

ISSN: 2582-6433



INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed 6th Edition

VOLUME 2 ISSUE 7

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume 2 Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis



IJLRA

EDITORIAL TEAM

EDITORS

Megha Middha



Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar

Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board



Dr. Namita Jain



Head & Associate Professor

School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.

Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019

Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8Articles in various reputed Law Journals. Conducted IMoot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

A STUDY ON THE LGBTQ+ COMMUNITY IN INDIA: LEGAL AND SOCIAL ASPECTS

AUTHORED BY - SHEBA LIZ ULLAS
3RD YEAR, SCHOOL OF LAW,
CHRIST (DEEMED TO BE UNIVERSITY)

ABSTRACT

LGBTQ+ community are considered as a weaker section of the society and they are vulnerable to exploitations. Government has been taking steps to eradicate the discrimination and make their lives better. The research paper focuses on determining the social and legal challenges face by the community as they strive forward. Acceptance of these gender by the society and their difficulty for job security and reservations are dealt below.

Section 377 was decriminalized recognizing the LGBTQ+ community. Marriage and adoption have not yet been discussed in the law. Law does not have a provision that neither deals with homosexual marriage nor adoption in any aspect. As far as this issue is concerned, the researcher feels that there needs for an existence of new legislation for the community regarding their life, job, adoption, marriage, acceptance etc. Along with proper protection of their rights against violations.

Keywords: LGBTQ+ community, discrimination, Marriage, Adoption, homosexual

INTRODUCTION

The LGBTQ+ populace and their lawful entitlements have been a persistent issue, particularly in a country like India where Section 377 of the IPC was in force until September 2018. There has been a huge commotion in behalf of the community and the support for its members, notably in the last

decades including the landmark judgement of Navtej Singh v. Union of India in 2018.¹ The notion of human rights hinges on the core premise that all persons are equal. Consequently, every individual possesses worth and must receive identical treatment. Any action that undermines this worth constitutes an infringement, as it opposes the principle of parity and establishes a basis for bias. Furthermore, such bias contravenes the fundamental essence of the introduction of the Indian Constitution, which mandates impartiality and uniformity of status for all individuals, regardless of their social, economic or political standing.

RESEARCH OBJECTIVES

- 1) To understand the socio-legal consequences faced by the LGBTQ+ society
- 2) To examine the aspects on job security and reservations available
- 3) To ascertain whether there require a necessity to amend or make new law for their protection.

RESEARCH METHODOLOGY

Research undertaken is purely doctrinal and the data collected is primary source which includes statutes, legislations, case-Laws etc. Secondary source includes books, journals, articles etc.

RESEARCH PROBLEM

LGBTQ+ was recognized in the year 2018 through the case of **Navjet Singh v Union of India**. Even though the law has recognized the community and decriminalized it, society is not yet ready to adopt the change. This is one of the social issues faced by the community as they still hold on to their customs and beliefs. Homosexual marriage is considered against their customs. Now, considering the legal problems, one of the major issues is that of adoption. The existing legislation on adoption does not recognize the right of a homosexual couple to adopt a child nor marriage of this community.

This section of people are not provided a suitable environment for living with other sections of the society, and Job security and reservation are not provided to them. This section of society is completely neglected, and their basic human rights are also not protected.

¹ [Sharanya Ghosh](#), LGBTQ+ community : legal rights and social discourse , Blog ipleaders (10.11.22, 15:30), <https://blog.ipleaders.in/lgbtq-community-legal-rights-social-discourse/>

RESEARCH QUESTION

- 1) What are the social and legal consequences faced by the community?
- 2) Whether the LGBTQ+ community is provided with proper job security and reservation?
- 3) Whether the existing law are sufficient for the community as of now?

HOMOSEXUALITY

Homosexuality denotes sexual choice or behavior directed closer to folks of one's personal intercourse or gender i.e., while someone is drawn in the direction of the equal gender to which he belongs, he's stated to be Homosexual. It isn't always a brand new notion, it's been not unusual place in India from a totally lengthy time.

