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Social Stigma: A Push to Suicidal Ideation Among LGBTQ Community

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ABSTRACT

LGBTQ stands for lesbian, gay, bisexual, transgender, and queer. It is the natural human tendency to criticize anything which seems to be different from the common practice. Such criticism when ultra vires become an infringement. The violence and inequality shown in the LGBTQ community on the grounds of who they are, how they look, and who they love are unconstitutional as they are violative of the basic rights protected under the Article 14,15,19,21 of the Indian constitution. Gender identity and Sexual orientation are one's right to privacy that cannot be violated by any means of abuse or discrimination. The societal non-acceptance of the LGBTQ community puts them under depression, trauma, pessimistic approach towards life, which in turn pushes them into suicidal ideation. Based on the Suicides and Accidental Deaths report by NCRB (National Crime Records Bureau), the number of suicide-related deaths per one lakh people was twelve in 2021, that being the highest rate recorded in India. Many surveys have shown that suicidal ruminations are more prevalent in the LGBTQ community in particular. The Mental Health Care Act 2017 clears the stigma around Homosexuality as a mental illness. The Landmark judgment, which was delivered on 6 September 2018 in Navtej Singh Johar vs. Union of India (AIR 2018 SC 4321), has paved the way for societal acceptance of this vulnerable community by recognizing their emotions which were left aside all these days. In this instance, it was determined that IPC section 377 breached Articles 14, 15, 19, and 21 since it makes it illegal for competent adults to engage in consensual sexual activity in secret. Hon'ble Chief Justice Dipak Mishra applied the Doctrine of Progressive realization of rights in the instant case, which prevents regression.

Keywords: *LGBTQ, Sexual Orientation, Gender Identity, Section 377 of IPC, Suicidal Ideation.*

I. INTRODUCTION

LGBTQ refers to Lesbian, Gay, Bisexual, Transgender, and Queer people together. The sexual orientation and gender identity of this vulnerable community are regarded as immoral by the general public. This places them out of culturally accepted heterosexuals, resulting in societal

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non-acceptance. The Social stigma around this minuscule fraction pushes them towards the horrifying self-destructing decision of suicide. It is the natural human tendency to criticize anything which seems to be different from the common practice. Criticism should always be constructive and not destructive. Unfortunately, because invisible emotional abuse leaves scars that are more real and lasting than physical abuse, the violence and inequality experienced by the LGBTQ community because of their sexual orientation and gender identity have a serious adverse effect on their mental health and cause them to consider suicide.

II. MISCONCEPTIONS ABOUT LGBTQ COMMUNITY

In 2018, Indian Psychiatric Society made it clear that Homosexuality can not be considered as a disorder and should not be treated as one. Furthermore, there is absolutely no scientific proof that efforts to change a person's orientation are successful in any way.² The stigma associated with 'mental illness' related to homosexuality has completely vanished, according to Hon. Justice Rohinton Nariman of the Constitution Bench, who cited the term 'mental illness' in the Mental Health Care Act, 2017³ He also added that "*mental illness shall not be determined based on non-conformity with moral, social, cultural, work or political values or religious beliefs prevailing in a person's community*".

III. FACTORS CONTRIBUTING TO SUICIDAL RUMINATIONS IN THE LGBTQ COMMUNITY

There are various social and economic implications leading to suicidal tendencies in the LGBTQ community, as follows:-

- **Gender dysphoria-** Mental distress due to gender incongruence;
- Non-acceptance by their own parents, family, and friends brings great agony to their minds;
- Bullying, harassment, and abuse in public as well as private places, both physically and mentally;
- Relationship problems caused by their own partners;
- Homelessness as they are kicked out by their own family

² *IPS position statement regarding LGBTQ* (no date) *Indian Psychiatric Society*. Available at: <https://indianpsychiatricsociety.org/ips-position-statement-regarding-lgbtq/> (Accessed: March 8, 2023).

³ Correspondent, L. (2018) *Section 377 Verdict: Homosexuality no more seen as 'mental illness'*, *The Hindu*. Available at: <https://www.thehindu.com/news/national/section-377-verdict-homosexuality-no-more-seen-as-mental-illness/article24885371.ece> (Accessed: March 8, 2023).

