



WHITE BLACK
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ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

WHITE BLACK LEGAL: THE LAW JOURNAL

THE CONSTITUTION OF LGBT COMMUNITY

(By Khushi Chhajer)

ACKNOWLEDGEMENT

The present work is an effort to throw some light on “The constitution of LGBT community”. The work would not have been possible to come to the present shape without the able guidance, supervision and help provided to me by a number of people, and I would like to express my special thanks of gratitude to my head (name) for her able guidance and support in completing my project.

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CHAPTER-1

INTRODUCTION

This research study focuses on discrimination faced by lesbian, gay, bisexual and transgender (LGBT) people. The aim of this study is to identify the nature and extent of the discrimination experienced and potential defects in current systems, laws, policies and structures.

As it focuses on many grounds like LGBT students' access to, and success in higher education and identifies some common barriers they face. It also highlights the important role that LGBT societies have in social life and how it doesn't affect others but help in enhancing humanity.

As LGBT community is also known as the community and it somewhere defined as lesbian, gay, bisexual, transgender and it consists of many things and social movements is one of them. These communities generally celebrate pride, diversity and much more. Pride is a movement where they depict a demonstration of the general meaning of the term LGBT. The LGBT community is diverse in political affiliation.

This people group is likewise exposed to numerous segregations which incorporates victimization LGBT people has been related with high paces of mental/mental scatters, substance misuse, and at more terrible parts they even end it all. LGBT youngsters are overrepresented in kid government assistance frameworks, regardless of the way that they are probably going to be underreported in light of the fact that they chance provocation and misuse if their LGBT personality is revealed.¹

1.1 ORIGIN

The origin of LGBT community formed, from about 1988, activists began with the use of the initialism LGBT in the United States. Until the 1990's LGBT people gain equal respect, after facing immense discrimination and inequality also always being questioned about their sexuality. It's not the first time when LGBT people have faced a lot of socially unacceptable and able to get on the society's expectation².

The founder of LGBT community was Harry Hay, back in 1950 he founded the Mattachine foundation. It was nation's first group for gay rights. As also this year was known as Homophile year, and it meant less clinical and focuses over sexual activity than homosexual.

¹ From hrw.org

² A theory from National LGBT survey a research report by government equalities office

The purpose of LGBT community is to recognize the effect on LGBT people they had on history, present situations and importantly locally and nationally and internationally. The initialism LGBTTTQQAAP (lesbian, gay, bisexual, transgender, transsexual, queer, questioning, intersex, asexual, ally, pansexual) has also resulted, although such initialisms are sometimes criticized for being confusing and leaving some people out, as well as issues of placement of the letters within the new title³

1.2 HISTORY

United Kingdom was the first one amongst all where LGBT started, also LGBT history month originated in the United State in 1994 in the UK it began 11 years later initiative that was made by a couple of teachers⁴. There are evidence of homosexual activity and love between same-sex, if such relationships were accepted or rather not, in their every documented culture. Homosexuality existed in ancient times but was prohibited in the Bible. Some evidences also existed for individuals who lived at least part of their lives as a different gender than assigned at the time of birth.⁵

There were even Capital Punishments For Homosexuality was before implemented by some of the countries around the world. And still in some countries this punishment exists where all of these are based on sharia laws (criminal law). Prescribed by law does not necessarily mean that the practice of penalty is carried out. LGBT people also face extrajudicial killings by the state and by those who aren't part of that state.⁶

In the late nineteenth century, the point of having distinct sexual identity wasn't there before but people in the past lived life similar to modern sense of understanding about what it is to be from LGBTQ. LGBT identity did not emerge until the mid-twentieth century as personal and political category.⁷

Historical term used to describe gender and sexuality often lacked the specificity that exists today. LGBT emerged as an underground term in the early-twentieth century and in 1960s it came into popular usage. This term was preferred by stonewall generation where they contrary to their predecessors, were less likely to see being one of LGBT people as shameful or a mental defect.