Homosexuality is considered by many as a societal concern. As such, there has been significant interest in clarifying the roots of homosexuality among numerous experts, from anthropologists to zoologists and psychologists, to theologians. Research has indicated that people who believe sexual orientation is inborn are more likely to have accepting attitudes toward homosexual men and lesbians, whereas those who feel it is a choice have less forgiving attitudes. In most circumstances, the folks who are knowledgeable of human rights and psychologists can grasp the mental condition and behaviours of homosexuals. Society still feels that it's a mental condition or some say that it's an obsession with sexual performances. Again, some individuals say that it originates owing to a lack of sufficient education during infancy.²

CHALLENGES FACED BY THE COMMUNITY

Despite considering ourselves as modern and forward-thinking individuals, it is disheartening to witness the atrocities faced by individuals who identify as LGBTQ+ in various locations and environments. The researcher in this study will be seeking to throw a spotlight on the social and legal implications suffered by the community.³

² [Jane P. Sheldon phd](#), Beliefs About the Etiology of Homosexuality and About the Ramifications of Discovering Its Possible Genetic Origin, Vol. 52 Iss 3-4; Journal of Homosexuality 111, 111-150 (2008).

³ RACHIT SHARMA, Rights of LGBTQ in India and the Struggle for Societal Acceptance, Vol. 4 Iss 3; IJLMH 18, 18-32 (2021).

More Indian youths than ever before may accept homosexuality and queer identities today, but within the confines of family, home, and school, acceptance of their sexuality and freedom to openly express their gender choices still remain a constant struggle for LGBTQ+ (lesbian, gay, bisexual, and transgender) people. The LGBTQ+ community is battling for recognition and equal rights. Finding acceptance is extremely tough for transgender folks. The LGBTQ+ community is generally perceived unfavourably. The prevalence of discrimination towards the LGBTQ+ population makes this a severe concern. People's perceptions compel people to assume that LGBTQ+ folks are weird and significantly different.⁴

India is a place where Heterosexuals are common, yet it becomes a great matter to embrace gays. There is always a shock aspect or prejudice among majority of the LGBTQ+ community members which leads to mental health concerns, putting them in embarrassing circumstances. Homosexuals face frequent reactions from the public as if these persons are having unique ailments and normally are made to feel trapped or they have a negative past.

What led the LGBTQ+ community to separate from mainstream society and create their own community?

The answer lies in the fact that they can live their lives on their own terms without the fear of being judged. They come together to celebrate pride months, socialize, and discuss anything they want without worrying about societal norms. Despite the Hon'ble Supreme Court of India decriminalizing section 377 of IPC, society has not fully accepted the LGBTQ+ community. While the legalization of section 377 is a positive step towards a healthier and happier existence for the LGBTQ+ community, they still face various challenges in their daily lives.

The lack of awareness among other members of society gives rise to several issues that the LGBTQ+ community experiences. Insufficient understanding and comprehension contribute to the concerns and challenges faced by LGBTQ+. Despite the legalisation of section 377, society's attitudes and actions have not changed, possibly due to the psycho-social conditioning they receive from infancy. It is an arduous task for the LGBTQ+ community to confront such views in their daily lives.

⁴ Aashank Dwivedi Problems Encountered by LGBT Youth in India, Times of India (10.11.22, 15:30), <https://timesofindia.indiatimes.com/readersblog/aashank-dwivedi/problems-encountered-by-LGBT+-youth-in-india-44851/>.

