

Legal Aspects of Social Transformation in Lgbt Community

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Abstract – Transgender, Intersex, Homosexual, Gay , Bisexual, Kinnar, Hijra, and Queer categories include LGBT. The current Article aims to investigate the social transition or social transformation of LGBT in respect of its legal aspects. After insight study on the related topics I, as a researcher found that it is not possible to conclude anything on the issues related to this community and the study of theoretical aspects of published and unpublished material is required and it is must to do the justice too. Since time immemorial, all these people who constitute a minority and are homosexuals are not welcome. They are not regarded as human beings. If homosexual or gay people remain together, they are deemed against the law. Since time immemorial these people face social inequality in society. In 1862 the British parliament passed a law banning such actions for the good of society. This LGBT group of people has been battling the discrimination and they have always been rejected by a family and society worldwide. The LGBT community began battling this injustice done to them in 2014 and eventually, this unnatural conduct was decriminalised under Section 377 on 6th September 2018. This minority got a sign of relief after the verdict, but not relieved. At least, they can live a life where they don't have to fear the police. With integrity, they will face life and they can get work. It can be assumed that after the judgement of 6th September 2018 which decriminalises it, there has been a social change in their life. While not entirely relaxed, minority has shown a sign of relief.

Key Words – Homosexual, Gay, Bisexual, Transgender, Intersex, LGBT community, Unnatural conduct, Section 377, Indian Penal Code, 1860, Social Transformation, Social change

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INTRODUCTION

The LGBT community (also known as the LGBTQ community, GLBT community, or the gay community) is a loosely defined grouping of lesbian, gay, bisexual, transgender, LGBT organizations, and subcultures, united by a common culture and social movements. These communities generally celebrate pride, diversity, individuality, and sexuality. LGBT activists and sociologists see LGBT community-building as a counterweight to heterosexism, homophobia, biphobia, transphobia, sexualism, and conformist pressures that exist in the larger society. The term pride or sometimes gay pride expresses the LGBT community's identity and collective strength; pride parades provide both a prime example of the use and a demonstration of the general meaning of the term. The LGBT community is diverse in political affiliation. Not all people who are lesbian, gay, bisexual, or transgender consider themselves part of the LGBT community. Groups that may be considered part of the LGBT community include gay villages, LGBT rights organizations, LGBT employee groups at companies, LGBT student

groups in schools and universities, and LGBT-affirming religious groups. LGBT communities may organize themselves into, or support, movements for civil rights promoting LGBT rights in various places around the world. LGBT, or GLBT, is an initialism that stands for lesbian, gay, bisexual, and transgender. In use since the 1990s, the term is an adaptation of the initialism LGB, which was used to replace the term gay about the LGBT community beginning in the mid-to-late 1980s. Activists believed that the term gay community did not accurately represent all those to whom it referred. The initialism, as well as common variants such as LGBTQ, have been adopted into the mainstream in the 1990s as an umbrella term for use when labeling topics about sexuality and gender identity. For example, the LGBT Movement Advancement Project termed community centers, which have services specific to those members of the LGBT community, as "LGBT community centers" in comprehensive studies of such centers around the United States.

The initialism LGBT is intended to emphasize a diversity of sexuality and gender identity-based cultures. It may refer to anyone who is non-heterosexual or non-cisgender, instead of exclusively to people who are lesbian, gay, bisexual, or transgender. Recognize this inclusion as a popular variant that adds the letter Q for those who identify as queer or are questioning their sexual identity; LGBTQ has been recorded since 1996. The LGBT community represented by a social component of the global community that is believed by many, including heterosexual allies, to be underrepresented in the area of civil rights. The current struggle of the gay community has been largely brought about by globalization. In the United States, World War II brought together many closeted rural men from around the nation and exposed them to more progressive attitudes in parts of Europe. Upon returning home after the war, many of these men decided to band together in cities rather than return to their small towns. Fledgling communities would soon become political in the beginning of the gay rights movement, including monumental incidents at places like Stonewall. Today, many large cities have gay and lesbian community centers. Many universities and colleges across the world have support centers for LGBT students. The Human Rights Campaign, Lambda Legal, the Empowering Spirits Foundation, and GLAAD advocate for LGBT people on a wide range of issues in the United States. There is also an International Lesbian and Gay Association. In 1947, when the United Kingdom adopted the Universal Declaration of Human Rights (UDHR), LGBT activists clung to its concept of equal, inalienable rights for all people, regardless of their race, gender, or sexual orientation. The declaration does not specifically mention gay rights, but discusses equality and freedom from discrimination. In 1962, Clark Polak joined The Janus Society in Philadelphia, PA. Only a year after, he became president. In 1968, he announced that the Society would be changing their name to Homosexual Law Reform Society; "Homosexuals are now willing to fly under their own colors" (Stewart, 1968). The headquarters of the Human Rights Campaign, one of the largest gay rights organizations in the United States.

