A Study on Unnatural Offences and LGBT Community: the Present Scenario

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Abstract

This paper talks about Unnatural Offences and LGBT Community in India. It mainly attempts to describe and explain the various aspects of Homosexuality including the evolution, the reasons, the societal attitude and reactions towards such relations. It also light its view in the LGBT community being contraction of Lesbians, Gays, Bisexuals and Transgenders orientations. It explains about the reasons for Homosexuality in grounds of Biological reasons and in the ground of Social and Psychological factors. It focuses on the Laws in India regarding Homosexuality and its rights. It involves section 377 of Indian Penal Code, 1860 which talks explains about the unnatural offence and its punishments. The first chapter in this paper, it deals about the constitutional validity of unnatural offences under Indian Constitution. The second chapter in this paper deals about the LGBT rights in India on his 15 years of long battle. The third chapter in this paper dealt with the legal status of Homosexuality in India and around the Globe. The paper clearly explains the reason for decriminalisation of Homosexuality in India, India being a socio-cultural society will not allow to practice such activity because many types of religious life living in India. Our legal system will not enforce the Homosexuals activity in India, if it is so it leads to unconstitutional. In India the people from all religious are treated in the same manner as the law consent about it. But the activity which affects the custom will not be enforced and practiced in India.

Key Words: Unnatural offences, LGBT community, homosexuality, discriminicalisation, custom, punishments.
1. Introduction

It is common inclination that people of one sex are sexually or candidly pulled in towards people with inverse sex, i.e. guys are pulled in towards females and the vice versa. In some case, at times and now and again this sexual or emotional attraction isn't towards inverse sex rather it is towards a similar sex people. This same sex fascination is known as Homosexuality and people with such orientation are called as Homosexuals. Homosexuals can be people of both the genders i.e. Gays (male-male) and Lesbians (female-female). Another term LGBT is likewise usually utilized for people with gay introductions; LGBT being contraction of Lesbians, Gays, Bisexuals and Trans-sexual orientations.

- **Reasons for Homosexuality** - The explanations behind such sort of sexual conduct or decision are not yet completely known but rather a few inquires about have been done and distinctive specialists have discovered diverse outcomes or speculations. The reasons might be biological, psychological or both.

- **Biological Reasons** - A few researchers have reasoned that one is conceived with a specific sort of sexual introduction and it is in the qualities. Along these lines it is a characteristic wonder. However, no decisive verification is there that homosexual conduct is just a biological thing. There might be a factor of hereditary qualities in deciding one's sexual decision however different elements may likewise be there.

- **Social and Psychological Factors** - Socio-social condition influences the improvement of a kid in critical ways. One's family, companions, society, and encounters chooses how one perspectives life, how one feels and how he or she acts. In this way psychological elements are likewise vital in deciding one's sexual inclinations. In any such case, beyond any doubt not one single factor but rather mix of numerous things decides one's sexual introduction. And whatever be the reason as it is normal for a man to choose what sort of nourishment he/she needs to eat, what sort of living he/she wishes to have; correspondingly, it is likewise common that with whom he/she needs to have sexual relationship either with inverse sex or with same sex.

- **Laws in India and Homosexuality** - India has an extremely powerful and dynamic Constitution which in a way is the foundation of this exceptionally tremendous and complex country. The Indian Constitution gives rights and protection to every single subject of this nation whether he is in lion's share or in minority. The Constitution treats everybody similarly with no separation. It is the obligation of the State to guarantee that nobody ought to be victimized.

LGBT people group people are in minority and they too have level with sacred rights. Yet, their entitlement to fairness and appropriate to get equivalent treatment in the general public are abused on standard premise. Society as entire as well as treat them in an unexpected way, particularly police. They are general
casualty of rights infringement. They are denied of their fundamental human right and appropriate to life which incorporates ideal to appreciate life legitimately.

**Section 377 of IPC and Rights of LGBT people group** - One of the significant lacuna or hostile legitimate arrangement in our laws is Section 377 of the Indian Penal Code, 1860.

Section 377 of the IPC says:

**Unnatural offenses:** “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 fine.”

**Explanation:** Penetration is adequate to constitute the bodily intercourse important to the offense depicted in this section.

