



## ORIGINAL RESEARCH PAPER

## Psychology

### LEGAL ACCEPTANCE OF LGBT IN INDIA: REVIEW ON ITS IMPLICATIONS ON HAVING EQUAL OPPORTUNITIES, FAMILY ACCEPTANCE AND BETTER MENTAL HEALTH

**KEY WORDS:** LGBTQ, family, mental health, future challenges, recommendations

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#### ABSTRACT

LGBT individuals experience higher rates of mental health disorders than their heterosexual peers. Family affirmative environment will lead to better mental health. The decriminalizing of colonial-era section 377 has given huge hope to this minority community. Future challenges still remain a question mark. But leap towards change has been initiated. Family acceptance will start from sensitizing the general population after legal reinforcement in various areas. The aim of this study is to explore strategies and programs to promote equal opportunity for LGBT youth. To review the role of family environment and functioning (family cohesion, family expressiveness, family conflict) of LGBT youth and their mental health.

#### INTRODUCTION

On 6 September 2018, the Supreme Court issued its verdict. The Court unanimously ruled that Section 377 is unconstitutional as it infringed on the fundamental rights of autonomy, intimacy and identity, thus legalizing homosexuality in India the most significant and "greatest breakthrough for LGBT rights since the country's independence. This section says that, "Whoever voluntarily has carnal intercourse against the order of nature with any man, woman, or animal, shall be punished with imprisonment of either description for a term which may extend to 10 years and also be liable to fine."

#### Description Of LGBT

The acronym LGBT refers to lesbian, gay bisexual and transgender respectively. This paper highlights the importance of recognizing that the various populations represented by "L," "G," "B," and "T" are distinct groups, each with its own special health-related concerns and needs.

Lesbians, gay men, and bisexual men and women are defined according to their sexual orientation, which, is typically conceptualized in terms of sexual attraction, behavior, identity, or some combination of these dimensions. They share the fact that their sexual orientation is not exclusively heterosexual.

In contrast to lesbians, gay men, and bisexual men and women, transgender people are defined according to their gender identity and presentation. This group encompasses individuals whose gender identity differs from the sex originally assigned to them at birth or whose gender expression varies significantly from what is traditionally associated with or typical for that sex (i.e., people identified as male at birth who subsequently identify as female, and people identified as female at birth who later identify as male). The transgender population is diverse in gender identity, expression, and sexual orientation.

#### HYPOTHESIS

Current legal acceptance of LGBT in India will lead to higher family acceptance and hence better mental health.

#### METHODOLOGY

Researcher has adopted Doctrinal method therefore collected data from various Books, Journals, articles and Newspapers etc.

#### OBJECTIVES

- To explain the concept of LGBT.
- To review mental health in LGBT.

To discuss the impact of legal recognition of LGBT on family acceptance?

- To discuss scope of equal opportunities for family acceptance and better mental health.

- To highlight their issues and challenges in the society.
- To provide recommendations.

#### Historical Perspective Of LGBT And Mental Health

To organize our review, we start by briefly presenting the historical and theoretical contexts of LGBT mental health. Next, we provide an overview of the prevalence of mental health disorders among LGBT youth in comparison to the general population.

Right from ancient times to pre modern era to modern era homosexuality is considered sinful. While homosexual intercourse was not sanctioned, indulging in it incurred small fine in ancient era. Later, if the act was caught, punishment of 100 lashes and so forth was given. Postmodern era brought variety of schools of thought, all of which considered carnal intercourse forbidden.

From the famous Sigmund Freud's lenses homosexuality was never an illness (Freud, 1951). In 1952, the newly created DSM listed homosexuality as a sociopathic personality disturbance, along with substance abuse and sexual disorders (American Psychiatric Association, 1952; Bayer, 1987).

In the face of rapidly changing cultural views about homosexuality, and recognizing that empirical data to support the illness model were lacking, the American Psychiatric Association's board of directors voted in December 1973 to remove homosexuality as a diagnosis from the DSM (Bayer, 1987; Minton, 2002).<sup>3</sup> Their decision was affirmed by a subsequent vote of the Association's membership (Bayer, 1987). In 1975, the American Psychological Association strongly endorsed the psychiatrists' actions and urged its members to work to eradicate the stigma historically associated with a homosexual orientation (Conger, 1975).