³ From Wikipedia.in

⁴ Timeline of LGBT history

⁵ From queer-history-for-the-people

⁶ From history.com

⁷ From LGBT history in India

Transgender was adopted by a person who was identified with the early label of transsexual, because its association with all medical transition across the gender binary. LGBTQ people are different or rather say diverse and varied as compared to any other group. Share of experience is what unites them to get to know more about any community or culture also share of experience of being gender and sexual minorities even when the particularities of that experience may vary from person to person. LGBT people lived in a kind of urban culture and were subjected for harassment and many allegation, such as restaurants or bars or pubs and many places.⁸



⁸ From Wiktionary.org

CHAPTER-2

PROBLEM FACED

Since this research papers deals with the problems and their solutions for this community and depicts their struggle and major events took place in order to get equal rights and respectful life is all they deserve. Problems faced by LGBT community in the mainstream society is, harassment, intolerance and the threat of violence because of their sexual orientation or those who identify themselves as heterosexual.⁹

Due to the fear of homosexuality or in other words homophobia. There are some factors which may just reinforce homophobia on a bigger level which can be political beliefs or religious ideas or simply moral.¹⁰ There are some countries where homosexuality is illegal and punishments are imprisonment, life imprisonment and even the death penalty. Sexuality was diversely experienced and was meant to fix.

2.1 SOCIALLY

A lesbian is one where one women is attracted to another women whereas gay is used for men who gets attracted to another men. Bisexual means that person who is attracted to more than one gender. Transgender person is whose identity (gender) differs from the one they were assigned at the time of birth. This is the clarification where people are not clear about and even if they are some are still not accepting them and even in worst scenarios they are also murdered or in other words honour killing. Some have this ideology that they are not obeying the rules of god and rather they are disrespecting god. Individuals from LGBT community are struggling every day and fighting for their rights and social acceptance. Transgender individuals face a lot of problems in finding social acceptance. Usually LGBT community are looked down upon all the time¹¹. The main problem is discrimination against LGBT community. Whereas people with wrong mind-set treat LGBT individuals in a very odd way and in very different way.

In recent times, queer and homosexuality identities can be acceptable to young generations than before but within the restricted areas of families or schools, acceptance still remains a struggle for LGBT individuals.

⁹ From a research paper of LGBT student experiences in Boston public school by David Geyer

¹⁰ From jims.com

¹¹ From a research paper of LGBT parented families by Elizabeth short

2.2 LEGALLY

Section 377 of the IPC (Indian penal code) is a section which was established at the time of British rule of India. Where this section made sexual activities illegal or in other words it said it was against the order of nature. On September 6, 2018, Supreme Court of India stated that the implication of Section 377 to be consensual homosexual sex between adults is unconstitutional, and was said irrational or indefensible since Section 377 stays in force related to sex with minors, or non-consensual.¹²

Parts of this section were struck down as unconstitutional with respect to gay sex by Delhi high court but later that judgement was changed by Supreme Court where it said that amending section 377 should be a matter for Parliament and not judiciary

2.3 ECONOMICALLY

LGBTQ community, especially transgender individuals are at big risk to face unemployment, 44% of transgender individuals are under-employed. In recent times, almost 30% of transgender people reported avoiding medical care since they say when they were sick and injured because of disrespect or discrimination.¹³

2.4 PSYCHOLOGICAL

About 8% of LGBT people and 27% of transgender people's report says they are generally being denied for health care and services. There are LGBT people who often commit suicide than straight people and LGBT community is one such community who faces. People of LGBT community are at a big risk of facing hate crime in comparison to heterosexual people but some LGBT groups are found to be at particular risk, including young individuals and gay men also those identifying as LGBT from dark and ethnic minority community. This community is at a big risk to face major mental illness or in other words these people are more likely to face depression and tend to live with this fear of coming out to the world and open up about their sexuality.

¹² From Indiankanoon.org

¹³ From Williaminstitute.law.org

CHAPTER- 3

SOLUTION

With all the solutions for LGBT community's problem like not being able to find job or social acceptance becomes a big question to adjust in the society or it can be the mental health as some of them are fighting and going through depression or simply a matter of legal acceptance and equal treatment is still a question for them. LGBT allies can serve to both personally support LGBT individuals and advocate for larger acceptance and rights of LGBT individuals.

3.1 SOCIALLY

Socially accepting LGBT people are observed by individuals in society in positive way also inclusive, now all the communities respect individuals or LGBT people with all the regard about their position on recent LGBT policy. Since LGBT inclusiveness is defined to a fact which country's legal policies about their social recognition and protect the rights of LGBT individuals.

People these days are more likely to accept them and always support LGBT people in recent times people are more educated which makes their mind more clear about the facts also they don't really trust old theories about LGBT community which was a bit against this community and could create big differences between the communities. Also Parents made it clear to their children that all sexual orientations are equally valid also parents whose child happens to be LGBT had loved that child at least as much as they would love another heterosexual child.