Accordingly the section makes any sexual movement against the request of the nature as criminal offense. Indeed, even willful demonstration of such kind is culpable. Consequently assent between two people of same sexual orientation for such action is insignificant.

Accordingly, section 377 criminalizes homosexual movement and makes it culpable with as high discipline as life detainment. This arrangement of IPC has turned into a noteworthy dubious point and theme of civil argument as of late. Individuals of LGBT people group are attempting from in some cases to persuade and pressurize our legislators to decriminalize Section 377. At the end of the day, LGBT social activity bunches are demanding that if two consenting grown-ups of same sex are associated with homosexual exercises, it ought not be a criminal offense.

Be that as it may, when their request was not reacted by our governing bodies, they went to the Court for suitable and only answer for their grievances through a Public Interest Litigation (PIL). The said PIL was documented by a NGO to be specific Naz Foundation in Delhi High Court.

For the situation Naz Foundation v Govt. of NCT of Delhi (2009 Delhi H C) passing a landmark judgment on second July 2009, Delhi High Court proclaimed Section 377 as illicit to the extent it criminalizes same sex sexual movement between two consenting grown-ups done in private. In this manner, essentially Delhi High Court, in its noteworthy choice maintained and secured the LGBT individuals' entitlement to sexuality. The aim of the study is to know about the LGBT community.
2. Objectives

1. To find the constitutional validity of section 377 under Indian Penal Code, 1860.
2. To analyze the distinction between public perceptions of morality and constitutional rights.
3. To study the history of LGBT community in India, 15 years of long battle.
4. To identify the violation of basic human rights harassment and violence among the LGBT community.

3. Hypothesis

- There is no provisional safeguards to protect the rights of LGBT community.
- There is provisional safeguards to protect the rights of LGBT community.

4. Research Methodology

Doctrinal Research has been attempted in this paper.

Secondary Sources have been used in this paper.

Reference books and E-sources have been considered for research purpose.

5. Literature Review

The protection of privacy under the Indian Constitution, developed through case law by the Supreme Court, has been advanced further by the Delhi High Court’s decision to strike down provisions criminalizing homosexual sexual conduct on grounds of invasion of privacy in Naz Foundation v Government of NCT of Delhi. The Constitution of India provides that ‘No person shall be deprived of his life or personal liberty except according to procedure established by law’ (Article 21). The Supreme Court has interpreted this provision to include the protection of privacy since Kharak Singh v. The State of U. P. A huge debate in India, with LGBT community and civil rights groups welcoming it, where as religious bodies have protested saying that homosexuality is not sanctioned by religion or Indian culture. (Greenleaf, Graham, August 2009). In other paper the concept was explained as it is mentioned that legalizing homosexuality in India meant a huge socio-cultural leap which was always going to be difficult with conservative and reluctant society like India. The paper mainly focuses on various socio-legal aspects of the Delhi High court and tries to analysis various legal angles to this whole debate. It also dealt with the judgments of Delhi High court in the case of Naz foundation v Government of NCT of Delhi. In accordance with the Mandate Palestine’s British rulers explicitly attempted to eradicate what they perceived as a widespread local custom: sex between men.
Novel regulation set two degrees of criminal prohibition: non consensual “sodomy” and consensual, and less serious, “offences against the order of nature.” The boundary between “sodomy” and “unnatural offences” was not sharply drawn. Prosecution of “sodomy” focused mostly on “blamable” victims and on sex with children, a criminal prohibition that did not require proof of force, and “unnatural offences” were underpinned by narratives of unequal power relations. (Verma 2016)

In this article it dealt with that although Section 377 [of the Penal Code] purports or was intended to cover all unnatural offences (being the residue of sexual offences commonly perpetrated, other than rape, incest and sexual molestation), an unfortunate lacuna exists in, what appears to be, the common interpretation of this provision. This lacuna has resulted in certain offences, which should fall within the ambit of Section 377, being considered to fall outside of it, a result which, it will be shown, is not only legally suspect but socially undesirable. (Chia, Daniel Jin Chong, 2001)

