

LGBT Movement in India

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Abstract: *Although sexual diversity was prominent in ancient India, heterosexuality has become the norm of present times. People with different sexual orientation other than heterosexuality are subjected to various forms of violence and are made to live on the margin of society. This paper, which is based on existing literatures and newspaper articles, aims at first to discuss the diverse sexual past of Indian society and how with the advent of colonial rule, heterosexuality became the dominant and only 'accepted' form of sexuality. It also aims at discussing the trajectory of LGBT (Lesbian, Gay, Bi-sexual and Transgender) movement in India and the role of various NGOs and other organization in it. At last there are some suggestions regarding social acceptability of sexual diversity which if comes along with legal safeguards, would create a better society.*

Keywords: Sexuality, section 377 (Indian Penal Code-IPC), LGBT (Lesbian, Gay, Bi-sexual and Transgender).

Introduction

LGBT (Lesbian, Gay, Bisexual and Transgender) is the initialism generally used to refer to the people with diverse sexual orientation and gender identity. It is problematic to bring all diverse sexualities and gender identities under one umbrella term and therefore many other abbreviations such as I (Intersexes), Q (Queer) are being added day by day to the initialism LGBT. Sexual diversity is the integral part of human history; there have always been people with homosexual (sexual orientation towards same sex), bisexual (sexual orientation towards both same and opposite sex) orientation and diverse gender identity (transgender, cross-dresser etc). In ancient India, there was positive attitude towards diverse sexuality and there is a number of sculptures, scriptures available indicating to its diverse sexual culture. It was home for various sexual diversities, as can be seen in various examples from ancient Indian tradition such as Shiva, one of the three main deities of Hinduism, is presented as half male and half female in one of his popular avatars **Ardhanariswara**, Shikhandi in Mahabharata was a

eunuch or third gender. It is said in the *Vedas* and *Kamasutra* that there are three types of human nature (Prakriti) i.e. **Pums Prakriti** (male nature), **Stri Prakriti** (female nature) and **Tritiya Prakriti** (third nature). There are examples like dual feminine deities in creation myth in **Rig Veda**, lesbian sexual postures in temples of **Khajuraho** and **Konark**, Queerness in Vishnu Sharma's **Panchatantra**, Vatsyana's **Kamasutra** etc. (Dasgupta 2011). However due to some socio-cultural factors hetero-sexuality became the norm of society and people who do not conform to this dominant social norm are subjected to violence, avoidance and humiliation while they are denied of their basic human rights. LGBT movement is a movement to bring equal rights for those people who are subjected to discrimination on the basis of their gender identity and sexual orientation.

Root cause of the movement

India had a tolerant attitude towards homosexuality and Same-sex love existed in ancient India (Kidwai 2000). Unlike the countries in Europe and North America, where homosexuality was strictly prohibited and homosexuals were subjected to humiliation and exclusion until very recently, the Indian society, on the other hand, was more relaxed with regard to sexual norms and there are numerous examples of same sex activities in ancient India. The only opposition came from the Hindu law book, 'The Laws of Manu' which prescribed sexual activities within the procreative heterosexual context. Homophobia entered into Indian society with the British and when they came to India, the *Laws of Manu* was one of the first texts they had referred. As a result, *Laws of Manu* became the ultimate voice of authority by the British and sex became confined to heterosexual monogamous marriages. This was legitimized in 1860 when the British government brought in Section 377 of Indian Penal Code according to which 'whoever voluntarily has carnal intercourse against the order of nature with any man, woman, or animal shall be punished with imprisonment for life, or with imprisonment of either description for term which may extend to ten years and shall also be liable to a fine'. It was rooted in the Judeo-Christian religious morality that abhorred non-procreative sex. Based on this, homosexuality became illegal in India which was also supported by the nineteenth century social reformers and nationalists. In order to impress the British, prominent nationalists left the erotic aspects (because it was looked down upon by the British) of their tradition and homophobia became intertwined with modern nationalism.

Therefore, homophobic and transphobic religious attitude combined with inadequate legal protection against discrimination on grounds of sexual orientation and gender identity exposed many lesbian, gay, bisexual and transgender (LGBT) people of all ages to egregious violations of their human rights. They are discriminated against in the labour market, in schools and in hospitals, mistreated and disowned by their own families and singled out for physical attack – beaten, sexually assaulted, tortured and killed.

