denied basic human rights that includes the right to life and personal liberty, freedom of expression and right to privacy, right against violence, right to education, and right against exploitation. The Constitution has fulfilled its duty by providing rights to transgenders and now it is the Court’s responsibility to recognize, extend and interpret the Constitution in such a way that it ensures a dignified life for transgender people.

The Court held that the Articles of the Constitution provide protection to “any person”, transgenders who neither consider themselves as male nor female fall within the expression “person” and are hence entitled to legal protection of laws in all spheres of state activity, including education, employment, healthcare, equal civil and citizenship rights just like any other citizen of the country. Transgender people were given all the Fundamental Rights by the identity of the third gender. The Court also laid down a comprehensive set of guidelines that all states must abide by to bring transgender into the public sphere and provide them remedies for marginalization.

*Justice K.S. Puttaswamy (Retd.) v. Union of India*¹², this case was brought up by a retired judge of Karnataka High Court Puttaswamy against the Union of India (Government of India) before a Constitutional Bench of nine judges, challenging a wide range of Indian Legislation including Section 377 to determine whether the right to privacy is guaranteed as an independent fundamental right. The latest case was originally challenging the government’s Aadhar Card scheme to form a uniform biometrics-based identity card which the government proposed to be made mandatory to access any government services and benefits. Puttaswamy argued that the right to privacy is an independent right, guaranteed under Article 21 of the Constitution i.e., the right to life and personal liberty. The Respondent submitted that the right to personal liberty which is incorporated with the right to privacy is recognized by the Constitution only to a limited extent. Supreme Court unanimously held that the right to privacy is an intrinsic part of Article 21 of the Constitution. The right to privacy includes autonomy over the protection of personal information, bodily integrity (e.g., reproductive rights), and personal decisions. J. Chandrachud opined that the right to privacy included negative rights against state interference, like in the case of criminalization of homosexuality and also positive rights of protection by

¹² WRIT PETITION (CIVIL) NO 494 of 2012, (2017) 10 SCC 1

the State. On this basis, it was held that there was a need to introduce a data protection regime in India. J. Nariman opined that expression of choice is an essential component of liberty and a facet of human dignity.

And in the well-known case of *Navtej Singh Johar v. Union of India*¹³, the Constitutional Bench of five judges reversed the judgment of *Suresh Kumar Kaushal v. Naz Foundation*¹⁴ and held Section 377 unconstitutional. The Court held that if consensual carnal intercourse between heterosexual couples does not constitute rape, then it should not be designated as an unnatural offence under section 377 of the IPC. The non-consensual acts which have been criminalized under section 377, are already penalized under section 375 and POCSO Act. Section 377 allows harassment and exploitation of the LGBT+ community to prevail. This section does not pass the trinity test of Articles 14, 19, and 21. The Court enunciated the inner thirst of the Constitution to transform the Indian society and embrace the ideals of justice, liberty, equality, and fraternity. The right to choose a partner for intimate relationships is a matter of personal choice that cannot be restricted by law. Section 377 restricts the right of the LGBT+ community for choosing their partner which is irrational and arbitrary. The Court further stated that no matter how minuscule the LGBT community is, they will always have the right to privacy which also includes physical intimacy. Section 377 curtails their human dignity and personal choice, thus violating their right to privacy under Article 21 of the Constitution. Moreover, the bench also declared that Section 377 will be applicable in cases of non-consensual sexual acts committed against any minor or adult. Therefore, Section 377 was struck down by the Supreme Court partially by decriminalizing “consensual” sexual acts between two adults.

V. PROBLEMS STILL FACED BY THE LGBT COMMUNITY

2018 judgment has helped the LGBT+ community from being criminals but yet they live in the prison of societal norms and behavior. The law changed but did the society changed? I believe we all know the answer to it. We need to find out the major issues they face, causes of such issues and how to overcome this problem.

Issues

Ignorant school authorities- Discrimination and exploitation continue in India against this community. The younger generation of the LGBT+ community is afraid to come out and accept who they are. And when they do, they get bullied in schools, colleges not only by the students but sometimes by the teachers as well. They get bullied physically, verbally, socially

¹³ (2018) 10 SCC 1

¹⁴ *Ibid.*

(cyberbullying), sexually, and in forced sex. When teenagers are exposed to such bullying and are called by harsh terminologies it affects their mental health and even their whole life. The younger generation is an important resource for the country's better future, and this is how they get treated because of their gender identity and sexual orientation. On a survey conducted by UNESCO, out of 371 LGBT+ youth of Kerala, 84% of them were bullied, mostly by fellow students, and one-fifth of them were bullied by teachers. And only 18% of the candidates were able to report such bullying to the school authorities¹⁵.

What are the steps taken by the school authority to stop bullying?

Shockingly, the school authorities advised nearly a third of the children to change their gender mannerisms to avoid future bullying. And half of them were told to ignore the bullying. Because of such unresponsive behavior of the school officials, the majority of candidates faced poor academic performance, and over a third of students had to drop out of school.