"The Transgender Individual Rights Protection Act, 2019" on Section 377 of Indian Penal Code, 1860 was passed in Lok Sabha in July 2019 and Rajya Sabha passed it as well. But still there are controversies about this transgender Bill. The Bill aims to establish a framework for gender empowerment for social, economic, and educational purposes. There are two words, cis and trans, here cis means this side, and trans means that side, here it is explaining two gender perspectives. Cisgender refers to persons whose gender identity matches the sex assigned to them at birth. Transgender people are those who differ in their gender identity from the gender, they were assumed to be at birth.

This Bill describes a transgender person as one not matching the gender assigned at birth. It includes trans men and trans women, bisexual, genderqueers, and individuals with socio-cultural identities such as kinnars and hijras. Historical evidence indicates that throughout the Indian subcontinent's history, homosexuality has been prevalent and that homosexuals were not considered inferior until about the 18th century under British colonial rule. In striking down the colonial-era legislation that made gay sex punishable by imprisonment for up to 10 years, a judge said the landmark decision "would pave the way for a better future." Pursuant to Article 141 of the 1952 Indian Constitution and Delhi Agreement, this decision also applied to the state of Jammu and Kashmir as section 377 of the I.P.C. and Ranbir Penal Code is prima substance, and judicial inflections have been used. The penalty was that it would lead to life imprisonment. The area does not explicitly threaten Homosexuals. You can book under it, married couples if caught having oral or anal sex. But for homosexuals, as every form of penetrative sex is inherently non-peno-vaginal for them, are made the most vulnerable. Advocates and members of the lesbian, gay, bisexual, and transgender (LGBT) community had protested against the decision, arguing it would promote those biased against the sexual minority.

The LGBT community in India has no official statistics. Still, the Indian government submitted figures to the Supreme Court in 2012, according to which some 2.5 million gay people in India were registered. These figures concentrate exclusively on those persons who have reported themselves to the health ministry. There may be even higher statistics for people who have concealed their identity, as many homosexual Indians hide in the closet because of fear of discrimination.

Homophobia is prevalent in India. The fact that sexuality is seldom openly debated in any form has hindered public discourse on homosexuality in India. In the last few years, however, views towards homosexuality have changed somewhat. In particular, there were more portrayals and debates of homosexuality in the Indian media and in the cinema. Many organisations expressed support for the decriminalisation of homosexuality in India before the colonial-era legislation was repealed. They pressed lesbian, gay, bisexual, and transgender people for compassion and social equality. India is one of the countries with a third gender social dimension, but there is mental, physical, emotional, and economic violence against India's LGBT community. Many gay rape victims do not report the crimes without the family, society, or police's assistance.

In India, lesbian, gay, bisexual, transgender and intersex (LGBTI) individuals face legal and social challenges that non-LGBT individuals do not encounter. Sexual intercourse is illegal for

persons of the same sex, and same-sex couples are unable to legally marry or obtain a civil union. However, as of 2018 judgement, the Supreme Court is all set to rethink about the legalization of same-sex sexual activity and a brought Universal Civil Code which would legalize same-sex marriage in India and accepted it in its current form.

Since 2014, without sex reassignment surgery, 'hijras' in India have been permitted to change their gender and have a constitutional right to register them under a third gender. In addition, through housing services, welfare insurance, pension systems, free treatment in government hospitals, and other services intended to support them and some states protect hijras. In India, approximately 4.8 million hijras live.

In India, particularly in big cities, LGBT people have gained more and more tolerance in recent decades. In India, however, most LGBT people stay in the closet, fearing bigotry from families who regard homosexuality as disgraceful. In India, allegations of honour killings, rapes, torture and beatings against LGBT community members are also widespread.