Homosexuality refers to attraction or sexual behavior between people of the same sex, and/or to a sexual orientation. As an orientation, homosexuality refers to "an enduring pattern of or disposition to experience sexual, affection, or romantic attractions primarily to" people of the same sex; "it also refers to an individual’s sense of personal and social identity based on those attractions, behaviors expressing them, and membership in a community of others who share them." Homosexuality, bisexuality, and heterosexuality together make up the three main categories of sexual orientation and are part of the heterosexual-homosexual continuum. (Darr 2016; Sharma 2011). The issue of homosexuality in India is controversial. It is complex matter because of many types of religious life, living in India. The chapter in this article reviews some of the literature that deals with the historical facets of homosexuality and then attempts to discuss the contemporary situation of same-sex relation in India. The changes in the meanings associated with same-sex sexuality are discussed some what sequentially, though not in strict chronological order, in relation to some major landmarks in both Indian history and the contemporary period. (Tiwari 2010a).

To report the results of various studies conducted by the World Values Surveys on the topic of homosexuality and to rank the acceptability of homosexuality for those countries where the studies were conducted. Those six studies, going back to 1981, were asked hundreds of thousands of people in about 100 countries what their views were on homosexuality, specifically the extent to which it could be justified and also ranked those countries based on acceptability, as measured by their mean scores. The present study is part of a series on homosexuality. Other studies in the series look at trends on the acceptance of homosexuality and examine specific demographic variables such as gender, age, social class, level of education, religion and region to see whether these variables are significant (Tiwari 2010b; McGee 2016) Currently, the whole idea revolving around the issue of homosexuality in India is to legalize consensual sexual acts among adults in private. In 20(Rohi 2011a)09, the Delhi High Court
decriminalized unnatural sex in private between two consenting adults overturning the colonial-era legislation that outlawed homosexuality i.e. S.377 of the Indian Penal Code. However, during the month of December 2013, the Supreme Court set aside the High Court verdict only to recriminalize unnatural sex in private between two consenting adults. This article addresses the propensities of gay men in India and proposes for legalizing homosexuality. (Naik 2016a)

The concept of hoosexuality under Indian law was under the Section 377 of the Indian Penal Code, a figment of colonial creation, has criminalized ‘unnatural sexual acts’ since its application as law in 1862. Homosexuality falls within such acts and may attract punitive measures. The paper is an attempt to extricate the significance and far-reaching effects of this judgment in the face of systemic abuse of homosexuals and transgenders, by enforcers of the law under the facade of upholding Section 377, prior to this judgment. This paper shall examine the constitutional aspects of the judgment i.e. the constitutional validity of the impugned statute against Article 14, 15(1) and 21.(Das 2010). The paper tries to look at the problem of decriminalizing homosexuality in Indian society. The Author tries to put forth, as an historical background the provisions criminalizing homosexuality in the penal law of India and the present controversy concerning the matter. The Author in this article also tries to look to the issue from the view-point of various institutions forming an integral part of Indian society, including marriage and family. The paper also moves on to find out the impact of decriminalizing homosexuality on these institutions and various other sections of Indian society.(Rohi 2011b) There have been very few issues, debated as vehemently and over such a long period of time than the debate over homosexuality. It shall be trite to mention that legalizing homosexuality in India meant a huge socio-cultural leap which was always going to be difficult with conservative and reluctant society like India. Law being nothing but a part of such socio-cultural set-up was evidently reticent to bring this long drawn debate to a halt. This work in this article focuses on various socio-legal aspects of the recent decision of the Delhi High Court and tries to analyse various legal angles to this whole debate. I have in this work tried to trace the whole history behind this debate and then examined the loopholes in the existing laws in India. I have then dealt with the judgment of the Delhi High court in the case of Naz foundation v. Govt of NCT and Ors.Sharma, (Mayank (March 2, 2010)

Currently, the whole idea revolving around the issue of homosexuality in India is to legalize consensual sexual acts among adults in private. In 2009, the Delhi High Court decriminalized unnatural sex in private between two consenting adults overturning the colonial-era legislation that outlawed homosexuality i.e. S.377 of the Indian Penal Code. However, during the month of December 2013, the Supreme Court set aside the High Court verdict only to recriminalize unnatural sex in private between two consenting adults. This article addresses the propensities of gay men in India and proposes for legalizing homosexuality.
Under Section 377 of the Indian Penal Code criminalizes any “unnatural” offences with a with imprisonment for life, or extending to ten years, and a fine. It draws parallel from laws prohibiting sodomy and bestiality in England, consent being wholly immaterial. This paper looks at the history of this legislation, and examines certain critiques – how vague it is, the definition of what constitutes “natural” and the challenge upon its constitutional validity, and the reasons given by the Hon’ble High Court of Delhi and the Supreme Court of India. (Neerja Gurnani (March 27, 2015)