- Humiliation and belittling lead to poor self-esteem;
- Depression, trauma, and anxiety disorders are some of the mental issues faced by them;
- Pessimistic approach towards life because of discrimination;
- Lack of proper education as Most of them are school dropouts because of bullying by Peers;
- Non-recognition of these people in the workplace and lack of respect among colleagues;
- Financial stress is created out of unequal opportunities in employment.

All these above factors categorize them to be socially, economically, and educationally backward and also make them feel like a mark of disgrace in society, which in turn brings in frequent suicidal thoughts in the minds of the LGBTQ community.

IV. REPORTS AND STUDIES CONCERNING LGBTQ

The recent NCRB reports state that the suicide rate is increased by an average of 12% in India which is considered to be more than the previous reports. According to a study, LGBTQ people had much greater rates of suicidal thoughts and attempted suicide than the overall population.⁴ International research discovered that suicidal LGBT persons were more likely than suicidal heterosexuals to disclose their plans to commit suicide.⁵ The purpose of any study is to improve the current state and move towards betterment. Keeping this in mind, the feedback of the above reports must be taken into serious account to find out the possible ways to curtail the suicidal ruminations from the minds of homosexuals.

V. CONSTITUTIONAL PROTECTION FOR LGBTQ COMMUNITY

Our Indian constitution focuses mainly on ‘**inclusiveness**’. Accordingly, the constitutionally granted rights under Articles 14, 15, 19, and 21 are accessible to all, no matter what is their sexual orientation and gender identity. Article 14's right to equality states that any discrimination without discernible differences is invalid. Gender identity and sexual orientation are likewise protected under the Article 15 right to be free from sex-based prejudice. **Article 19** ensures the right to freedom of expression, which is again a absolute right ‘**in esse**’. Hence LGBTQ has the right to express their sexual orientation and gender identity without any inhibitions. As per the Indian contituion’s Article 21, everyone has the right to life and personal

⁴ LGBT Health: Meeting the Needs of Gender and Sexual Minorities, Springer Publishing Company, New York (2018).

⁵ Harris, K. M. (2013). Sexuality and suicidality: Matched-pairs analyses reveal unique characteristics in non-heterosexual suicidal behaviors.

freedom. This being a fundamental right is vital for the very existence of humans. It is rightly quoted in the **State of Uttar Pradesh v. Mohammad Naim**⁶, that ‘right to reputation’ is a crucial element for right to life. Reputation shouldn’t be tarnished in the opinion of the right-minded people in society.

VI. DECRIMINALIZATION OF SECTION 377 OF IPC

On September 6th, 2018, the Supreme Court decided unanimously that Sec. 377 of the IPC was unconstitutional because it violated people's basic rights to intimacy, identity, and autonomy. The case was **Navtej Singh Johar and others vs Union of India Ministry of Law and Justice**⁶. Therefore, in legalizing homosexuality in India,⁷ Honourable Chief Justice Deepak Mishra applied the **doctrine of progressive realization of rights**⁸ and held that “*in a progressive and an ever-improving society, There is no place for retreat or regression. The society has to March ahead*”. By this, the rights assured to LGBTQ were safeguarded once and for all, and no one can snatch them at a later period by any means. Articles 14, 15, 19, and 21 are violated by IPC Section 377, which makes it illegal for competent adults to involve in consensual sexual activity in secret. It is to be noted that section 377 of the IPC remains to govern non-consensual sexual acts hostile to minors, adults, and acts of bestiality.