Transgender individuals often encounter the society's double standards mentality. For instance, while they are considered fortunate for newborn babies and are invited to auspicious occasions like weddings and newborn functions, they are ridiculed and judged on ordinary days. The absence of suitable regulations and enforcement of protocols, if any, is also a major obstacle for the LGBTQ+ community to sustain a peaceful existence. Lack of standards leads in the non-acceptance of LGBTQ+ identification and violation of Human rights. The social stigma attached to any non-heterosexual relationship or community results into the social exclusion of LGBTQ+, unjust behavior towards LGBTQ+ is because of the stigma that is going on in our society, and its high time to think about wiping off these stigmas from society so that we can help them to build their life the way they want.⁵

SOCIAL ISSUES FACED BY THE COMMUNITY

General acceptability by society is the number one difficulty the community encounters. Even if the legislation has acknowledged the LGBTQ+ group, the same is still an out-of-tradition concept for the society at large. According to UNESCO Report of 2018, LGBTQ+ Children encounter a lot of bullying in schools, colleges etc. and are also prejudiced. This act of bullying and prejudice creates a lifelong scar in their life and it frequently takes them years to come out of it. (UNESCO Report, 2018). This might rob them from their future and endeavours. If a person announce himself or is determined to be belonging to LGBTQ+ Community then normally a bounty is placed for their Secret Honour Killings. Recently, many people have been victim to such honour killings. Women suffer the most for belonging to LGBTQ+ Community as when a woman declare herself as a lesbian or a bisexual, then the family generally suggests them to go for sanctioned corrective rapes in which a woman has sexual intercourse with a man without her will to treat the 'Disease of Homosexuality'. LGBTQ+ People not only face discrimination in schools and colleges but this menace does not end even after the completion of their education, they are also Discriminated while getting jobs as no employer wants to hire a person with a different sexual preference as that idea does not go well with the society and is often questioned by other employees. Thus, they are unable to find better paid employment and are caught in the vicious loop of poverty.

Non-acceptability of LGBTQ+ is not only prevalent in rural areas but also in urban families as the

⁵ Sharma, supra note 3.

families in urban areas are more concerned about their status in the society that they tend to forget their duties towards their children and often throw them out of the houses in order to prevent their social status when they find out that their child belong to LGBTQ+ Community.

LGBTQ+ persons are routinely sent to punishment facilities where they are offered psychotic medicines as part of ‘corrective therapy for Homosexuality’. They grow so hooked to these drugs that even after coming out from the torment of detention institutions, they take consolation in narcotics and other psychotropic substances and therefore, get addicted to it. People belonging to LGBTQ+ Community are generally Isolated from everyone, which drives them into despair.

As the word itself suggests, economic activity influences social processes economic status is directly related to the availability of source of income, yet LGBTQ+ are prejudiced at the workplace which works as a barrier to apply for a job and earn. There are many businesses, who are hiring them now, and there are jobs that are open for them, but the insensitive character of our society does not enable LGBTQ+ to come out and work for their interest. Socio-economic status is connected to the rights, quality of life and well-being of LGBTQ+. Lack of acceptance and fear of harassment can force many LGBTQ+ adolescents to leave their homes and live in transitional housing or on the streets, homelessness of youth have numerous repercussions for socio-economic status.

Marginalization involves considering a person as peripheral. Sometimes, society refuses to accept them such that it becomes impossible for them to live as an individual. They are ostracised and obtain bad sentiments from society. They wish to contribute in every sector of society, but they are not permitted to engage equally because they are marginalised. We might define it as the societal marginalisation of homosexuals. Marginalization of LGBTQ+ individuals frequently starts from the family where they are born.⁶

LGBTQ+ adolescents may need to leave their homes for a multitude of reasons, including be cause of violence or neglect inflicted by their relatives. These adolescents, especially particul arly transgender youth, are more prone to suffer from abuse and neglect compared to normal youth.

⁶ P. Sheldon, supra note 2.

RESERVATION IN JOBS

Observing that the concept of "proportional equality" expects the States to take affirmative action in favour of disadvantaged sections of the society within the legal framework of liberal democracy, the Bench stated that the petitioner, being a transgender, was entitled to proportional equality because the State is expected to take affirmative action in favour of disadvantaged sections of the society, and transgenders are cursed by everyone; living in distressed condition and being discriminated against.