Nature and natural things are all around us. These are not man-made, but law is made by man for his own well being and to maintain peace and order in the society. The doubt that arises is about how to distinguish between natural and unnatural? Section 377 of Indian Penal Code, 1860 stands in the middle of the bridge between natural and unnatural offences. Section 377 has been differently interpreted by the judicial authorities. (Shriya Chandankar (Feb 15, 2018))

Section 377 has been in the eye of a storm for the past few years. After years of campaigning and legal fight, the lesbian, gay, bisexual and transgender community got a sense of relief when in a breakthrough judgment on July 3, 2009, the Delhi High Court legalized gay sex among consenting adults, holding that the law making it a criminal offence violated fundamental rights. The LGBT community has been campaigning for a law through Parliament, but the current dispensation at the Centre has flatly refused to make any concessions on the issue. (Deeptiman Tiwary, 2015)

This paper begins with a brief overview of sexuality and homosexuality in the Hindu civilization. In the sections that follow, the author in this article discusses changing attitudes toward gay people, their legal status and the emergence of gay and lesbian organizations in modern India. As there is little psychiatric and psychological literature in India on the subject, the paper addresses the theoretical models used for understanding homosexuality in India on the basis of the few research studies published in psychiatry and psychology journals, unpublished reports, and interviews with psychiatrists and clinical psychologists. Finally, the paper concludes with some anecdotal accounts of gay people published in gay magazines or told by gay individuals regarding their experiences with mental health practitioners (Parekh 2003)

The scope of this paper is to analysis the current position of the case Suresh Kumar Kaushal v Naz foundation and its social impact. It also includes the earlier position of the case Naz foundation case and its social impact and finally it concludes by focusing on the need to decriminalize homosexuality and a suggestion for the way forward. It dealt that law is not in consonance of our constitutional values and need to be amended by legislature immediately (Deeptiman Tiwary, 2015) This paper seeks to determine the extent and manner in which the proscription of "carnal intercourse against the order of nature" under Section 377 of the Indian Penal Code, 1860 makes criminals out of homosexuals. Section 377 is not merely a law about anal sex alone, but applies
to homosexuality in general. The lack of a consent based distinction in the offence has made homosexual sex synonymous to rape and equated homosexuality with sexual perversity. Section 377 is the biggest affront to the dignity and humanity of a substantial minority of Indian citizens. The decriminalization of sodomy will contribute directly to restoring the dignity of homosexuals and allow the gay movement to emerge from the shadows. (Alok Gupta 2006). This paper analysis the homosexuals marriages in the Indian context as an invisible conflict which is successfully kept under cover. It is also attempts to describe and explain various aspects of Homosexuality including the evolution, the reasons, the societal attitude and reactions towards such relations. The author in this article draws insight from the countries where Homosexuals marriages are legalized and also highlights their outcome out of legalising Homosexual relations. At the end taking fair and strong arguments both in favor and in against the author concludes about the possibility of legalizing homosexuals marriages in India based on empirical and theoretical facts and evidences. (Anuradha Parasar 2003)

Over the past 20 years, there has been a growing recognition of the relativity of sexual norms and of the difficulties of exporting Western conceptions of sexuality to different socio-cultural settings. This view has been most clearly articulated in studies of men who have sex with men (MSM) which suggest that the ways in which male-male sexual activity is shaped and constituted vary significantly from place to place. Despite this, 'homosexuality' continues to be treated as an unproblematic category in HIV/AIDS discourse, epidemiological studies of and HIV prevention strategies for MSM in widely different contexts being based on the North American/West European example of gay men. This paper, which draws upon ethnographic research in Madras, highlights important differences between India and the West, not only in the sexual identities and circuits of MSM, but in their sexual partnerships and practices. These differences, it is argued, are not only significant to the epidemiology of HIV transmission, but have important implications for the development and implementation of HIV prevention strategies. (Asthana and Oostvogels 2001)