Reasons- Lack of sex education, no training of teachers to deal with such problems, lack of connection with students, improper arrangements of psychological well-being programs for the students, lack of attention, no strict policies against students who indulge in bullying, the environment in which the bullies grow up and learn from adults, treating homosexuality as an illness.

Unsupportive Family- India is a country where still many traditional families hesitate to talk to their children about sex and physical relationship. They often try to keep their children away from all these matters as much as possible. And when non-heterosexual teenagers are growing up in such families, they never dare to talk to their family about their sexuality and gender identity, and forces themselves to live a double life regretting every moment of it. However, if they do talk to their parents about it, they mostly get scolded and told to stop this nonsense and focus on studies, live up to our (parents) expectations, and do not become a mark of social disgrace on this family. When that kid does something against their parent's will, they become a victim of the beating, treated as a sick person, constant fighting, forceful marriage to opposite-sex, abandonment and this list of miseries goes on.

Reasons- Old thinking of parents, choosing social image over the happiness of their children, trying to own their children, over-strictness, lack of communication and understanding, social pressure.

Lack of care- Everybody needs care and support from their families, friends, and people

¹⁵ Sunil Menon, Venkatesan Chakrapani, Sarita Jadav. *BE A BUDDY, NOT A BULLY! Experiences of sexual and gender minority youth in Tamil Nadu schools*. UNESCO, New Delhi, 2009.

around them to live a mentally happy life, but the majority of the LGBT+ community never gets that kind of care from their family, friends, and society. It affects them mentally leading to anxiety, depression, the feeling of shame and guilt, suicidal tendencies, social stigma, gender dysphoria, etc. They even get kicked out of their houses, having no place to stay, lonely, broke. It all adds up and pushes them to live a hard life which we can only think of.

Denial of work- The LGBT+ community commonly faces the issue of being denied from getting a job. Thousands of transgenders make their living through begging in traffic signals, sex work, attending marriages and birth of a child to give their blessings, and extracting money from the families by threatening to curse them with infertility or bad luck. While researching I came across an interview of a transgender who begs for money on roads, she shared her dreams of becoming a teacher or a nurse when she was a child, but now that she has seen the true colors of this world, she is waiting for the next life to accomplish her dreams. Often, homosexuals hide their sexual identity to get a job to protect themselves from poverty and harassment at the workplace.

Reasons- Judging people based on their appearance, homophobic nature of the society, a belief that transgenders are limited to sex work, begging, etc., looking down upon the LGBT+ community.

Poverty- This issue is an outcome of all the other issues, the LGBT+ community faces poverty because they couldn't complete their education because of bullying and abandonment by family. In other cases, they get denied admission especially transgenders in educational institutions and the workplace. Discrimination in the workplace and lack of opportunity makes it very difficult for them to work. To save their image, these institutions and organizations make other excuses to deny their admissions and applications. All these events compel them to live in poverty and indulge in sex work and trafficking.

Violence- Most of the LGBT+ community becomes victims of violence and beating by their family, homophobic people, "religious" groups, and even police. They get called by different names and get abused throughout their lives. Violence against the LGBT+ community depends on their race, appearance, wealth, social status, and ethnicity. Poor and illiterate people tend to experience more violence than others. There are many cases in which the people of LGBT+ have suffered violence, beating, locked-up by the police just because they are queer. In Kolkata, a man named Sanjit Mondal was beaten up and arrested based on his appearance for wearing earrings and having long hair, as he was gay, he was called different names such as "Chakka" by the policemen and was tortured to accept that he was indulged in prostitution. He was asked

inappropriate questions about his sexuality and apparel choices. They made a false accusation of him being involved in theft and that he had nefarious intentions.¹⁶ There are many cases of violence by policemen, religious groups, and others against the LGBT+ community for choosing who they are and minding their own business.

VI. WHAT CAN DO DONE?

There are so many things that we, government, and our legal system can do to provide justice to the LGBT+ community for all the wrong-doing that has been done by this nation and accept them as one of our own.

Sex Education

Teaching students about sex education, third-gender, homosexual relationships in their teenage will help them in understanding that these things are natural and science, and not any sort of illness as misunderstood by most of the homophobic population. It has been built up in children's mind that only heterosexual relationships exist and there are only two genders in the world and when they come across someone different it confuses them and they start seeing it as an abnormality. Children understand and connect with what they have been taught, thus it would help them see the LGBT+ community as normal human beings.

Proper Training for teachers

Teachers fail to handle the bullying of LGBT+ students because they have never been trained for such situations. Transgender issues and homosexuality should be included in their B. Ed. syllabus so that they will be aware of the situation and it will help them in applying their knowledge and handle the situation more professionally. School and college management should have a strict policy against bullying of all kinds. Workshops and programs can be organized relating to sexual orientation and gender identity for teachers, management, and students to promote equality of all students having different sexual identities and genders. All schools and colleges must appoint a qualified counselor who is also be trained to help children confused about their sexuality, gender identity, etc., and not someone who is homophobic or has a problem in assisting LGBT+ students.

