



Social Acceptance of the LGBTQ+ Community in India: A Theoretical Discussion

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DOI : <https://doi.org/10.5281/zenodo.19543437>

ARTICLE DETAILS

Research Paper

Accepted: 27-03-2026

Published: 10-04-2026

Keywords:

LGBTQ+, Section 377, human rights, gender identity, social acceptance, legal equality.

ABSTRACT

The main objective of this paper is to analyze the evolution of the legal rights and social realities of the LGBTQ+ community in contemporary India. Although the Supreme Court's landmark judgment in 2018 partially decriminalized homosexuality by repealing Section 377 of the Indian Penal Code, the social acceptability of this marginalized community is still largely questionable. This article reviews the historical context, the continuity of the legal battle, and the current social barriers from a theoretical perspective. The main goal of this theoretical study is to highlight the vast gap between legal equality and social equality.

Introduction

One of the cornerstones of any democratic state is to ensure equal rights and respect for all its citizens. But historically, the LGBTQ+ community has long been subject to institutional and social discrimination due to their diversity in sexual orientation and gender identity. In India, this discrimination was legally embodied in Section 377 of the British-drafted Indian Penal Code, which criminalized sexual conduct that was "against nature".

There has been a significant rise in the LGBTQ movement in India in recent decades, which has resulted in several positive changes in the legal system. However, a huge gap remains between being



decriminalized in the state's legal system and being recognized as normal in the eyes of society. This study is an attempt to theoretically analyze that gap.

LGBTQ basically refers to a community that is united on the basis of their diversity of sexual orientation and gender identity. This issue is very important in the discussion of equal rights and respect for all people in society. The literal meanings of LGBTQ are discussed below:

L (Lesbian): A woman who is sexually attracted to other women. That is, women who are physically, emotionally, or romantically attracted to other women are called lesbians.

G (Gay): Homosexual men. Men who are attracted to other men are called homosexual men. However, in many cases, this term is also used to refer to homosexuals in general.

B (Bisexual): Bisexual. People who are attracted to both men and women are called bisexual.

T (Transgender): People whose emotional gender identity does not match their physical sex at birth. For example, someone who was born male may identify as female emotionally, or vice versa. They are called transgender.

Q (Queer or Questioning): 'Queer' is an umbrella term used to refer to those outside of traditional heterosexual identities. 'Questioning' refers to those who are still unsure of their sexual or gender identity and are exploring themselves.

Today, it is often written as LGBTQ+ with a '+' (plus) added to it. This plus sign includes intersex, asexual, or all other marginalized sexual and gender identities.

Objectives of the Study

The main objectives of this research paper are discussed below:

1. To analyze the historical evolution of the legal rights of the LGBTQ+ community in India and the impact of recent landmark judgments.
2. To identify the reasons for the marginalization of this community in society despite legal recognition.
3. To review the current situation of social acceptance at the educational, workplace and family levels.
4. Highlight future steps to bridge the gap between legal equality and social reality.



Research Methodology

This is a completely theoretical and descriptive research. This article has been prepared mainly on secondary data. This analytical review has been done on the basis of information obtained from various books, academic journals, Supreme Court judgments, reports of human rights organizations, and newspapers.

Historical context: From ancient India to the colonial era

Sexual diversity and gender identity are present in ancient Indian literature and sculpture. Hindu mythology, epics (such as the character of Shikhandi), and Vatsyayana's Kamasutra also contain references to homosexuality and the third gender, demonstrating that these issues were not considered entirely abnormal or criminal in ancient India.

However, in 1861, British colonial rulers, drawing on Victorian morality, introduced Section 377 into the Indian Penal Code. This section declared any 'unnatural' sexual intercourse a crime punishable by life imprisonment or 10 years in prison. This law subjected India's LGBTQ+ community to centuries of blackmail, police harassment, and societal oppression.