Historicity of the movement

The discrimination against people with diverse sexual orientation and gender identity has its roots in the lack of scientific understanding of sexuality. Sexuality was primarily understood in terms of religion and there were various myths associated with it. Before 19th century, there was little or no formal study of homosexuality and the early efforts to understand the range of human sexual behaviour came from European doctors and scientists, including Sigmund Freud and Magnus Hirschfield. Two books on human sexuality, namely, *Sexual Behaviour in Human Male* (1948) and *Sexual Behaviour in Human Female* (1953) by Dr. Alfred Kinsey opened up the path to a scientific understanding of human sexuality. For the first time Kinsey report brings forth the notion that human sexuality is not static but dynamic. After World War II, some attempts were made to create advocacy groups supporting gay and lesbian relationships in the United States. The primary organization acknowledging gay men as an oppressed cultural minority was the Mattachine Society, founded in 1950 by Harry Hay and Chuck Rowland. Other important homophile organizations on the West Coast included One, Inc., founded in 1952, and the first lesbian support network Daughters of Bilitis was founded in 1955 by Phyllis Lyon and Del Martin. In 1965, the civil rights movement won new legislation outlawing racial discrimination, and the first gay rights demonstrations took place in Philadelphia and Washington, DC, led by long-time activists Frank Kameny and Barbara Gittings. The turning point for gay liberation came on June 28, 1969, when patrons of the popular Stonewall Inn in New York's Greenwich Village fought back against ongoing police raids of their neighbourhood bar. Stonewall is still considered a watershed moment of gay pride and has been commemorated since 1970s with 'pride marches' held every June across the United States. All these events had great impact on sexual rights movements in other countries as well.

In India, the LGBT movement is still quite young, it has taken its first step only in 1990s. However, the movement did not start overnight and it was the result of several visible and invisible developments taking place over the years at the global and national level. In 1988 two women, Leela Namdeo and Urmila Srivastava from a rural background in Madhya Pradesh decided to get married at a temple which was quite a bold step taken by them back at that time. The role of 'AIDS Bhedbhav Virodhi Andolan' (AIDS-Anti-Discrimination Movement) popularly known as ABVA is very important in the gay rights protest in India. In 1991 ABVA came up with a report titled *Less Than Gay: A Citizens' Report on the Status of Homosexuality in India*, which was the first document to publicly demand queer rights in India. There were many developments, both at the micro and macro levels, which facilitated LGBT rights movements in India. Prince Manvendra Singh Gohil from Gujarat regal family openly announced that he is gay which inspired other common people to 'come out' and openly talk about their sexual orientation. Famous personalities like Amartya Sen, Vikram Seth demanded repeal of section 377 of IPC. Various gay pride parades were organized throughout the country and in 1999; the first gay pride parade took place in Kolkata and subsequently it spread across the country. In December 2001, an NGO fighting for gay rights, Naz Foundation, filed PIL seeking legalization of gay sex among consenting adults which was dismissed by the Delhi High Court in 2004. Since then a number of petitions were filed by the gay rights activists but every time they were dismissed on the ground that gay sex is 'immoral' and a reflection of a perverse mind and its decriminalization would lead to moral degradation of society. In 2008 gay 'pride parades' held in five Indian cities i.e. Bangalore, Delhi, Indore, Kolkata and Pondicherry. These pride parades got huge support from common people, media, celebrities etc. One LGBT magazine *Pink Pages* and one gay magazine *Bombay Dost* were published in 2009. In Madurai first LGBT Queer Rainbow festival was held in 2012 with demand to eradicate social discrimination faced by LGBT community and at the same time Kolkata Rainbow Pride festival was held in Kolkata. After the struggle of many years on July 9, 2009 Delhi High Court struck down Section 377 of IPC, decriminalizing homosexuality, which was a victory in the history of struggle against criminalization of homosexuality. But this did not last long as the Indian Home Ministry opposed decriminalization of homosexuality, calling it 'immoral' and in December 2013, the Supreme Court of India reversed the Delhi High Court decision. Therefore, at present, homosexuality is a criminal offence in India.

Organization, leadership and the goals of the movements

Various NGOs play an important role in spreading awareness about violence against LGBT community. The Naz Foundation (India) Trust, Humsafar Trust, and Udaan Trust are some of the organizations that are active in spreading social awareness. Naz Foundation was established in 1994 and it acted as the petitioner in the Delhi High Court case that found Section 377 of the Indian Penal Code unconstitutional. These NGOs do not confine their activities to the national level but they organize many programmes for LGBT rights awareness in collaboration with many international organizations. Humsafar trust organized Project Bolo-an Indian LGBT Oral history project which was funded by United Nations Development Programme. The main purpose of these NGOs was to enlighten people about homosexuality and also encourage people with diverse sexuality to fight for their rights and also to deconstruct the notion that homosexuality is 'unnatural' by organizing various seminars and discussions on the issue.