"In February 2014, the Indian Psychiatric Society (IPS) issued a statement in which it stated that there is no evidence to prove that homosexuality is unnatural: "Based on existing scientific evidence and good practice guidelines from the field of psychiatry, the Indian Psychiatric Society would like to state that there is no evidence to substantiate the belief that homosexuality is a mental illness or a disease." In June 2018, IPS reiterated its stance on homosexuality saying: "Certain people are not cut out to be heterosexual and we don't need to castigate them, we don't need to punish them, to ostracize them".

#### LGBT AND PREVALENCE OF MENTAL HEALTH PROBLEMS

We will review mental health in LGBT youth, focusing on both theoretical and empirical body of research. Because of stigma and discrimination, LGBT are more likely than non-LGBT to struggle with their mental health.

**Minority stress theory** (Meyer 1995, 2003) has provided a foundational framework for understanding sexual minority mental health disparities (Inst. Med. 2011). It posits that sexual minorities experience distinct, chronic stressors related to their stigmatized identities, including victimization, prejudice, and discrimination. These distinct experiences, in addition to everyday or universal stressors, disproportionately compromise the mental health and well-being of LGBT people.

Studies using adult samples indicate elevated rates of depression and mood disorders (Bostwick et al. 2010, Cochran et al. 2007), anxiety disorders (Cochran et al. 2003, Gilman et al. 2001), posttraumatic stress disorder (PTSD) (Hatzenbuehler et al. 2009a), alcohol use and abuse (Burgard et al. 2005), and suicide ideation and attempts, as well as psychiatric comorbidity (Cochran et al. 2003, Gilman et al. 2001). Studies of adolescents trace the origins of these adult sexual orientation mental health disparities to the adolescent years. US and international studies consistently conclude that LGBT youth report elevated rates of emotional distress, symptoms related to mood and anxiety disorders, self-harm, suicidal ideation, and suicidal behavior when compared to heterosexual youth (Eskin et al. 2005, Fergusson et al. 2005, Fleming et al. 2007, Marshal et al. 2011), and that compromised mental health is a fundamental predictor of a host of behavioral health disparities evident among LGBT youth (e.g., substance use, abuse, and dependence; Marshal et al. 2008). In a recent meta-analysis, Marshal et al. (2011) reported that sexual minority youth were almost three times as likely to report suicidality; these investigators also noted a statistically moderate difference in depressive symptoms compared to heterosexual youth. Using a birth cohort sample of Australian youth 14 to 21 years old, Fergusson and colleagues (1999) found that LGB youth were more likely to report suicidal thoughts or attempts, and experienced more major depression, generalized anxiety disorders, substance abuse/dependence, and comorbid diagnoses, compared to heterosexual youth. Results from a more recent US study that interviewed a community sample of LGBT youth ages 16 to 20 indicated that nearly one-third of participants met the diagnostic criteria for a mental disorder and/or reported a suicide attempt in their lifetime (Mustanski et al. 2010). When comparing these findings to mental health diagnosis rates in the general population, the difference is stark: Almost 18% of lesbian and gay youth participants met the criteria for major depression and 11.3% for PTSD in the previous 12 months, and 31% of the LGBT sample reported suicidal behavior at some point in their life. National rates for these diagnoses and behaviors among youth are 8.2%, 3.9%, and 4.1%, respectively (Kessler et al. 2012, Nock et al. 2013).

Preliminary research also suggests that youth questioning their sexuality report greater levels of depression than those reporting other sexual identities (heterosexual as well as LGB; Birkett et al. 2009) and show worse psychological adjustment in response to bullying and victimization than heterosexual or LGB-identified students (Poteat et al. 2009). Relatively lacking is research that explicitly tests racial/ethnic differences in LGBT youth mental health. As with general population studies, researchers have observed.

### LGBT AND ROLE OF FAMILY

The role of family acceptance in coming out is extremely crucial for the LGBT youth and adults. This article focuses on the scope of families to support their children after the legal acceptance will extend. The legal acceptance of LGBT right to dignity and co-existence is just the beginning and also a pioneer research on the same after decriminalization.