Notable Indian court rulings on LGBTQ+

Here are some notable court rulings in the legal journey of LGBTQ+ rights in India:

1. Naz Foundation Verdict (2009): The Delhi High Court ruled for the first time that consensual same-sex relations between adults are not a crime. This was the first major victory for the realization of this right.
2. Suresh Kumar Kaushal v. Naz Foundation (2013): The Supreme Court set aside the Delhi High Court's judgment and reinstated Section 377. The court argued that it is the responsibility of Parliament, not the judiciary, to make or repeal laws.
3. NALSA Judgment (2014): This is a landmark judgment in the rights of transgenders. The Supreme Court gave legal recognition to transgenders as a 'third gender' and ordered to ensure their fundamental rights.
4. Puttaswamy Roy (2017- Right to Privacy): Supreme Court declares right to privacy as a fundamental right

Where sexual instinct is also mentioned as an integral part of personal privacy.



5. *Navtej Singh Johar vs. Government of India (2018)*: On September 6, 2018, the Supreme Court of India a constitutional bench of the court unanimously struck down Section 377 in part. The court clarified that consensual same-sex relations between adults in private are not a crime. The verdict marked a new chapter in the history of human rights in India.

6. *Same-sex marriage cases (2023)*: The Supreme Court's most recent discussion was on same-sex marriage.

Regarding legal recognition under the 'Special Marriage Act'. In October 2023, the Supreme Court ruled that the fundamental right to same-sex marriage is not enshrined in the Constitution and that the responsibility to legislate on this issue lies with the legislature. However, the court ordered the formation of a committee to eliminate discrimination against LGBTQ+ couples.

Problems of social acceptance

While the legal victory is a great relief for the LGBTQ+ community, questions of social acceptance remain due to patriarchal values and traditional gender structures (heteronormativity) in Indian society. These social acceptance issues are discussed below:

1. Family deprivation and unacceptability

Most LGBTQ+ people experience their first discrimination within their own families. After 'coming out' or revealing their sexual identity to their families, many face unscientific and inhumane treatment such as being thrown out of their homes, forced into heterosexual marriages, or undergoing 'conversion therapy'. Isolation from family has a devastating impact on their mental health and increases their risk of suicide.

2. Educational institutions

LGBTQ+ students are often subjected to intense bullying and harassment in school or college, leading many to drop out. This rate is even higher for transgender individuals.

3. Workplace deprivation

On the other hand, inclusion in the workplace is still limited. Although some multinational companies have adopted 'Diversity and Inclusion' (D&I) policies, negative attitudes towards them and discrimination in recruitment are prevalent in the larger unorganized sector or in the general workplace.

4. Healthcare and Housing:



In the medical field, LGBTQ+ people often do not receive proper treatment due to insensitive behavior of doctors or health workers. In addition, these couples or transgender people face extreme objections from landlords when looking for rental housing or accommodation in cities or villages.

5. Negative role of media:

Once upon a time, LGBTQ+ characters were only portrayed as laugh-out-loud or criminals in mainstream Indian cinema. However, these characters are now being portrayed with great sensitivity on OTT platforms and in some mainstream films (such as ‘Shubhamangal Zyada Saavdhan’, ‘Badhaai Do’, ‘Made in Heaven’), which is playing a positive role in raising awareness among the public.

Way to solve

Changing the social mindset is not possible through laws alone. Multifaceted steps are needed to bring the LGBTQ+ community back into the mainstream of society. These are discussed below:

1. Legal and policy reforms: Bringing the LGBTQ+ community back into the mainstream of society

The first and most important step is to create a specific and non-discriminatory legal framework. While the Constitution mentions fundamental rights, it is essential to enact a comprehensive anti-discrimination law to prevent discrimination in the private workplace, housing, and healthcare. In addition, everyday civil rights such as same-sex marriage or civil union, adoption, inheritance of property, and nomination for life insurance must be legally guaranteed so that they can enjoy full equality in the eyes of the state.

2. Reforms in the education sector: The work of changing the attitude of the society needs to start from the very grassroots level, i.e. from the educational institutions. In addition to including gender diversity and human rights issues in the curriculum of schools and colleges, scientific sex education should be made mandatory. Educational institutions should adopt a strict ‘zero-tolerance’ policy to prevent any kind of physical or mental bullying and harassment against students from this community. Besides, infrastructural developments like special sensitivity training for teachers and construction of gender-neutral toilets in educational institutions will play a helpful role in the healthy mental development of students.