There is still a genuine fight for equality when it comes to LGBT rights. In certain nations, being anything but heterosexual is scandalous. Members of the LGBT community are also expected to show their importance and dignity in the workplace and society. In the U.S. and a few other nations, the future for them is a little better, but there's still a lot of work to do until the LGBT community is respected worldwide.

Homosexuality is still illicit in most parts of Africa. There are a few places, including Nigeria and Sudan, where it is punishable with death. Some nations will spare homosexuals' lives but imprison them for endless years, not to mention their violence and mistreatment during their imprisonment. Formerly a nation where homosexuals were considered mentally ill, the U.S. now has legislation that promote gay marriage and equal rights for the LGBT community. Other states have also legalized gay marriage, like France, Canada, and South Africa, and created an atmosphere where the group members can feel somewhat supported and accepted.

Who knows how long the global attitude about homosexuality will take to change. Over the past couple of years, the LGBT community has gained some prominent allies, but much more needs to be achieved before they can truly feel equal to heterosexuals. Homosexuality is not a disorder or mental condition that needs to be or can be 'healed' or 'altered,' it is just another expression of human sexuality.' Section 377 of the Indian Penal Code 1860, a colonial figment, had criminalised 'unnatural sexual acts' since its implementation as law in 1862. Homosexuality falls under such acts and can attract punitive measures.

As India moves into the most liberal era, it has seen economic, educational, and cultural changes gaining traction. Indian social psyche seems to have inconsistencies regarding particular issues still in the constraints of age-old moral values. Lesbian, gay, bisexual, and transgender rights are sensitive areas that have not surfaced yet. In 2012, a petition was filed in the Supreme Court by Justice K.S. Puttaswamy (Retired) challenging the constitutionality of Aadhaar because it violates the right to privacy. The central government objected to the classification of privacy as a constitutional right during the hearings. Opposition to the government's right depended on two early decisions — MP Sharma vs. Satish Chandra in 1954, and Kharak Singh vs. Uttar Pradesh State in 1962—which had held that privacy was not a fundamental right.

In the case of M.P Sharma, the bench held that the Constitution's drafters did not wish to subject a fundamental right of privacy to the power of search and seizure. They argued that no language close to the Fourth Amendment of the U.S.A. is included in the Indian Constitution. It thus challenged the existence of a protected right to privacy. The Supreme Court has made it clear that M.P. Sharma has not agreed on other issues, such as "whether the constitutional right to privacy is covered by other fundamental rights clauses, including the right to life and personal liberty referred to in Article 21".

The decision invalidated a Police Regulation in Kharak Singh that provided for nightly home visits, finding them an "unauthorized intrusion into the home of an individual and a breach of ordered rights." However, it also upheld other aspects of the Regulation on the ground that the Constitution did not guarantee the right to privacy. Therefore, there was no implementation of Article 21 of the Indian Constitution (the right to life and freedom of person). Justice Subbarao's dissenting opinion explained that, while the right to privacy was not expressly recognised as a constitutional right, it was, under Article 21, an integral component of personal liberty.

The constitutional validity of Section 377 of the Indian Penal Code 1860 (I.P.C.) was challenged by Writ Petition No. 76 of 2016 that it criminalizes consensual sexual intercourse in private between persons of the same sex. On 6th September 2018, the Supreme Court of India's five-judge constitutional bench invalidated part of Section 377 of the Indian Penal Code, rendering citizens' homosexuality legal in India. The effect of this law is that associations which could not be created by the former LGBT community and were disqualified from becoming the company's director. But, now they are free to form associations and could be appointed as a director of a company. This minority would have the right to express its sexual orientation. Previously, the LGBT community was

deprived of their right to reputation which is a facet of the right to life and liberty of citizens under Article 21 of the constitution. After the 6th September, 2018 judgement, they were granted the right to reputation. Homosexuality is no longer considered a mental illness rather they are natural variations of expression of choice and inclination found on consent of two persons and making it a criminal offence is offensive. The rights of the LGBT community who form 7-8% of the total Indian population need to be recognized and protected. Their right to privacy should be granted.