Now parents are involving more with their kid about LGBT community and supporting them with their dreams and helping them with their mental state.

3.2 LEGALLY

Talking about India, on 6 September 2018, a judgment was made by the Supreme Court of India where they decriminalized section 377 of IPC. It was held that adult gay sex is not a crime only when it is consensual. The LGBT community was considered as a taboo in society.

According to Section 377 in IPC says it's not a natural offence, in other words, 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 a term which may extend to ten years, and shall also be liable to fine."¹⁴

¹⁴ Theory from Indian Penal Court

3.3 ECONOMICALLY

After decriminalisation of section 377 this gave a lot of rights and acceptance in the society since LGBT community majorly was facing discrimination and wasn't able to get jobs but after the passing of this act it gave a new life to every individual. Also now they are able to get every job they aspire of also this empowers them to grow strong economically to support one's own life.

Here we will recognise the income level of LGBT people on the basis of LGBT rights by income level. So in terms of low income 57% is the consensual homosexual acts are crime and in high income it is about 19%.¹⁵

Employment protection based on sexual orientation is 5% with low income and it was 74% in high income.

And coming on to Relationship Recognition it was 0% in low income and 54% in high income. Whereas in middle income it was 42% as consensual homosexual acts a crime and 37% in employment protection based on sexual orientation and 9% with relationship recognition.

3.4 PSYCHOLOGICAL

Psychology is the way where you get to understand one's mind-set on any ground and here talking about homosexuality, now people have started accepting LGBT people and now that they are understanding that homosexuality is determined by heredity and not just a free choice. This information is important as it supports the rights of homosexual people as it is strongly related to the belief that some people are born with it and was not a choice.¹⁶

These days the acceptance of homosexuality is running in advance and due to the awareness amongst people which somewhere contributed substantially. Studies have cleared this, that homosexuality isn't connected to mental illness or criminality, this is rather determined by heredity, and anti-homosexuality is related with other prejudices. Psychological studies disapproved the ideologies about homosexuality that it is related to illness or it is by choice.¹⁷

¹⁵ From Wikipedia.com

¹⁶ From youthkiawaz.com

¹⁷ From youthkiawaz.com

CHAPTER-4

CONCLUSION

So here we conclude that acceptance of LGBT people increases the need for services mainly for them may decrease. We can say that there will always be need of special services no matter what the level of social acceptance becomes. Despite of the development created but improvement in open opinion of people over LGBT issues, it has been observed that LGBT people keep on facing a lot of imbalance and different problems. As with inequality based on race, social class, and gender, there is much work still to be done to reduce inequality based on sexual orientation. As acceptance of LGBT people increases the need for special services may decrease.

As a progressive society we all came a long way and we understand the main problems LGBT people and most importantly LGBT youth as they face a lot of problems like bullying and racism but on the other hand there are people who are always there to support them and provide them with best education and helping them touch new heights. Economically this community is still somewhere struggling to cope up but now that they have rights and a society where people are accepting them so this is somewhere helping them, but still it will take time to completely resolve it. LGBT allies can serve to both personally support LGBT individuals and advocate for larger acceptance and rights of LGBT individuals

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REFERENCES

- www.Medium.com
- Indiacode.nic.in
- Jims.com
- Youthkiawaaz.co
- Researchgate.net
- Journals.sagepub.com
- ncbi.gov
- blog.lighthouse.lgbt
- wefrum.org
- lgbtfunders.org
- williamsinstitute.law.ucla.edu
- LGBT student experiences in boston public school by David Geyer
- LGBT health services in United States by Alexander J. Martos, Patrick Wilson, Ilan H. Meyer
- Issues and challenges of ‘LGBT’ minority people in India by Dr. Kalpana V Jawale
- Perspective on LGBT older adult’s decision to disclose their sexual orientation or gender identity to healthcare and social service providers by Mary M. Stanton
- LGBT Discrimination Research Report by Ms. Gabi Calleja
- Education beyond straight and narrow by nus (national union of students)
- National LGBT Survey a research report by Government Equalities Office
- Legal Consciousness and LGBT research: The role of the law in the Everyday Lives of LGBT Individuals, Article in journal of homosexuality
- The violation of human rights against LGBT community in India: A critical study
- LGBT Parented Families by Elizabeth short
- Indiakanon.org