Other initiatives by the school management

School management can arrange seminars, group discussions, essays, and other projects to encourage students to think and discuss gender identity, sexual orientation, and role of bullying

¹⁶ Jayatri Nag 2020, 'Even after Supreme Court's judgment on Section 377, violence against queer individuals continues.' *Mumbai Mirror, India Times*, 25 July, accessed 11 June 2021.

in it. Students should be given the liberty to wear uniforms and use the restroom according to their gender identity.

Communication with parents

Communicating about sexuality and gender identity to strict parents has been one of the most difficult and brave things any LGBT+ person has to do. Lack of understanding and communication can be the main reason for it, thus it is very important to communicate with parents and talk to them about everything example, current national issues, politics, human rights, equality, sexuality, etc. to build a healthy relationship and friendship. Schools can also play an important in this by conducting monthly or quarter-yearly meetings with parents and discuss about all the issues a student goes through from study pressure, bullying, depression to sexuality and let them know that their child can be looking for someone to talk to and it will be of best interest if parents talk to their children about it. Parents want what is best for their children but they need to let their children decide it for themselves.

Strict policy against discrimination and harassment of the LGBT+ community in organizations

States should direct organizations to formulate strict rules and guidelines against the people who are indulged in any kind of harassment and discrimination towards the LGBT+ community in the workplace. And also, not to deny job opportunities or admission in an educational institution to the LGBT+ community based on their identity. Establishment of an appropriate forum to file complaints about the same outside the organization. Appointment of officer to inspect the complaints and reports of organizations regarding harassment and discrimination against the LGBT+ community.

Helpline number

The LGBT+ community becomes the victim of constant violence and torture by society and even their own family. A helpline number must be generated to provide protection to the LGBT+ community instantly.

Provide shelter to abandoned people

Many people of the LGBT+ community get abandoned by their parents and family, and to feed themselves they are forced to join prostitution, begging, illegal work, etc. Organizations should be established to provide minor and unemployed people shelter and education till they are adults and qualified to work. Counseling should be given to them. These organizations can be funded by the government and also through the fine states will impose on organizations and

individuals held liable for harassment, discrimination, violence, etc., against the LGBT+ community and by generous people who are willing to donate and also from the parents who abandon their child.

Enactment of a statute for the protection of the LGBT+ community

Like the Transgender Persons (Protection of Rights) Act of 2019, an act should be passed to protect the LGBT+ community from violence, harassment, injustice, unequal treatment, etc. It is the duty of the law to provide equal rights and protection to the minor community of the country who lives in constant danger of getting beaten up and tortured by homophobes for no reason.

Right to marriage, adoption, property ownership, etc.

In personal laws, the right to marriage, adoption, succession, ownership, protection from violence in intimate relationships, etc. are given only to heterosexual people. The LGBT+ community should be given the right to marry as well under the Special Marriage Act or a separate act focusing on all the personal rights of the LGBT+ community as such amendments in the existing personal laws can lead to religious disputes.

VII. CONCLUSION

Human sexuality is complex. The acknowledgment of the difference between desire, identity, and behavior results in the multi-dimensional nature of sexuality. We need to focus on people's humanity rather than their sexuality. The majority within democracies need to see minority communities and those who are different from them as equal and with respect. Supreme Court through the judgment in the Navtej Singh Johar case has taken its step towards equality and human rights of the LGBT+ community, but the goal is yet far to achieve. In its preamble, The Supreme Court of India has secured some basic rights of justice, liberty, equality, and fraternity to all its citizens. But if look into the situation of the LGBT+ community, they have been deprived of social justice, they don't have the liberty to express their thoughts and expression, they do not get the equality of status nor of the opportunity and their dignity is not assured and there is no sense of brotherhood towards this community by the majority of the people. They get assaulted and harassed because of their appearance and decision of who to love. Our legal system is somehow failing to stop this from happening. We need strict laws and officials free from discrimination and preconceived opinion against the LGBT+ community to handle these problems. There is nothing wrong with the LGBT+ community, it is the world that they are living in. Society needs to accept the LGBT+ community and promote harmony, not violence. There is nothing wrong with renting a place to live to the LGBT+ community and in offering

them jobs. It is said that society evolves with time, but I believe the society will begin progressing towards a better future from the day it starts accepting the LGBT+ community as one of its own. Many pieces of research have been conducted regarding homosexuality and it has been found that sexual orientation is a natural phenomenon and not something influenced by external behavior. India needs Human Rights, not men's rights, female rights, or gay rights, it needs human rights for everybody with no exception of gender, sexuality, race, belief, thoughts, lifestyle, etc. The day we achieve that, we will save millions of lives from many torturous acts that people have to go through multiple times in their lives silently and helplessly.

“There will not be a magic day when we wake up and it's now okay to express ourselves publicly. We make that day by doing things publicly until it's simply the way things are.”

- *Tammy Baldwin, First Openly Gay U.S. Senator*

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