VII. RECOGNITION OF THE LGBTQ COMMUNITY BY THE JUDICIARY

Indian Judiciary has been playing an essential role in ensuring and protecting the rights of the LGBTQ Community. Several landmark judgments have been delivered in various cases by the judiciary, thereby prohibiting discrimination against the LGBTQ community and ensuring their life and dignity. In **Navtej Singh Johar v. Union of India** case, consensual sexual activity among homosexuals has been pronounced legal since 2018.⁹ The Court laid down that the sexual orientation of a person is natural, innate and immutable. The Court also upheld the right to equality for all the members of the LGBTQ in India. Additionally, discriminating against and categorizing homosexuals is against Article 14's guarantee of equal protection. Similarly, The Allahabad High Court declared on February 4, 2021, that being gay was not a reason to terminate an employee, expanding the application of the anti-discrimination laws to all forms

⁶ 1964 SCR (2) 363

⁷ *Section 377 verdict: Here are the highlights* (2018) *The Indian Express*. Available at: <https://indianexpress.com/article/india/section-377-supreme-court-verdict-gay-lgbtq-5343225/> (Accessed: March 8, 2023).

⁸ Rajagopal, Krishnadas, 377 verdict has inbuilt firewall. *The Hindu* (10 September 2018).

⁹ *Gay sex now a legal right: All you need to know about section 377* (2018) *Hindustan Times*. Available at: <https://www.hindustantimes.com/india-news/sc-to-deliver-verdict-on-consensual-gay-sex-today-all-you-need-to-know-about-section-377/story-cDHgoUNGBm2HzYrveZ3ejP.html> (Accessed: March 8, 2023).

of work.¹⁰ At **Sultana Mirza v. State of Uttar Pradesh**, it was also said that a constitutional court has a duty to monitor and respect constitutional morality along with the rights of individuals whose freedoms are in jeopardy solely because of their sexual orientation. The Supreme Court also referred to transgender individuals as the '3rd gender' in **National Legal Services Authority vs Union of India**. Also, declared that they are entitled to the same basic rights as other Indian citizens.¹⁵

VIII. THE LEGAL POSITION OF SAME-SEX MARRIAGE

Marriage is the most important occasion in one's life. The parents see it as their moral obligation towards their kids and mark it as a prideful achievement in front of their kith and kin. No one realizes that marriage is not just a function of joy, but it is the union of two souls. If those two souls are not connected in their interests, then it becomes an utter failure. Coming to same-sex marriage, which lacks societal acceptance, parents forcefully engage homosexuals in heterosexual marriage. Such marriages make life miserable for both parties to the marriage. This also induces them to end their life. According to a poll, about one-third of homosexual men in India were married to partners whose partners were unknown of their sexual orientation. Supreme Court has ruled that the rights and benefits available to heterosexual live-in couples will be equally applicable to same-sex couples.¹¹ But the legalization of same-sex marriage is yet to be heard by the apex court.

A bill to legalise same-sex unions under the Special Marriage Act of 1954 was presented to the Lok Sabha by Nationalist Congress Party MP Supriya Sule on April 2, 2022. The Indian Christian Marriage Act (1872), the Hindu Marriage Act (1955), the Special Marriage Act (1954), the Muslim Personal Law (Shariat) Application Act (1937), along with other federal laws are among those that regulate marriage in India. It's intricate to draft a uniform civil code in this regard, and hence the debate prolongs.

IX. MEASURES TO PREVENT SUICIDE AMONG LGBTQ

Also, through judicial decisions and the Government's policies, the quality of life of LGBTQ has improved for sure. The public has also started to recognize LGBTQ rights. But these recognitions offered must reach all the sufferers to lead a dignified life. Below are a few suggestions in this regard.

¹⁰ *Homosexuality not a ground to sack employee, rules Allahabad High Court (2021) India Today*. India Today. Available at: <https://www.indiatoday.in/india/story/homosexuality-not-a-ground-to-sack-employee-allahabad-high-court-1767795-2021-02-1> (Accessed: March 8, 2023).

¹¹<https://indiankanon.org/doc/26134676/> (Last accessed on 20.02.2023 at 11.11 PM).

1. Understanding and acceptance

Hon'ble Justice N. Anand Venkatesh, before writing a judgment on same-sex relationships in **S. Sushma v. Commissioner of Police**,¹² wished to be fully aware of homosexuals and also underwent psycho-education. In this regard,¹³ The Hon'ble justice was so thoughtful and exhibited his kind gesture towards the socially non-accepted group who were longing for recognition. In his verdict in the instant case, he clearly states that the change should happen in the general public's notion about the LGBTQ community by shedding their ignorance and prejudices, for which he stood as a model. The whole-hearted acceptance and understanding of the feelings of this vulnerable section are the most required for their well-being in the society '**in praesenti**'.