Given that the Supreme Court's directive in *NALSA v. Union of India* (2014)⁷ is sufficient to offer reservation in circumstances of admission to educational institutions and public employment, the Bench declined to issue any direction to the State to provide reservations to transgender people. However, the State was directed to investigate the participation of transgenders in public employment, their number in the State, benefits granted to them without discrimination against men and women, and to make appropriate reservations if they are not sufficiently represented in public employment. Furthermore, because the minimum marks were set based on socioeconomic status, namely their backwardness and lack of representation in public employment, the Bench refused to give a directive to the respondents for the selection of the petitioner as Stipendiary Cadet Trainee Sub-Inspector.⁸ As a result, the petition was denied.

LEGISLATIONS FOR THE PROTECTION

Members of the community do not currently have any unique legal privileges. They are solely "permitted" by legal regulations to participate in voluntary sexual activities as making it a criminal offense would infringe upon their Fundamental Rights. Consequently, their rights are limited to the same Fundamental Rights granted to individuals in this country. However, civil rights are still not accessible to individuals belonging to this community. They are not legally allowed to register their weddings, therefore their union is not recognised by Indian law. The bills aimed to address the issue of crimes committed against community members, including domestic violence and sexual harassment, which are unfortunately prevalent. However, reporting such crimes remains challenging and, in some instances, impossible due to the lack of legal protection for transgender individuals and men who may also be affected. The Protection of Women from Domestic Violence Act of 2005, for

⁷ *NALSA v. Union of India*, (2014) 5 SCC 438

⁸ *Matam Gangabhavani v. State of Andhra Pradesh*, [2022 SCC online AP 200](#)

example, only applies to women and children, leaving out males, transgender individuals, and those who identify as gender-neutral.

The Transgender (Protection of Rights) Bills of 2016 and 2018 sought to address these gaps by providing specific legal rights to transgender individuals based on their unique needs. However, the Bills were met with strong opposition, particularly from members of the community. Some of the provisions just did not meet the community's demands. Although much has been done to improve the LGBTQ++ community's social position, their legal rights still require significant attention, particularly because the present legal framework does not give the specialised protection that they demand.⁹

Since its adoption as law in 1862, Section 377 of the Indian Penal Code, a colonial statute, has criminalised unnatural sexual conduct. Such activities include homosexuality and may result in penal measures.

IPC Section 377 not only pertains to individuals of same-sex orientation but also penalizes heterosexual pairs who participate in sodomy. To illustrate, in the event that a wedded couple engages in 'Anal Intercourse' instead of 'Normal Intercourse,' both the husband and wife will be deemed culpable. If the wife gave her approval for anal intercourse, both partners will be held accountable. However, if she did not, then only the husband will be held responsible under Section 377 IPC.

The Indian courts was critical in the decriminalisation of Section 377 of the Indian Penal Code. However, it should be noted that Section 377 as a whole is not decriminalised. There have been numerous landmark rulings issued by several High Courts and the Supreme Court that have clearly established gay behaviour as a natural one rather than as an offence. The so-called sodomy statute, Section 377, which punishes carnal intercourse with life imprisonment, has finally been repealed.¹⁰

⁹ Ghosh , supra note 1.

¹⁰ P. Sheldon, supra note 2.

I. NAZ FOUNDATION VS GOVERNMENT OF NCT OF DELHI (2009)

As per the ruling of the Court, the discrimination against the homosexual community through Section 377 violated Article 14 of the Indian Constitution, which guarantees the Right to Equality. A portion of the Section was invalidated, making it legal for adults to engage in private, consenting sexual activity. The judgement also indicated that it would be in effect until the Parliament changed. Since Section 377 covers a variety of "carnal intercourse"-related topics, it was not entirely invalidated in this case. Unfortunately, a two-judge bench of the Supreme Court of India quickly overturned the verdict.¹¹

II. NATIONAL LEGAL SERVICE AUTHORITY V. UNION OF INDIA

The Supreme Court ruled in this case that third-gender individuals had an equal right to protection under the Indian Constitution. The court further declared that psychological sex, not biological sex, must be used to determine gender identity.

