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## A Study On Rights Of Lgbt And Transgender Community – Human Rights Perspective

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### INTRODUCTION:

At first there are some basic terminologies which are to be known before going into this concept. Basically the word 'sex' is something which is a cursory examination that is assigned by birth. The word 'gender' is the one that reflects the social or cultural difference rather than biological reflection, which in simple words can be said as state of being male or female. The other term 'sexual orientation' is the feeling of emotional or sexual attraction for others.

The Constitution of India has given the right to life and personal liberty in Article 21 as a fundamental right conferred to all people within the territory of India. And by this it can be said that even the people belonging to transgender and the LGBT community shall exercise this birth right.

The DMK politician Thiruchi Siva had moved a popular bill on Aug 2, 2015 which was in regard to the reservation of the transgender community people. The bill was

passed after the support of all political parties in Rajya sabha. It gave rights akin the SC/ST's who get enrolled in the schools and jobs in government which is a perfect way to protect them against sexual abuse. But at recent times there is a conflict that the transgender who were given the identity of third gender are been sent for reconsideration.

Though there are some negatives, the government has made Sec 377 of Indian Penal Code as unconstitutional. The Chapter XVI of the Indian Penal Code which deals about Offences affecting human body in which section 377 of Indian Penal Code deals with unnatural offences which defines unnatural offences as "whoever voluntarily has carnal intercourse against order of nature with any men, women or animal, shall be punished with imprisonment for life, or imprisonment of either description for term which may extend to ten years, and shall also be liable to fine". As explained in the

explanation clause penetration is sufficient to constitute intercourse necessary to the offence described in this section.

## **RIGHTS OF LGBT AND UNIVERSAL CONVENTIONS:**

The Chapter 1 of United Nations, 1945 para 3 of Article 1 deals with the encouragement and promotion of respect for the fundamental freedoms and human rights. In Article 2 of Universal Declaration of Human Rights, 1945 it is said that in this declaration everyone are entitled to rights and freedoms without distinction of any kind.

As by the statement of Hilary Clinton who was the United States Secretary of State during the Human rights day addressed to the United Nations in Geneva on Dec 6, 2011 – one among the challenges in human rights before the world today is the dignity and equality of community of LGBT. The outline can be concluded as jeopardize nature of this invisible minority who has been violated their freedom of human rights.

As per the conclusion of the declaration of United Nations, there are about 30 countries that have decriminalized homosexuality in the past 20 years. By the report of United

Nations in 2012, the organization has been working for a progressive result towards the rights of LGBT being included in the basic Human Rights.

## **RELIGIOUS OPPOSITION:**

A person from The Cathedral Church of the Redemption shared his view that the spiritually, sexual relations of a human can be identified as those shared by a men and a women. And homosexuality has an unnatural nature.

Rabbi Ezeikel Issac Malekar, the head of Jewish community and the honorary secretary of the Judah Hyam Synagogue said that homosexuality is not permitted in any scripture of Judaism.

The Vice President of the World Hindu council called ( known as Vishwa Hindu Parishad ) said that homosexuality is against our Indian culture and this is also against nature and science . But there is no such saying in the Hindu texts that homosexuality as sin. There is nothing said as homosexuality as a religious sin in Hinduism.

The organization of Indian Islamic scholars has said that practicing homosexuality is a

crime according to scriptures and it is unnatural. He also says that people can not make themselves exclusive of a society, where a society consists of a family and a family is said be so when it contains of men and women and not women and women or a men and men. And as a result he says that the society will disintegrate when homosexuality is a prevalent condition.<sup>1</sup>

## **THE RECOGNISED LGBT ASSOCIATIONS:**

### **❖ NAZ foundation (India) trust**

The original NAZ foundation was setup first in London during 1990's. This was setup after the poor service of the government on solving the matters of HIV/AIDS.

### **❖ Udaan trust**

This is an NGO which traces origin in Maharashtra, India. It was the first organisation which was started by homosexuals living with HIV/AIDS. They focus on sexual health of homosexuals and transgender community. They conduct

counseling and medical services to those risk population.

### **❖ Humsafar trust**

The Humsafartrust is another Indian based NGO in Mumbai that promotes and safeguards the right of LGBT community. The Humsafar trust is the convenor member of INFOSEM (Integrated Network for Sexual Minorities). This is the largest and it is one of the most active organisation in India. It helps the LGBT community people in giving health care, counseling and advocacy for the reduction of violence and discrimination against them.

## **REFORMS NEEDED TO IMPROVE SITUATION:**

### **❖ Legal measures:**

As per the Constitution of India, all the persons within the territory of India are given right to life and personal liberty by Article 21 and they are also given all the fundamental rights such as right to freedom of speech by Article 19, right to freedom of equality by Article 14 etc.. Thus all these rights are conferred to all the citizens of India and hence the LGBT and the Transgender are also need to be given equal

<sup>1</sup> <http://www.dnaindia.com/india/report-rare-unity-religious-leaders-come-out-in-support-of-section-377-1933612>



privilege as the other two genders. In most of the places the transgender face discrimination and they are about to problems of untouchability. Also the rights of those people should be considered in matters like passport, ration card, to inherit the property of their parents etc.