Families are the primary point of contact and comfort for every child. Functional families where there is openness and acceptance of every family member as they are leads to good mental health. The family where there is authoritative environment and disharmony the mental health gets affected.

In case of LGBT family cohesion is of much more importance as the self-identities are also formed at young age. The child or youth who himself is unwary of what is going inside his mind and is confused of his sexual orientation tends to suffer the utmost. Healthy parental relations are very necessary especially at the crisis situation.

The past decades of research consistently demonstrate that many LGBT children face rejection from parents after coming out (Chung, Oswald, & Wiley, 2006; Grossman, D'Augelli, & Salter, 2006) and that rejection from parents is highly associated with a wide array of negative health outcomes (Bouris et al., 2010; Russell & Fish, 2016; Ryan, Huebner, Diaz, & Sanchez, 2009), in line with a minority stress framework. For example, young LGB adults who report higher levels of family rejection during adolescence are 8.4 times more likely to report having attempted suicide (Ryan et al., 2009).

Studies consistently show that parents' support for their LGB children can provide a buffer against other sources of stress (e.g., bullying at school), leading to fewer health issues including lower rates of depression and less risky sexual behaviors compared to peers who lack familial support systems (D'Amico & Julien, 2012; Freitas, D'Augelli, Coimbra, & Fontaine, 2016; Ryan, Russell, Huebner, Diaz, & Sanchez, 2010). For example, a study of LGB adolescents found that acceptance from one's mother after coming out serves as a protective factor against risky substance use (Padilla, Crisp, & Rew, 2010). Likewise, limited studies suggest that parental acceptance and support is key to protect against poor mental health and suicidality among transgender children (Grossman et al., 2011; Olson, Durwood, DeMeules, & McLaughlin, 2016; Simons et al., 2013). These relationships continue to be important later in the life course; one study of lesbian and gay adults found that more acceptance from parents lessened negative psychological impacts of internalized homophobia (Feinstein, Wadsworth, Davila, & Goldfried, 2014). But, as Bouris et al. (2010) note, most research focuses on how parents negatively impact their children, rather than considering resiliency on behalf of the children themselves or positive impact from parents.

Positive parental and familial relationships are crucial for youth well-being (Steinberg & Duncan 2002), but many LGBT youth fear coming out to parents (Potoczniak et al. 2009, Savin-Williams & Ream 2003) and may experience rejection from parents because of these identities (D'Augelli et al. 1998, Ryan et al. 2009). This propensity for rejection is evidenced in the disproportionate rates of LGBT homeless youth in comparison to the general population (an estimated 40% of youth served by drop-in centers, street outreach programs, and housing programs identify as LGBT; Durso & Gates 2012). Although not all youth experience family repudiation, those who do are at greater risk for depressive symptoms, anxiety, and suicide attempts (D'Augelli 2002, Rosario et al. 2009). Further, those who fear rejection from family and friends also report higher levels of depression and anxiety (D'Augelli 2002). In an early study of family disclosure, D'Augelli and colleagues (1998) found that compared to those who had not disclosed, youth who had told family members about their LGB identity often reported more verbal and physical harassment from family members and experiences of suicidal thoughts and behavior. More recently, Ryan and colleagues (2009) found that compared to those reporting low levels of family rejection, individuals who experienced high levels of rejection were dramatically more likely to report suicidal ideation, to attempt suicide, and to score in the clinical range for depression.

### IMPACT OF LEGAL RECOGNITION OF LGBT ON FAMILY ACCEPTANCE

Researcher has hypothesized that legal recognition of LGBT will lead to higher family acceptance. There is need for future studies to prove it over a period of time. This article aims to understand how legal acceptance of LGBT will lead to better

mental health of the youth with improved family relations.

Recent studies on LGBT have shown accepting and open family environment as a protective factor for LGBT against mental illness and delinquent behaviors. Keeping these researches in mind, the impact of legal acceptance in Indian society is huge. Also it will have impact on the similar Asian counterparts and will open the way for them as well.