6. Constitutional Validity of Unnatural Offences under Section 377 of Indian Penal Code, 1860

Section 377 of IPC-Unnatural Offences and LGBT Community

Delhi High Court Order of 02 July 2009: The case for canceling Section 377 was first started by an association called the AIDS Bhedbhav Virodi Andolan in 1991. The case was resuscitated by a social extremist gathering, drove by the Naz Foundation (India) Trust that works for AIDS awareness. In its 105 page judgment in July 2009, the Chief Justice Ajit Prakash Shah and Justice S Muralidhar said that Section 377 of the IPC is violative of Article 21 (Right to
Protection of Life and Personal Liberty), Article 14 (Right to Equality under the steady gaze of Law) and Article 15 (Prohibition of Discrimination on Grounds of Religion, Race, Caste, Sex or Place of Birth) of the Constitution. Consequently, the 150-year-old Section 377 was pronounced unlawful concerning sex between consenting grown-ups by the High Court of Delhi on 02 July 2009.

HC Judgment Overturned by Supreme Court of India on 11 December 2013: The reason given by the Court, while passing this judgment was that altering or revoking Section 377 falls in the ambit of the Parliament, and can't be chosen by the legal. Besides, on 28 January 2014 Supreme Court rejected all the survey Petitions against its decision of December eleventh on Section 377 of IPC.

Curative Petition by Gay Rights Activists A curative appeal to had been filled by Gay rights activists and NGO Naz Foundation against the summit court's 11 December 2013 judgment maintaining validity of area 377 (unnatural sexual offenses) of IPC and the January 2014 request, by which it had rejected various audit petitions. 1

Contentions in Support of Section 377

Every single religious pioneer voiced their unequivocal help to the SC judgment of December 2013 that toppled Delhi High Court Judgment on Section 377. Truth be told Baba Ramdev went to the degree of recommending cure of this 'terrible enslavement' through Yoga. Most temples of northern India and All India Muslim Personal Law Board are against decriminalizing homosexuality.

The individuals who bolstered the judgment contend that homosexuality was against Indian culture, against nature and against science and said that it was illustrative of a backward carnal conduct that may bring about outbreak of destructive sexually transmitted infections, similar to HIV/AIDS. It is a built up logical truth that any sex other than regular can be a reason for some genuine ills in the people. For instance homosexuals are more inclined to sexual transmitted maladies like AIDS and so forth than any typical individual.

Decriminalizing Section 377 may bring about the sex proportion winding up facilitate unfriendly in the nation. Numerous kid rights activists had censured the Delhi HC decision de-criminalizing homosexuality on the ground that Section 377 was should have been utilized as a part of kid sexual manhandle cases.

Contentions against Section 377

The individuals who bolster LGBT (Lesbian, Gay, Bi-sexual and Transgender) people group fervently contradict the Supreme Court judgment of 2013. Section 377 of the IPC is violative of Article 21 (Right to Protection of Life and

Numerous associations, similar to The People's Union for Civil Liberties distributed reports of the human rights infringement looked by sexual minorities and, specifically, the transsexuals in India. The Reports feature that the police coerces cash from the transsexuals and sex specialists and furthermore how they were being irritated and underestimated through good policing.

Further, it was brought out by Human Rights Watch that usage of this law limits and hinders HIV/AIDS aversion endeavors, and the individuals who are most unfavorably influenced are the sex laborers and homosexuals, in whose cases the spread of such illnesses are generally wild.

As of now there are enactments for assurance of youngsters and minors, similar to 'Protection of Children from Sexual Offenses' (POCSO) Act 2012. Subsequently there is no need of section 377 in child sexual manhandle cases.

Additionally, it is being contended that dynamic nations like Ireland and US have even sanctioned same sex relational unions since 2015. Nearer home, Nepal had authorized homosexuality in 2007 and the new Constitution of the nation too gives numerous rights to the LGBT people group.

Section 377 of IPC carries a maximum punishment of life imprisonment. The Delhi HC deemed the law unconstitutional in 2009, but the Supreme Court overturned the judgment in 2013.

