

INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 5 | Issue 3

2022

© 2022 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

This article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of **any suggestion or complaint**, please contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication at the **International Journal of Law Management & Humanities**, kindly email your Manuscript at submission@ijlmh.com.

The Sorrowful Plight of LGBT people

AMANATBIR KAUR¹

ABSTRACT

The author through this article tries to analyze the hardships faced by the people belonging to the LGBT people right from their birth till they take their last breath. The problem lies in the very mindset of the society which has never given acceptance to the members of the LGBT community and always considered them to belong to a different world thereby ostracizing them. Despite there have been recognized in all the comparative constitutional democracies of the world Right to personal autonomy in choosing sexual orientation, is a Fundamental Right, many national and international laws for the protection of LGBT and Global conventions being held to support this cause, still, the incidences of flagrant violation of LGBT rights and discrimination against them is widely prevalent. The discrimination, the humility and the denigrating treatment meted out to the LGBT people needs really serious thought and effort. Through this paper, a small effort is made to have an insight into the sorrowful plight of the whole LGBT community, suffering for ages for no fault of theirs. Also, the author tried to put forth some suggestions that may be of some help in contributing towards ending this long prevailing discrimination and humility.

In our society, when a child is born, the very first question everyone asks is, is it a 'boy' or a 'girl'? Even before birth, the preparations are undertaken by the parents of the child having in mind if a girl child, to go for all pink setup and if it is a boy then to set everything blue. No one is ever heard of saying what if the baby born is neither a girl nor boy, what if he/she belongs to the LGBT community. The discrimination in this community starts even before birth. By chance even if a child happens to belong to any of the sections of the LGBT community, whether a gay or lesbian or bi-sexual or transgender, the society never accepts it. But why blame the society, when even the very own parents of the child shun him if they find out their child does not fit well into the set norms of the society. Around the world, everybody makes a lot of hues and cries about 'Democracy', a concept that was drafted 'for the people, but where does this democracy exists for the LGBT people, or do we as a so-called well-civilized society even refuse to recognize them as 'people'.

The ones who are not even clear about the very meaning of the term LGBT become the spokesperson for their issuing baseless statements of declaring all the members of the LGBT

¹ Author is an Advocate at District Courts, Amritsar, Punjab, India.

Community either heterosexual, some say all of them are homosexuals and some even go down to a level calling such people being infected with some kind of disease. The Indian Psychiatric Society (IPS) in the year 2018 specifically stated that homosexuality is not a disease and must not be regarded as such. All forms of 'treatment/therapy' including individual psychotherapies, behavior therapies like aversive conditioning, etc., to reverse sexual orientation are based on an erroneous premise: that such orientations are diseases. Moreover, there is no scientific evidence at all that attempts to convert a person's orientation succeed in any manner. The Indian Psychiatric Society disapproved of any such treatments and urged that such therapies must cease forthwith.² The IPS supported the decriminalization of homosexuality, saying this was in line with the position of the American Psychiatric Association and the International Classification of Diseases of the WHO which removed homosexuality from the list of psychiatric disorders in 1973 and 1992 respectively.

According to the available data, as of 2022, around the world, 30 countries recognized same-sex marriage and LGBT rights. These countries are Austria, Belgium, Brazil, Australia, Argentina, Costa Rica, Denmark, Canada, Colombia, Ecuador, Germany, Iceland, France, Finland, Malta, Mexico, Luxembourg, Israel, Ireland, New Zealand, Norway, Netherlands, South Korea, Spain, Sweden, Taiwan, The United States, Uruguay, and the United Kingdom.³ In contrast in sharp contrast to this, not taking into account non-state actors at the UN and extra judicial, there is only one country that believes to impose the death penalty on the same sex-sexual acts which are consensual i.e Iran. Although the death penalty is legal but generally not practiced in Afghanistan, Brunei, Mauritania, Nigeria, Saudi Arabia, and Somalia. In the year 2020, Sudan put an end to its unenforced death penalty for anal sex (heterosexual or homosexual). There are 15 countries that have on their books 'stoning' as a punishment for adultery including gay sex but this is enforced only by the legal authorities in Iran.