The NALSA case verdict resulted in the Supreme Court of India recognising transgender individuals as the "third gender," maintaining the fundamental rights guaranteed by the Indian Constitution. Thanks to this, they will be treated equally and have the option to self-identify as male, female, or third gender.¹²

III. PUTTASWAMY JUDGEMENT, 2017

The Puttaswamy judgement, also known as the Justice (Retd), K S Puttaswamy v. Union of India decision, is considered essential since it upheld the right to privacy as an intrinsic right. The right to privacy is now a part of Article 21 of the Indian Constitution, which also guarantees our rights to life and liberty.

Every person, regardless of gender or sex, was likewise given the right to privacy. Members of the LGBTQIA+ community are given autonomy and safety from government intervention while exercising their freedom to select their partner thanks to the recognition of privacy as an intrinsic

¹¹ Naz Foundation v. Government of NCT of Delhi, WP(C) No.7455/2001, DELHI HIGH COURT;

¹² National Legal Services Authority vs. Union of India, (2014) 5 SCC 438

right. Consequently, this decision, coupled with the NALSA decision, served as the foundation for the reading down of Section 377 in 2018.¹³

IV. NAVTEJ SINGH JOHAR V. UNION OF INDIA AIR 2018 SC 4321

Five persons filed a fresh writ suit asking the Supreme Court to dismiss claims that Section 377 of the Indian Penal Code is unconstitutional. The petitioners asserted that the concerns they brought up in their petition were many and distinct from those in the Koushal v. Naz case, a curative petition that was filed in 2013 and is still pending. In this case, the petitioners made the first claim that Section 377 directly violated their fundamental rights and caused them all to be directly harmed.

The court determined that the right to equality given by the Indian Constitution was infringed by the criminalisation of sexual activity between consenting adults. The court determined that Indians who identify as LGBTQ+ are entitled to all constitutional rights, including the freedoms guaranteed by the Indian Constitution. The court ruled that "the constitutional protection of sexual orientation is inherent to the freedom to choose one's partners, to have fulfilment in sexual intimacy, and to be free from harassment and discrimination."¹⁴

VALIDY OF CURRENT LAWS

There exist several regulations that protect the privileges of minority groups, females, and any other community that has faced oppression in any way. Several legislation enacted to defend women's rights are comparable to the rights that the LGBTQ+ community is presently seeking. The debate here is whether current laws should be amended or new laws enacted to particularly safeguard community rights. There are three approaches to take. The first step is to recognise the community as a minority group and create legislation to meet their special requirements. Another approach is acknowledging that individuals go through situations like domestic violence and sexual offenses irrespective of their gender or sexual orientation, and that the current laws should expand their coverage to be gender-neutral. Gender-neutral statutes will have the ability to shield all people while maintaining the essential principle of equal treatment under the law. A victim is a victim and should not face

¹³ Justice K.S. Puttaswamy (Retd.) & Anr. vs. Union of India & Ors ,(2017) 10 SCC 1

¹⁴ Navtej Singh Johar v. Union of India, AIR 2018 SC 4321

discrimination in the eyes of the law. The offender must be penalized, regardless of the victim's gender. The third strategy involves blending the first two methods by gender-neutralizing current laws and introducing a separate provision for specific community rights based on their needs, as demonstrated by the Transgender (Protection and Rights) Bill 2019.

After 150 years this component no longer exists without any legitimate foundation. No one may punish people who belong to LGBTQ+ community under section 377 of IPC. Social impact: they live with dignity, respect, freedom as normal as the other gender lives in a society. Educational impact: they can accept higher education, schools and jobs as normal as that. Personal impact: they are free to chose their partners too and live in calm surroundings. Global impact: they may also take part to serve the nation and their efforts towards the nation valuable for emerging countries. This restricted free life enhances their capacity to learn, study and apply to attain their aims and desired objectives.¹⁵

ADOPTION AND MARRIAGE RIGHTS

The ultimate goal, as numerous members of the society have emphasized, is to tackle civil liberties such as the entitlement to wed, take in children, utilize surrogacy, and undergo IVF, among other entitlements. While the decriminalization of homosexuality represents a significant advancement in Indian customs, the society is yet to be completely embraced. The society will require more time to bring up concerns regarding these rights and anticipate favorable outcomes.