3. Workplace Inclusion and Economic Empowerment: Social respect and mainstreaming are almost impossible without economic self-reliance. Therefore, the policy of ‘Diversity and Inclusion’ must be strictly implemented to eliminate discrimination on the basis of sexual or gender identity of the candidate during recruitment in both the public and private sectors. It is very important to provide



vocational training and easy loans to marginalized LGBTQ+ people, especially transgender people, so that they can join the mainstream economy with dignity instead of choosing marginalized professions due to social discrimination.

4. **Healthcare and Mental Health:** Comprehensive reforms are needed in the healthcare system to ensure the right to physical and mental well-being. Special sensitivity training should be provided to doctors, nurses and medical staff so that they do not engage in any discriminatory or offensive behavior towards LGBTQ+ patients. Unscientific and inhumane ‘Conversion Therapy’ should be strictly banned by declaring it a completely illegal and punishable offence. In addition, it is essential to provide free or low-cost counselling and appropriate mental health services to the people of this community to overcome the mental trauma caused by social and family deprivation.
5. **Family and social awareness:** The family is the smallest unit of society, so family support paves the way for people in this community to return to the mainstream. Appropriate support is needed so that families can easily accept their children after they reveal their sexual or gender identity. Group and family counseling needs to be arranged. In addition, a massive awareness campaign should be carried out among the general public through the Panchayat, Municipality and local administration, where the involvement of local public representatives will be much more effective and fruitful in removing the deep-rooted prejudices at the social level.
6. **Positive role of media and culture:** The widespread influence of media and culture in shaping public opinion . There is a great need to change the social perception of the LGBTQ+ community. Mainstream films, dramas, literature and media should no longer portray the characters of this community as mere laughing stock or as abnormal, but should present them in a very respectful, sensitive and realistic manner. If the inspiring stories of LGBTQ+ individuals who have reached the pinnacle of success in literature, science, administration or other professions are highlighted more in the media, it will go a long way in breaking the stereotypes of society and creating an overall inclusive environment.
7. **Reservation of seats**

Reservation is necessary to bring the LGBTQ+ community back into the mainstream. Especially in the political sphere, reservation of seats for this community should be made mandatory. If this community is included in the political process, their problems will be able to be raised in the legislature. Also, seats should be reserved for this community in other spheres as well. And the mentality of giving equal status to every person should be created.

Steps taken by the Government of India



The laws and regulations enacted by the Indian government and legislature to protect the rights of the LGBTQ+ community are explained in detail in paragraph form below for the convenience of your research paper:

1. Transgender Persons (Protection of Rights) Act, 2019:

The most specific law enacted by the Indian Parliament to protect the rights of the LGBTQ+ community in India, especially transgender people, is the ‘Transgender Persons (Rights) Act’. Protection) Act, 2019’. The main objective of this Act is to strictly prohibit any kind of discrimination against transgender people in every aspect of daily life like educational institutions, employment, healthcare and housing. Through this Act, for the first time, transgender people have the legal right to apply to the District Magistrate and get a ‘Certificate of Identity’ or self-identification certificate, which gives legal recognition to their self-declared gender identity. Along with this, the Act has also directed the government to take up various welfare schemes for the socio-economic development, vocational training and rehabilitation of transgender people in the mainstream of society.

2. Transgender Persons (Protection of Rights) Rules, 2020:

In order to implement the original Act of 2019 properly and effectively, the Ministry of Social Justice and Empowerment, Government of India, has promulgated the Transgender Persons (Protection of Rights) Rules, 2020. One of the important steps in these rules is the introduction of an online system called the National Portal for Transgender Persons, through which transgender people can apply for their identity cards online, avoiding the hassle of physically appearing in government offices. In addition, a specific outline has been included in the rules for setting up ‘Garima Greh’ with government assistance as a safe haven for transgender people who are estranged from their families, socially abandoned or homeless.

3. Mental Health Services Act, 2017:

Although not directly designed for the LGBTQ+ community, the Mental Health Services Act, 2017 is a groundbreaking step in the medical protection of this marginalized community. Section 21(1)(a) of this Act clearly states that no doctor or hospital authority can discriminate against a person in providing mental health services on the basis of their “sexual orientation”. The most positive aspect of this Act is that it has indirectly legally banned the unscientific, degrading and inhumane ‘conversion therapy’ conducted in the name of medical science to so-called “normalize” LGBTQ+ people.