India, with its diversity in culture and religion and multitude of political parties cashing upon it, changing a law is a huge challenge itself. There are many roadblocks and dangers that lurk in the way of social transformation.

Having said that, it's a huge breakthrough by decriminalizing section 377 of IPC. Having a different sexual orientation is a biological need.

While in a narrow sense, the judgment is about section 377; it is so much more than that. Like the LGBT movement in India, this case was borne out of the need to address everyday, structural and endemic forms of violence. Judgment makes it possible that people may no longer see fear in the future, but hope.

## ISSUES AND CHALLENGES

The community is already subjected to abuse and discrimination by both the state and society at large. They have to live in constant fear of illegal detention, harassment, blackmail, and extortion, often at the hands of local law enforcement.

Sexual minorities risked arrest when they gathered, even in private homes. World Health Organization (WHO) and UNAIDS identifying their communities as being at risk for the HIV infection, the start of anti-prostitution and trafficking, and the social exclusion.

LGBT community is discriminated on the basis of the following categories and also much more than this on the emotional and mental level.

### Discrimination on the basis of sex

Legal discrimination

1. Succession
2. Maintenance
3. Pension rights

### Economic discrimination

1. Employment provident fund scheme, 1952
2. Workmen's compensation act, 1923
3. Adoption policies.

### Other Basic Human Rights

1. Right to equality
2. Right to live with human dignity
3. Right to speech and expression
4. Equal pay for equal work.

Fundamental right to dignity and excluding LGBT individuals from legal and other benefits is a cry for human rights. In such a context, homosexuality has seen implicitly as something deviant and unnatural that is at best defended as an individual freedom but not a matter of priority for the human rights movement. Generally, issues of poverty and gender, class and caste oppression are seen as more important than that of sexuality. But this ignores the fact that sexuality is integrally linked to ideologies and structures of social oppression such as patriarchy, capitalism, the caste system and religious fundamentalism. Hence, the struggle for sexuality rights cannot be separated from the broader human rights struggle for economic, political and social liberation.

The choice of a marital partner is an important personal

decision, over which others, particularly the state, should have no control. The straightforward argument in favor of LGBT relations is that if two people want to make a commitment of marriage, they should be permitted to do so, and excluding one class of citizens from the benefits and dignity of that commitment demeans them and insults their dignity.

## Recommendations

Now, we need to look forward to the future of the entire community. And, that is possible when the society accepts this decision wholeheartedly and accepts each other with love and care.

We must start gathering so that we can all meet and know each other; education institutions should add these chapters as historic fights for the freedom of the Indian LGBTQ community. More seminars and big international events are needed. Families, especially, need to come out with an open heart to accept their children and their choice of life and support them.

### 1. School sensitization programs

School sensitization programs will encourage LGBTQ to attend schools safely. Some of the concerns could be bullying, restroom issues, violence and emotional and physical abuse. Educator's sensitization for LGBTQ is imperative. Various government rules and policies must come forth in form of a manual or annual trainings and seminars for Educators sensitization. Recruitments of the school educators must be on the basis of normalizing of LGBTQ children.

In an Indian society that has been going back in time in terms of social development and freedom, binding people in the chains of gender stereotypes, gladly adapting patriarchy as a part of the tradition, this can be beacon of hope.

### 2. Counselling centres

In order to provide assistance to damaged personality, counseling centers and psychological well being workshops to be conducted. The initiative can start with keeping in the details of the affected individual confidential. From the school level counseling must be encouraged. And systematically desensitization can start.

### 3. Medium of communication

Radio, Movies have huge influence on our psyche. Movies based on equality and security for the rights of LGBT community can help progress it. Country's celebrities can aid in their inclusion.

### 4. Role models

Role models can be a source of great inspiration for LGBT community. Our society is hugely influenced by celebrities and political parties. Influential parties coming forward to support such a cause can lead to a global movement for progression for LGBT rights.

### 5. Laws and policies

New laws and policies to be made for equality and dignity of the LGBT. The society at large has to be sensitized with LGBT issues and challenges. Until and unless the government doesn't pass basic rights for LGBT, they cannot progress further.