Major goals of LGBT Movement are:

- 1) To decriminalize section 377 of Indian Penal Code
- 2) To make people aware about homosexuality and dismantle the misconceptions about it
- 3) To seek people's attention towards LGBT issue and make them sensitive towards it
- 4) To protect individuals from homophobic and transphobic violence
- 5) To prevent torture and cruel, inhuman and degrading treatment
- 6) To prohibit discrimination based on sexual orientation and gender identity
- 7) To safeguard the freedom of expression, association and peaceful assembly of all LGBT people and their supporters
- 8) To make LGBT people aware of their rights and encourage them to fight to achieve them.

Impact of the Movement

The LGBT movement, although young in India, has brought about some important changes in the life of LGBT community, particularly in the life of transgender people. In 1994, transgender community was given the 'right to vote' and on November 12, 2009, election authorities granted independent identity to transgender community in the voter list. Before this declaration, members of this group had to mention themselves as male or female in the electoral rolls but after this declaration they can now tick 'O' meaning 'others'. On April 15, 2014, the supreme court of India has given a landmark judgment about recognition of transgender or Hijra as a third gender following which a transgender woman was appointed the mayor of Raigarh, Chhattisgarh on 5th January 2015, the first of its kind in India. West Bengal for the first time appointed its first transgender principal in college and recently many movies are being made both nationally and internationally based on homosexual themes. As a result, more and more people are now expressing their feelings publicly; they are gaining confidence voice their problems in the public. On the 3rd of February 2016, the Supreme Court of India agreed to re-examine section 377 of Indian Penal Code while accepting a petition. A five-judge Constitution Bench is hearing the petition. Furthermore, on 10th January 2018, the Supreme Court has decided to reconsider its decision of 2013, which criminalized the gay sex.

Conclusion

Despite having a rich tradition of sexual diversity, heterosexuality became the norm in Indian society particularly since the inception of colonial rule. As a result, people with sexual orientation other than heterosexuality began to be considered as 'criminals' and were subjected to various forms of violence and discrimination. Due to inadequate constitutional safeguards these people could not seek for legal support and suffered both at the hand of law and society at large; they confine themselves in the closet. However, there are some positive developments taking place as various NGOs and other organizations are playing important role in propagating awareness about the issue and making people sensitive towards LGBT community. This had a positive impact as some LGBT people have decided to break the glass ceiling and come out of the closet to work with these NGOs in order to establish their rights. A long history of fights for equal rights among LGBT people has brought about some important changes but there is long way to go. Although some legal steps have been taken to protect the rights

of transgender people the condition of homosexuals is still worse in this country. Presently homosexuality is a crime under section 377 of IPC, and the State and the society at large attach social stigma to it. This makes the life of homosexual people very miserable and leaves no room other than confining themselves to the margin of the society.

Recommendations

Here come a few recommendations, which, if implemented, would create a society where everyone will be treated equally irrespective of caste, class, gender, gender identity, sexual orientation etc.

- The government has the power to repeal laws criminalizing homosexuality. Under the pressure of a small section of society which considers homosexuality as sin, the government is not taking any strong step to provide legal safeguards for the LGBT people. Therefore, we are still bearing with a law which is more than 150 years old and the paradox is that the State that had proposed the bill reversed its stand in the fear of public backlash. So, rather than only discussing the issues from time to time, the government should take a very strong step to decriminalize Section 377 of the Indian Penal Code (IPC).
- Apart from legal safeguard, the most important thing is social acceptance of the LGBT people. Peoples' attitude towards LGBT community should change, without which even legal safeguards cannot function effectively.
- There is also need to bring some changes in the process we socialize our children. From the beginning the concept of binary sex i.e. male and female is imprinted in our mind. Children are taught in the same line through various agents of socialization, such as school, family, media, therefore they do not get an opportunity to have an alternative, scientific view about varied gender identity and sexual diversity. So, there is a need to bring important changes in the socialization process and along with parents, teachers should play an important part in educating young minds about sexuality in a healthy manner.
- Another important step can be taken by the medical science. Rather than focusing only on reproduction with regard to human sexuality, it should also focus on other and varied facets of human sexuality. This would help in overthrowing the notion of homosexuality being a

‘disease’ and also will help in preventing various barbaric medical practices for ‘curing’ homosexual.

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