4. Indian Code of Justice, 2023 (BNS):

In a bid to reform the criminal justice system, the Indian government has repealed the British-era Indian Penal Code (IPC) of 1860 and implemented the Indian Penal Code (BNS, 2023), which provides for LGBTQ+ a major change in the legal history of the community. The infamous Section 377 of the old IPC—which considered homosexuality an “offence against nature” and provided for life imprisonment—has been completely removed in the new BNS. This has made it possible to legally remove homosexuality from the list of crimes, in line with the historic judgment of the Supreme Court in 2018. However, some legal experts believe that this has also created a new loophole in the law for punishing forcible sexual assault on adult males or transgender people.

5. National Medical Commission (NMC) Guidelines:

Although not a law enacted by the legislature, a recent policy move by the National Medical Commission, a body under the Government of India, has played a crucial role in protecting LGBTQ+ rights. In 2022, the NMC officially declared conversion therapy as professional misconduct for doctors and issued strict guidelines. This simply means that if a registered doctor tries to force or induce a homosexual or transgender person to change their sexual orientation, that doctor’s medical license can be permanently revoked, which has increased the protection of this community in the medical field manifold.

Conclusion

While the repeal of Section 377 in 2018 is a historic milestone for the legal rights of the LGBTQ+ community in India, it is not the destination, but rather the beginning of a long journey. From a theoretical perspective, the responsibility of the state cannot be limited to removing legal barriers; rather, the state must create an enabling environment where people of this community can live freely without fear, shame or discrimination. The vast gap between equal rights in the book of law and equal dignity in the eyes of society can only be bridged through the combined compassion and practical action of the state, civil society and every individual. To build a truly inclusive India, there is no other option than to recognize LGBTQ+ rights as a core framework of human rights.

Reference

1. Bhan, G. (2018). Challenging the limits of law: Queer politics and legal reform in India. *Journal of Human Rights*, 17(5), 601-615.



2. Chakrapani, V., Newman, P. A., Shunmugam, M., McLinden, T., & Dubrow, R. (2007). Barriers to free antiretroviral treatment access for men who have sex with men and transgenders in India. *AIDS Care*, 19(10), 1211-1216.
3. Dutta, A., & Roy, R. (2014). Decolonizing Transgender in India: Some Reflections. *Transgender Studies Quarterly*, 1(3), 320-337.
4. Kole, S. K. (2007). Globalizing queer? AIDS, homophobia and the politics of sexual identity in India. *Globalization and Health*, 3(8), 1-14.
5. Narrain, A., & Gupta, A. (Eds.). (2011). *Law like Love: Queer Perspectives on Law*. Yoda Press.
6. Pattanaik, D. (2014). *Shikhandi: And Other Tales They Don't Tell You*. Zubaan Books.
7. Shah, C., Merchant, H., & Mahajan, S. (2015). *No Outlaws in the Gender Galaxy*. Zubaan.
8. Vanita, R., & Kidwai, S. (2000). *Same-Sex Love in India: Readings from Literature and History*. Palgrave Macmillan.
9. International Commission of Jurists (ICJ). (2019). *Living with Dignity: Sexual Orientation and Gender Identity-Based Human Rights Violations in India*. Geneva: ICJ.
10. Vidhi Centre for Legal Policy. (2021). *Queering the Law: Making Indian Laws LGBTQ+ Inclusive*. New Delhi: Vidhi Centre for Legal Policy.
11. World Bank Group. (2014). *The Economic Cost of Stigma and the Exclusion of LGBT People: A Case Study of India*. Washington, DC: World Bank.
12. Justice K. S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1. (Right to Privacy Judgment).
13. National Legal Services Authority (NALSA) v. Union of India, (2014) 5 SCC 438. (Recognition of Third Gender).
14. Navtej Singh Johar v. Union of India, (2018) 10 SCC 1. (Decriminalization of Section 377).
15. Naz Foundation v. Government of NCT of Delhi, (2009) 160 DLT 277.
16. The Indian Penal Code, 1860. (Section 377).
17. The Transgender Persons (Protection of Rights) Act, 2019. (Act No. 40 of 2019).
18. The Mental Healthcare Act, 2017. (Act No. 10 of 2017).