❖ **Police reforms:**

There should be a standing committee that contains loyal social activists, station house officer and a human rights officer who will promptly investigate into the matters relating to the abuse of LGBT and Transgender community people. There should also be a transparency in dealing the case of Kothi's and Hijras, maintained by the police men in public places. If in case of those persons sent to jail, there should be some safety measures for them because they may face abuse by the other convicts in the jail premises. The Hijras and Kothi's should get respect and rights equally as other humans and in case of any ill treatment in public place, the police should involve and render them justice.

❖ **Other measures:**

The knowledge of Hijras and kothi should be given at the school level. As the students

know about what really their problem is, they can change the society's perception towards them. They should be given education of what gender and sex really means. All the persons should know that these are all only about the biological factor that human can't change. And also the transgendered should be given opportunities in all fields of employment and education. The social media and film industry can bring Change in perception of the people. And so, they should start screening them with their originality unlike exhibiting them as sex workers and such vulgar persons. By this the society can have a good perception towards those people and their life may also bloom as a bud with all potential.<sup>2</sup>

## **SCHOOLS AND COLLEGES WITH IN-CAMPUS LGBT SUPPORT INDIA**

❖ **Tagore international school :**

This is a school in Delhi that supports LGBT community actively take steps to support them with blogs and tweets about them with

<sup>2</sup> <http://iasscore.in/national-issues/transgender-rights-in-india>



positive approach and also organize such events. The name of the Group they've formed is BREAKING BARRIERS.

#### ❖ **Jawaharlal Nehru University**

The queer group from Jawaharlal Nehru University is Dhanak that shares important informations and it also hosts events and debates. The group has a colourful meaning for having such name, where Dhanak means 'rainbow' where seven colours of rays of light unite under a single name Rainbow and this is the one which decorates the sky when sun and rain unites the same time.

#### ❖ **IIT Bombay**

When it comes to an institute they are the most proactive group who talks about LGBTIQ and the most active in advocacy. They also conduct events inside and also they come up with regular events and there are series in you tube to break the linguistic barriers.

#### ❖ **IIT Kharagpur**

This is a campus with lots of bursting energy. The active group of IIT Kharagpur is 'Ambar'. Ambar invites the queer

community to interact with the student community in this group and they also host Queer film festivals.

#### ❖ **IIT Roorkee**

The queer and gender support group in IIT Roorkee is QAGAAR (Queer And Gender Advancemet Alliance Roorkee). They have a Facebook page that reads "Come Join us as we stand in the verge of a promising future".

#### ❖ **IIT Gandhinagar**

The active group in this campus is Orenda which means a supernatural force that is present in all objects or persons and it is also bene believed to be the spiritual force by which the human accomplishment is achieved.

#### ❖ **IIT Delhi**

The group that actively works for LGBT rights in IIT Delhi is Indradhanu. This is a group that supports sexuality and gender diversity. It also serves the needs of LGBT and they create a positive space between students for the LGBTQ people. This helps to discover, safeguard, comfort and promote a confidential environment.

#### ❖ **BITS Pilani**



The active group of BITS Pilani is Anchor. There is a special moto of their group as in their FaceBook page, it resembles a summary. The summary is the intent of the group, it is – “Here’s hoping that this small effort will create a difference, with the realization that if this forum helps even in person in any which way, we can all revel in the joy of setting ourselves on this daunting task of changing the mindsets of thousands of students and faculty and consider it a job well done.”

#### ❖ IISc Bangalore

QUASI (Queer and Straight at IISc is the active group which raises awareness about sexual and gender diversity this also creates a supportive network for those with sexual and gender minorities. This group constitutes lot of people who are of UG, Masters and PhD graduates. This group is an extension of larger community at IISc and its neighbouring institutes like NIAS, NCBS AND JNCASR.<sup>3</sup>

#### REFERENCE:

<sup>3</sup> <http://gaysifamily.com/2016/04/28/26470/>

[https://en.wikipedia.org/wiki/Transgender\\_rights\\_in\\_Tamil\\_Nadu](https://en.wikipedia.org/wiki/Transgender_rights_in_Tamil_Nadu)

<http://www.deccanherald.com/content/465345/govt-bring-policy-transgenders.html>

[https://en.wikipedia.org/wiki/Section\\_377\\_of\\_the\\_Indian\\_Penal\\_Code#cite\\_note-Indian\\_Express-2](https://en.wikipedia.org/wiki/Section_377_of_the_Indian_Penal_Code#cite_note-Indian_Express-2)

<http://www.dnaindia.com/india/report-rare-unity-religious-leaders-come-out-in-support-of-section-377-1933612>

<http://www.livemint.com/Politics/FHDQ9yB2jRJMsoINCOQrkgL/Supreme-Court-to-rule-on-legality-of-gay-sex-today.html>

<http://iasscore.in/national-issues/transgender-rights-in-india>

<http://www.thehindu.com/specials/in-depth/LGBT-rights-the-journey-till-now/article14056726.ece>

<http://gaysifamily.com/2016/04/28/26470/>