REVIEW OF LITERATURE

In this Article an attempt is made to review the available literature pragmatically. There is not much LGBT laws and rights literature available in India, some of the important judgments of the Supreme Court have been reviewed, and some of the basic views of world legal experts have been reviewed as:

The Delhi High Court recognized the anachronism associated with Section 377 OF IPC 1860 in *Naz Foundation v. Government of N.C.T. of Delhi* and interpreted it to preclude sexual activities between consenting adults, thus decriminalizing homosexuality. The judgement is a milestone in civil liberties litigation, but the decision's consequences are limited and can be annulled by an Indian Parliament Act. It can be considered one of the moves to India's sexual minorities' liberation from tyranny and coercion at the law's hands. Section 377 of IPC 1860 was widely used by law enforcers to intimidate and abuse homosexuals and transgender people prior to this ruling. Various such events in the recent past have come to light. The courts' conduct towards the lesbian, gay, bisexual, and transgender population will also decide this. It was held that oral sex falls within the scope of Section 377 of the IPC 1860 in *Calvin Francis v. Orissa*. The references to the *Corpus Juris Secundum* on sexual perversity and irregular sexual pleasure were used as the guiding criterion by the Court. In *Khanu v. Emperor*, it was held that "Section 377 IPC 1860 punishes, among other things, those individuals who have carnal intercourse with human beings against the order of nature [if the oral sex performed in this case is carnal intercourse], it is obviously against the order of nature, since the normal purpose of carnal intercourse is that the probability of the reproduction of human beings should occur. Courts had kept previously in *R. V. v. Jacobs* and *Govindarajulu re*, under Section 377 IPC, 1860 putting the penis in the mouth will not be an offence. Section 377 IPC 1860 was interpreted later to include the penetration of the oral sex, anal sex, and other orifices.

In *Jayalakshmi vs. Tamil Nadu State*, after being picked up on the suspicion of involvement in a robbery case, a eunuch had committed suicide because of the abuse and torture at police officers' hands. There was evidence that he was subjected to torture by putting a wooden stick into his anus and

pressuring certain police officers to have oral sex during police custody. The person in question immolated himself on 12.6.2006 inside the police station and subsequently succumbed on 29.6.2006 to burn injuries. The victim's family was given compensation of Rs.5,00,000/-.

In *Aids Bhedbhav Virodhi Andolan v. Union of India*, it was argued that homosexuality should not be tolerated by Indians because- (1) Homosexuality is not tolerated by Indian culture and society, (2) Criminalization of homosexuality is important to provide a safe atmosphere by criminalising unnatural sexual acts, and also to open the floodgates of delinquent behaviour, (3) Criminal law should represent the wishes of the majority of the population and homosexuality should be a crime as a majority of Indians are intolerant towards it.

The 42nd Law Commission Report stated that

First, it can not be denied that homosexual actions and tendencies on the part of one partner can impact the other partner's marital life and happiness, and it has a social rationale from this point of view to make this act illegal under the law. Second, even considering that acts performed in private with consent does not constitute a serious act.

The case of the *Naz Foundation* is, in a way, a cause of great rejoicing for the sexual minorities who have been persecuted hitherto. It constitutes a source of deliverance on two separate planes: it decriminalizes romantic relationships between homosexuals and at the same time acts as a source of defence from violence and vilification at the hands of law enforcers. It also ensures that the sexual minorities are shielded from various medical afflictions by getting their condition into the authorities' conscience. Based on the right of people to privacy and a life of integrity, the Court rightly held that these rights can be subordinated only to some overarching public interest. The Court further tested the constitutional validity of the impugned statute, questioning its compliance with the Indian Constitution's unique provisions. Having held that sexual preferences fall within the individual's right to dignity and privacy, the Court held that Section 377 IPC 1860 constituted a clear violation of the aforementioned right and consequently infringed the substance of Article 21 of The Constitution of India. In response to the issue of the violation of Article 14, the Court applied the tests set out by the Supreme Court.

West Bengal State v. Anwar Ali Sarkar. The Court noted that the challenged law created an arbitrary distinction and that there was no fair connexion between preventing sexual exploitation of children or improving public health and criminalising consensual sexual relations between adults. In Article 15, the Court then went on to define the word 'sex' not only to denote gender, but also to

have a broader periphery, including 'sexual orientation.' On the basis of that understanding, the Court held that Section 377 was prima facie discriminatory against sexual minorities and was thus also in breach of Article 15. With the impugned statute violating Articles 21 and 14, the Court found it superfluous to entertain the issue of infringement of Article 19. In a final gesture, the Court applied the doctrine of severability only to the point of decriminalising consensual intercourse between adults to read down the impugned statute.