Despite the fact mentioned earlier, a petition was submitted to the Kerala High Court in January 2020, asking for the registration of marriage between an LGBTQ+ couple, and the Hon'ble Court has decided to investigate the matter. This gives hope that the fundamental rights of citizens will be granted in the near future. The suggestion is to either introduce a new law or amend the Special Marriage Act, 1954 to legalize marriages within the community. The case before the Kerala High Court argues that although the Act does not prohibit the union of community members, the language used implies a heterosexual bias, suggesting that marriage can only occur between a man and a woman. These clauses need to be revised to make them gender-neutral.¹⁶

¹⁵ Vineeta, LGBT Rights in India, Legal Service India (10.11.22,15:30), <https://www.legalserviceindia.com/legal/article-7932-LGBTQ+-rights-in-india.html> .

¹⁶ Ghosh , supra note 1

FURTHER SUGGESTIONS

The goal is to raise awareness about all gender identities and sexual orientations, and to celebrate the uniqueness of each individual regardless of their gender. It is important to educate people that one's gender identity or sexual orientation is not a choice, but a natural and biological reality. In order to achieve this, workshops will be organized with the active participation of the LGBTQ+ community to better understand their challenges and obstacles in daily life. The involvement of the LGBTQ+ community is crucial in establishing policies and strategies that promote their well-being and create a safe and inclusive environment. Integrating LGBTQ+ issues into school curriculums will help future generations understand the biological diversity of gender and sexuality from an early age, and prevent discrimination and prejudice. Workshops will also be conducted to help people understand the difference between gender identity and sexual orientation, which is based solely on biological factors. It is important to support family members in accepting and embracing their children's unique gender identity or sexual orientation without shame or judgment. Lastly, it is crucial to empower LGBTQ+ individuals to embrace their true selves with confidence and without succumbing to negative societal pressures.

Following an extensive discussion on the evolution of LGBTQ+ rights movement in India and a thorough understanding of the significance of various legal decisions, we are now equipped to explore how these verdicts will shape the future of the movement. It is important to note that the impact of the NALSA ruling and Navtej Singh Johar judgement extends beyond the recognition of third gender identity and the decriminalization of homosexuality. These progressive rulings not only address the issue at hand but also establish the groundwork for a range of civil rights previously unavailable to the LGBTQ+ community, which are otherwise enjoyed by heterosexual and cisgender individuals. These civil rights include the right to marriage, adoption, surrogacy, protection against discrimination, and freedom from sexual assault.

CONCLUSION

While choosing the topic “Problem and challenges of LGBT: Social Work Perspective”, With the aim of ensuring clarity and comprehensibility for readers, I selected this topic because it is imperative to put an end to the ridicule and discrimination faced by the LGBT community, and instead address the real-life problems and challenges they encounter. Sadly, LGBT individuals are often excluded from social gatherings, activities, and even events or workshops designed to enhance societal progress. As a social worker, it is our responsibility to take the lead in assisting these individuals to take an active role in every social function, which will not only boost their self-esteem but also enable them to feel more comfortable interacting with people outside their community. To this end, we can arrange workshops that involve direct participation from the LGBT community, where we can discuss their issues with them directly and solicit suggestions on how to create a safe and comfortable environment for them. After all, as members of the LGBT community, they possess a better understanding of themselves than we ever could, regardless of whether we grasp the fundamentals or not.

Despite numerous advancements, the LGBTQ+ community is still fighting for societal recognition. While a Supreme Court ruling can provide a resolution, it is the responsibility of society to avoid discrimination against LGBTQ+ individuals and make them feel accepted. Legalizing same-sex sexual acts alone will not provide equal protection, as the future of same-sex marriage, adoption rights, and protection against persecution remain uncertain and require continued advocacy. The struggle is far from over, and much work remains to make India truly inclusive.