Certain parts of Latin America provide the standard of equality for LGBT rights. In Argentina, there is Gender Equality Laws 2012 which allow the change of gender on the birth certificate for transgender people. It even legalized same-sex marriage in 2010, thereby giving couples of the same sex, rights equal to that of couples of the opposite sex including the right to adopt children. Uruguay and Mexico city also allows the members of the LGBT community equal rights in marriage and adoption. Colombia also legally recognized the civil union of two people belonging to the same sex. Though slowly, LGBT groups are making progress in Asia also. In

² Position Statement of Indian Psychiatric Society regarding LGBTQ , dated 11th June ,2020.

³ Perper, Rosie (12th June 2019). "The twenty eight countries around the world where same sex marriage is legal". *Business Insider*. Retrieved 8th January 2021

the year 2012, a first-of-its-kind rally of gay pride was taken out in Vietnam. In Singapore, there was held pink dot pride rally which attracted 21,000 people. Vincent Wiley Singha became Singapore's first openly gay politician.

There have been given a plethora of influential judgments to deal effectively with this issue. Some of these are *Naz Foundation v Government of NCT of Delhi*⁴, *Navtej Singh Johar v Union of India*⁵, *National Legal Services Authority v Union Of India*⁶, *Lawrence v Texas*⁷, and *Obergefell v. Hodges*⁸. Despite there having been recognized by almost all the comparative constitutional democracies of the world the right to personal autonomy as a fundamental right, a plethora of laws for the protection of LGBT people, an enormous number of judgments supporting them, still the discrimination against them, violation of their Rights and abuses based on sexual orientation and gender identity worldwide, including torture, killings and executions, arrests under unjust laws, unequal treatment, censorship, medical abuses, discrimination in health and jobs and housing, domestic violence, abuses against children, and denial of family rights and recognition, continues unabated. Often these laws and judgments are not paid much heed. They remain confined to the books. Nobody realizes that these people suffer in silence for no fault of theirs. Often, we refer to the LGBT people as abnormal ones, the most crucial reason behind this can be that right from our school days we are taught about chromosomal abnormalities to study a little about the LGBT community. But we don't even realize when this chromosomal abnormality becomes a social abnormality with the whole society treating the entire LGBT community as abnormal. LGBT youth and teens are twice as likely to experiment with alcohol and drugs and four times more likely to attempt suicide. It should shock and shame all of us that many countries still have no laws or policies protecting LGBT students.

A study of Nationwide data available from across the United States from January 1999 to December 2015 revealed that recognition of same-sex marriage has a very positive impact i.e. it resulted in a significant reduction in the rates of suicide attempted among children, which resulted in about 1,34,000 fewer children attempting suicide each year in the United States.⁹

⁴ WP(C) 7455/2001.

⁵ W.P.(CrI.) No.76 of 2016.

⁶ W.P.(Civil) No. 400 of 2012.

⁷ 539U.S.558(2003).

⁸ 576 U.S. 644(2015).

⁹ Raifman, Julia; Moscoe, Ellen; Austin, S.Bryn; Mc Connell, Margaret (2017). "Difference-in-Differences Analysis Of The Association between State Same-Sex Marriage policies and adolescent suicide attempt" JAMA Pediatrics.

So, we need more of these protective laws and also the sincere and stricter implementation of them.

Besides these measures, there is also a need to put an end to the social stigma attached to being a member of the LGBT community. For that, the parents, the relatives, and the friends of such people need to accept with open hearts and rather than making them feel secluded, be their support systems so that they can come out openly with much courage.

Another agency that I feel can play a positive role in alleviating the sufferings of LGBT people and raising their status in the society is media and film industry. Often we see in movies, advertisements, songs, etc., transgenders or other members of society being portrayed in a denigrating position. This practice needs to be stopped and the people belonging to this industry need to be sensitized about this very serious issue and they should portray the LGBT people in a much more respectable position.

Another important factor that can help to lessen the sufferings of the LGBT people can be inculcated right from childhood in a person the values of being sensitive and respectful towards these people and not being afraid of them or viewing them as some alien entity. We as a civilized society need to introspect on the fact that why do we view these LGBT people as clowns, why don't we treat them as one amongst us, and why do we make them stand outside our so-called norms and boundaries and a self-made homogenous structure and don't give them even a chance to fit in. Society needs to understand that it is not the gender identity or the sexual orientation of a person that matters but what matters the most is how productive a person can be for society, his nation, and the world at large. LGBT people don't demand much, they just want what indeed belongs to them in the first place which is their right to live with dignity.