On 11 December 2013, Suresh Kumar Koushal & Anr vs Naz Foundation & Ors Civil Appeal No.10972 of 2013: In this case, the Hon'ble Supreme Court holds that the vice of unconstitutionality does not concern Section 377 IPC and the declaration made by the Division Bench of the High Court is constitutionally unsustainable. Accordingly, appeals are allowed, the order under appeal is set aside and the written petition lodged by respondent No.1 is dismissed. Though departing from the case, we would like to make it clear that this Court merely ruled on the correctness of the view taken by the High Court of Delhi on the constitutionality of Section 377 of the I.P.C, 1860 and found that there was no constitutional infirmity in that Section. Notwithstanding this verdict, the competent legislature shall be free to take into account the desirability and propriety of repealing or amending Section 377 IPC, 1860 from the statute book, as proposed by the Attorney General. Lawyer K. S. Puttaswamy (Retd) Vs. Indian Union & Ors. On 24 August 2017, in the important constitutional case of Puttaswamy v Union of India, a nine judge bench of the Indian Supreme Court rendered its verdict. The Court ruled unanimously in a stunning and wide-ranging 547-page decision that privacy is a constitutionally protected right in India. This is a landmark case that would undoubtedly lead to constitutional challenges for a wide variety of Indian laws. Early in the 1890s, George Chauncey chronicled a vibrant gay male community in major metropolitan areas like New York as Political Support for Anti-Gay Marriage and Environmental Ballot Initiatives. By the 1920s, gay men in Greenwich Village, Harlem, and Times Square had developed neighbourhood enclaves.

While some gay men entered these neighbourhoods only fleetingly, and the gay scene at the time, it played a central role in others' lives. To find work, homes, romance, and their closest friendships, many people use their gay social circle. The strength of the early twentieth century gay male subculture was so strong that it provided the strength for many to reject the concept of homosexuality as "sick, criminal and worthless" by the dominant culture. Although some homosexuals formed long-term relationships similar to those of married couples, the rejection of same-sex relationships by the dominant culture as a generally accepted lifestyle persisted for much of the 20th century to address anything resembling same-sex partners' marriage outside the public arena. The

emergence of gay liberation and women's liberation movements enabled greater freedom from social norm in some communities, such as San Francisco in the post World War II period. In particular, the women's movement, according to historian John D'Emilio, allowed women to freely accept same-sex feelings and relationships "unencumbered by men's primary and social attachments. The women's movement was in fact a "breeding ground" for lesbians, as critics of feminism were able to realise. The political fight for recognition had extended to a fight for civil rights for same-sex couples in committed relationships by the last decade of the 20th century. The Hawaiian Supreme Court ruled in 1993 that restricting marriage to opposite-sex couples was sex-based discrimination that violated the Constitution of the State. In 1996, at the National level, the U. S. Congress passed the Protection of Marriage Act (DOMA), which prohibited federal approval of same-sex marriages and allowed States to determine for themselves whether to do the same. The next major legal decision took place in 1999 when the Supreme Court of Vermont ruled that restricting marriage to opposite-sex couples violated the "common benefits clause of the state constitution." However, instead of withdrawing from same-sex marriage privileges, as had happened in Hawaii, the Legislature of Vermont passed a civil union bill in 2000 with more than three hundred partnership rights and responsibilities. More than a hundred years ago, Magnus Hirschfeld (2000) brought to the fore the problems of prejudice against homosexuals in society. Hirschfeld, considered the father of the Gay rights movement abroad, set up the Scientific Humanitarian Committee in 1897, whose main aim was to campaign for LGBT rights. For more than three decades, the group effectively sponsored and advocated for LGBT people's rights before it was forced to end its advocacy activities as a result of the policies of Nazi Germany against homosexuals and those who sponsored them. Harry Hay is known in the United States as father of the contemporary Gay rights movement. Hay and his fellow supporters initiated a debate at the beginning of the 1950s about homosexuality and the need for a culture that LGBT people could assert as their own. In 1951, Hay and friends subsequently founded the Mattachine Society. The mission statement of The Mattachine highlighted both the need for community and the need to educate the wider public about the needs of homosexuals.