### 6. Strict laws for protecting LGBT community

Large scale awareness and normalization programs to be conducted for LGBT community. Featuring imposition of fines or punishment if found harassing LGBT individuals. A whole lot of ground level change has to come for the LGBT to breathe peacefully like all of us.

## CONCLUSION

Sexuality rights cannot be separated from human rights. The decriminalization of colonial British era section 377 has

provided a voice for basic rights for LGBT. Recognition from government of this minority community is a huge leap of progress of Indian society. The struggle against social and legal discrimination of the lesbian, gay, bisexual and transgender community (LGBT) has been long and arduous. Many countries have legally accepted LGBT community and have made them a part of their government policy making and regulation. Though still a long way to go. India have recently recognized and accepted this minority community. It is itself a monumental victory. The path has been laid for future developments. Sexual orientation is one of the many biological phenomena, which is natural and inherent in an individual and is controlled by neurological and biological factors. The science of sexuality has theorized that an individual exerts little or no control over who he/she gets attracted to. Any discrimination on the basis of one's sexual orientation would entail a violation of the fundamental right of freedom of expression.

Legal experts have urged the Government to pass legislation reflecting the decision, and frame laws to allow same-sex marriage, adoption by same-sex couples and inheritance rights.

Much has been learned in the past decade to advance understanding of LGBT youth. Societal changes have led to legal, policy, and structural changes, most of which will ultimately improve the lives and mental health of LGBT youth. But structural change takes time, and in the interim, individual LGBT youth need support and care in order to thrive. At the same time, given the magnitude of mental health problems experienced by LGBT youth, it is alarming that there are so few empirically supported approaches for working with LGBT youth across a variety of settings, ranging from schools and CBOs to clinical treatment.

There have been extraordinary changes in public understanding and acceptance of LGBT people and issues, and significant advances have been made in scientific understanding of LGBT youth. At the same time, critical gaps in knowledge continue to prevent the most effective policies, programs, and clinical care from addressing mental health for LGBT young people. Across fields and professions, everyone can be an advocate for the legal, policy, program, and clinical changes that promise to improve family acceptance and mental health for LGBT youth.

## REFERENCES:

1. The health of lesbian, gay, bisexual and transgender people, building a foundation of better understanding, (2011). National Academic Press. Institute of Medicine, 11.
2. Institute of Medicine. op.cit., p. 36.
3. Institute of Medicine. op.cit., p. 38.
4. Jawale, K.V. (2016). Issues and challenges of 'LGBT' minority people in India. International Journal of Applied Research, 2(6), 409.
5. Jawale, op. cit., p. 409.
6. Jawale, op. cit., p. 409.
7. Stephen, T.R. & Jessica, N.F. (2016). Mental health in lesbian, gay, bisexual, and transgender (LGBT). Youth Annual Review Clinical Psychology, 467. <https://doi.org/10.1146/annurev-clinpsy-021815-093153>
8. Stephen, op. cit., p. 467-469.
9. Stephen, op. cit., p. 472.
10. Wikipedia, the free encyclopedia. (n.d). Homosexuality in India. [https://en.wikipedia.org/wiki/Homosexuality\\_in\\_India#:~:text=On%206%20September%202018%2C%20consensual,and%20carries%20a%20life%20sentence.](https://en.wikipedia.org/wiki/Homosexuality_in_India#:~:text=On%206%20September%202018%2C%20consensual,and%20carries%20a%20life%20sentence.)
11. Wikipedia, the free encyclopedia. (n.d). Homosexuality in India. [https://en.wikipedia.org/wiki/Homosexuality\\_in\\_India#:~:text=On%206%20September%202018%2C%20consensual,and%20carries%20a%20life%20sentence.](https://en.wikipedia.org/wiki/Homosexuality_in_India#:~:text=On%206%20September%202018%2C%20consensual,and%20carries%20a%20life%20sentence.)
12. Thomeer, M.K., Paine, E.A, & Bryant. C. (2017). Lesbian, gay bisexual, and transgender families and health. Social Compass, 12(1), 4. <https://doi.org/10.1111/soc4.12552>.