2. Education

By bringing awareness among the students through their curriculum that sexual orientation is immutable and cannot be changed at will as it purely depends on biological and neurological factors. This would instill an empathetic approach in the young minds so that the educational environment becomes free from bullying and intimidation for this minority group to concentrate on their studies.

3. Societal sensitization

The Government, through its various welfare policies and awareness camps, should try to sensitize society, which will, in turn, curb the violence and discrimination towards LGBTQ.

4. Social media

The Social media platforms can be used to motivate these people via speeches and interviews, and programs by notable LGBTQ people (like Gopi Shankar of Madurai- an Intersex and genderqueer politician, Rose- India's 1st transgender TV host) in various fields, which will help them to come out of fear and strive towards their goal.

5. Governmental organizations

More governmental organizations to be established for those isolated, rejected, non-accepted, unemployed LGBTQ to approach and seek redressal for their grievances

¹² W. P. No. 7284 of 2021

¹³ Emmanuel, M. (no date) "*I am not fully 'woke' on this aspect:*" *Madras high court judge fixes appointment with psychologist to understand same-sex relationships better, Bar and Bench - Indian Legal news*. Available at: <https://www.barandbench.com/news/litigation/same-sex-relationships-madras-high-court-judge-education-session> (Accessed: March 8, 2023).

6. Counselling

Counseling centers may be instituted at various places so that both the victim and their family members get emotional support to overcome the societal disparities

7. Fundamental duty

It is the **fundamental duty** of every citizen as under **Part IVA Article 51 A(e)** “*To promote harmony and spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities. Because constitutional morality prevails the social morality.*”¹⁴

8. Medical assistance

The Medical field should try to evolve advanced remedies to overcome the physical and mental distress faced by LGBTQ. Free health check-up camps may be initiated often exclusively for LGBTQ at regular intervals.

9. Employment opportunities

Even private concerns and other traders should come forward to offer jobs in their institutions without any hesitation, which might help LGBTQ to overcome their financial stress and to meet their basic needs.

10. Wrong portrayal

Not all LGBTQ are wrong in their approach toward their fellow humans. Some of the wrong portrayals of these vulnerabilities in the most easily reachable source of communication, i.e., Cinema and Drama, create misconceptions in the mind of the general public. The Censor Board must take action against such misleading portrayals.

11. Help Centres

Already many NGOs are there in this regard. But the main motto of these centers should be to educate the LGBTQ to express their feelings in a respectful manner to avoid belittling.

X. CONCLUSION

‘Mother earth provides her lap for all of us to lie down without any bias. Let's not discriminate against the LGBTQ and push them out of our mother earth through their suicidal ideation’. The State governments are also on the board to improve the living conditions of this minority group

¹⁴ NAVTEJ SINGH JOHAR v. UNION OF INDIA MINISTRY OF LAW AND JUSTICE SECRETARY. [2018] INSC 746 (6 September 2018) LIIofIndia. Available at: <http://www.liiofindia.org/in/cases/cen/INSC/2018/746.html> (Accessed: March 8, 2023).

by implementing various welfare policies. **The Pioneer among the Indian states to adopt a transgender welfare strategy are Kerala and Tamil Nadu.** Through these policies, the respective state government gives access to free sex reassignment surgery, various citizenship documents, free housing, admissions to educational institutions, and sources of livelihood via self-help groups. However, though LGBT rights in India have been recognized through landmark judgments, government policies etc., they still face many hardships in every aspect of their life because of a lack of tolerance and acceptance of common people. The initiatives taken by the judiciary and state policies will not be fruitful to LGBTQ as long as we change our notion that they are a mark of disgrace. Each person is unique. Let's back the LGBTQ in their legally just wishes by all possible means and promote their social well-being. That would automatically eradicate the suicidal thoughts in them.

'Let's understand, accept, include them also among us to make them feel that earth is a safe and secure place for them too.'

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