The GLSEN 2001 National School Environment Survey found that nearly two-thirds of LGBT youth reported having been sexually abused during the past school year. For female and transgender youth in the study, the level of sexual assault was greater. Even transgender youth were substantially more likely to report feeling unsafe at school due to their gender expression. Factors that impact transgender youth's perceptions were

investigated using three focus groups by Grossman and D'Augelli (2006). From an overview of the groups' discussions, three trends emerged. The topics focused on presentation of gender identification and gender, sexuality and sexual orientation, and vulnerability and health issues. Most of them recorded feeling at puberty that they were transgender and encountered uncertainty and negative responses to their atypical behaviours of their gender. They noted the four issues related to their vulnerability in health areas: lack of healthy spaces, inadequate access to physical health facilities, insufficient support to resolve their mental health needs, and lack of quality of treatment from their families and communities. Grossman and D'Augelli (2007) researched the suicide risk factor among young transgender people. Nearly half of the sample reported having seriously considered taking their lives and one quarter reported attempted suicide. Factors substantially linked to having made a suicide attempt included transgender identity-related suicidal ideation; past parental verbal and physical violence experiences; and lower body confidence, especially weight satisfaction and thoughts on how others evaluate young people's bodies.

The Union Cabinet approved the Transgender Persons (Protection of Rights) Bill 2016: This Bill is intended to provide the transgender community with social, educational and economic empowerment. This Bill might mean a chance for a culture that has been ostracised and discriminated against for too long, to live a life of dignity and equality. The Bill makes it unlawful to force a transgender person to leave their residence or village, remove their clothing, parade them nude, force them into begging, or bonded labour. These activities will be punished by up to two years' imprisonment, along with a fine and also calls for statutory changes to cover cases of transgender sexual harassment. It also guarantees that transgender people or transgender children enjoy the right to equality, all human rights, the right to life and dignity, and personal freedom as protected by transgender people or transgender children. *National Legal Services Authority v. Union of India*, WP (Civil) No 604 of 2013: The Court ordered the Centre and State Governments to give legal recognition of gender identity, be it male, female or third-gender:

1. **Legal recognition of third sex:** in acknowledging the third category of gender, the Court acknowledges that constitutional rights are available to third sex in the same way as they are available to males and females. In addition, non-recognition of third gender in both criminal and civil laws, such as marriage, adoption, divorce, etc., is discriminatory against the third gender.
2. **Legal recognition for people transitioning within the binary male / female:** As to how the actual recognition process will occur, the

Court merely notes that they tend to pursue the person's psyche and use the "Psychological Test" as opposed to the "Biological Test". They also declare it illegal to rely on Sex Reassignment Surgery (S.R.S.) as a requirement to alter one's gender.

3. **Public Health and Sanitation:** Centre and State Governments have been ordered to take effective steps to provide medical services for transgender people in hospitals and to provide separate public toilets and other facilities for them. In addition, different H.I.V. / Sero-surveillance programs for transgender people have been guided to work.
4. **Socio-Economic Rights:** Centre and State Governments have been required to offer separate social security services to the population and regard the population as socially and economically backward. They were also required to expand reservations for public appointments and educational institutions.
5. **Stigma and public awareness:** these are the broadest directions-Centre and State Governments are invited to take action to raise public awareness such that transgender people know that they are still part and parcel of social life and that they are not viewed as untouchables; to take measures to recover their dignity and position in society; and to solve problems such as fear, shame, gender confusion seriously. The Court observes that these statements are to be read in the light of the report of the Expert Committee of the Ministry of Social Justice and Empowerment on transgender issues. As homosexuality is against the nature of law, many critics have mentioned that homosexuality and other forms of sex can prove to be an ill-effect for society because scientifically, any sex other than the natural cause of many serious ills in the human beings. For example, homosexuals are more prone to sexually transmitted diseases like AIDS etc than any normal person. But many gave their points of arguments and contentions in favour of Section 377 like.
 1. **Consensual Sexual orientation protected under Articles 14, 19 and 21:** Consensual sexual relationships between same sexes are protected under Articles 14, 19 and 21 of the Constitution of India.
 2. **The right to choose one's partner:** Right to choose one's partner is manifest in Article 21. Various experts argue that section 377 which criminalizes gay sex

violates Article 14, 15, 19 and 21 of the Constitution because there is discrimination on the basis of sex.

3. **The affection of the life of LGBT people:** Same-sex is a normal variant and the society has favored decriminalization of section 377 as it is affecting the lives of LGBT people.
4. **Violation of Right to Association:** Section 377 violates the right to form an association between sexual minority and the LGBT community is afraid of forming any kind of association fearing police action.
5. **An instrument for Exploitation:** Many critics feel that section 377 is just an instrument of exploitation and it is almost not possible to decide what type of sex two consenting individuals are having in private.
6. **Unhappy Marriage:** Due to the stigma of Homosexuality, LGBT people bound to marry the opposite sex and that leads to unhappy marriages where the unsuspecting spouse is the one who is affected the most.

The Indian government has successfully leaped ahead of section 377 which had imposed by the British on the people of India. As section 377 removed, but there is a wide gap in implementing a policy for the LGBT community and make a better environment for them. Right now, they are facing many issues that are underline in the below section:

1. **Issue of Family:** The problem of sexual orientation and gender identity leads to fighting and family disruption. Lack of communication and misunderstanding between parents and their LGBT children increases family conflict.
2. **Issue of Discrimination still prevails in Work Place:** LGBT suffers from the socio-economic inequalities in large part due to discrimination in the workplace.
3. **Issue of Injustice:** Human rights and fundamental rights are applicable to all person, but the state is failed to create special legislation which protects the rights of LGBT Minority community and to provide real justice to them.
4. **Issue of Khap Panchayat:** The consent of the family or the community or the clan is not necessary once the two adult individuals agree to enter into wedlock while holding that any attempt by Khap Panchayats or any other assembly to scuttle or prevent two consenting adults from marrying is absolutely "illegal".

CONCLUSION

LGBT multiculturalism is the diversity within the LGBT (lesbian, gay, bisexual, transgender) community as a representation of different sexual orientations, gender identities—as well as different ethnic, language, religious groups within the LGBT community. At the same time as LGBT and multiculturalism relation, we may consider the inclusion of LGBT community into a larger multicultural model, as for example in universities, such multicultural model includes the LGBT community together and equal representation with other large minority groups such as African Americans in the United States. The two movements have much in common politically. Both are concerned with tolerance for real differences, diversity, minority status, and the invalidity of value judgments applied to different ways of life. Many Researchers have identified the emergence of gay and lesbian communities during several progressive time periods across the world including: the Renaissance, Enlightenment, and modern Westernization. Depending on geographic location, some of these communities experienced more opposition to their existence than others; nonetheless, they began to permeate society both socially and politically. Eleanor Formby writes that the notion of "LGBT community" is problematic, because community belonging is not a given just because people share a gender or sexual identity. Formby cites an interviewee who argued that "The idea doesn't exist, it's a kind of big myth – a bit like saying there's a brown-eyed community or a blonde community." According to Formby, research shows that many LGBT individuals do not at all feel there is a real "LGBT community," as they keep experiencing discrimination from other LGBT people relating to their age, body, disability, ethnicity, faith, HIV status, or perceived social class. Formby clarifies that she does not suggest abandoning the phrase altogether, but that using "LGBT people" would be more accurate in most instances, and would not risk alienation felt by an already (at times) marginalized group of people. In order to create better-living place for LGBT community, the Home Department of the Government of India must take initiative and work in coordination with the State Governments for sensitizing the law enforcement agencies and by involving all the stakeholders to identify the measures and to implement the Constitutional goal of Social justice and the Rule of law. There are no laws protecting gays and lesbians from discrimination at the workplace or laws that allow them to marry their partner of choice. Earlier it was questioned at large that if Section 377 is abolished, it opens a window of acceptance and achievement for the LGBT community. There are various other issues related to LGBTs where we can work more for the welfare and recognition of rights of LGBTs like Special laws should be

enacted, to provide opportunities in social and economic activities, there is need to take preventive measures in family, public and domestic violence and need to change the social attitude toward LGBT Minority people. To break the ice we need to organize the Seminars, Workshops and Talk Shows on Public platforms as the State has to protect their fundamental rights without any discrimination so the government should take initiatives to support employers in making the workplace and workplace culture more supportive and inclusive of LGBT people. Overall at last it can be concluded that now it's the time to accept this community and behavior as a natural or normal course of human life.

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