Gay rights activists are hopeful after the Supreme Court ruled that the right to privacy is a fundamental right: "Right to privacy and the protection of sexual orientation lie at the core of the fundamental rights guaranteed by Articles 14, 15 and 21 of the Constitution".

7. **LGBT Rights in India-15 Years of Long Battle**

- **2001** - Naz foundation files PIL in Delhi High Court seeking legislation of gay sex among consenting adults.
- **September 2004** - High Court dismisses the PIL seeking decriminalisation of gay sex. Gay rights activists file review petition.
- **November 2004** - High Court dismisses the review petition.
- **December 2004** - Gay rights activist approach the apex court against High Court order.
- **April 2006** - Apex court directs the High Court to reconsider the matter on merit and the remands the case back to High Court.
October 2006 - High court senior BJP leader BP Singhal's plea, opposing decriminalising gay sex, to be impleaded in the case.

September 2008 - Centre seeks more time to take stand on the issue after the contradictory stand between the home and health ministries over the decriminalisation of homosexuality.

September 2008 - Gay rights activists contend that the government cannot infringe upon their fundamental right to equality by decriminalising homosexuals acts on the ground of morality. High court pulls up the Centre for speaking in two voices on the homosexuality law in view of contradictory affidavits filed by health and home ministries. Centre says gay sex is immoral and a reflection of a perverse mind and its decriminalisation would lead to moral degradation of society.

October 2008 - High Court pulls up the Centre for relying on religious texts to justify ban on gay sex and asks it to come up with scientific reports to justify it.

November 2008 - Government in its written submission before the High Court says judiciary should refrain from interfering in the issue as it is basically for Parliament to decide. High Court reserves it verdict on petitions filed by gay rights activists seeking decriminalisation of homosexual acts.

July 2009 - High Court plea of gay rights activists and legalises gay sex among consenting adults. Delhi astrologer challenges High Court verdict in Supreme Court.

February 2012 - Supreme Court begins final day to day hearing in the case.

March 2012 - Supreme Court reserves verdict.

December 2013 - Supreme Court sets aside the 2009 Delhi high court order which had decriminalised gay sex. Government petitions Supreme Court to drop gay sex ban.

January 2014 - Supreme court dismisses a Central Government petition seeking a review of its verdict that had declared gay sex an offence.

December 2015 - Lok Shabha votes against introduction of a private member's bill brought by Congress member Shashi Thraoor to decriminalise homosexuality.

Legal Status of Homosexuality in India and Around the Globe

In Iran, Sudan, Saudi Arabia and Yemen, homosexuality is as yet deserving of death, under sharia law. The same applies in parts of Somalia and northern Nigeria. In two different nations–Syria and Iraq–capital punishment is completed by non-state on-screen characters, including Islamic State.

The report takes note of that, in spite of the fact that the potential exists for a capital punishment to be passed on under sharia courts in no less than five different nations–Pakistan, Afghanistan, the UAE, Qatar and Mauritania – there is no proof proposing that it has been executed for consensual same-sex acts.
between grown-ups in private.

Same-sex relations—which are differently criminalized under laws covering homosexuality, buggery and "acts against nature" among others—could prompt a prison sentence in 71 states taking all things together.

The latest Equaldex research shows that consensual sexual activity between individuals of the same sex is legal across much of the northern hemisphere. But across swathes of Asia, Africa and the Middle East it remains illegal. In some countries, it is punishable by death—in Mauritania, Saudi Arabia, Iran and Afghanistan.

In other countries, it’s illegal only for men. For example, in Turkmenistan, Sierra Leone and Zimbabwe homosexuality is illegal for men but legal for women. In no country is it the other way round.2

**Homosexuality-Legal Status in India**

Section 377 of the Indian Penal Code (1860) identifies with Unnatural Offenses and incorporates homosexuality inside its space. In India this Law identifying with homosexuality was received from the British penal code dating to nineteenth century. Section 377 states:

“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 fine.”

So also section 292 of IPC alludes to profanity and there is abundant extension to incorporate homosexuality under this section.

Additionally section 294 of Indian Penal Code, which penalizes any sort of "obscene behavior in public ", is likewise utilized against gay men.

It is critical to note here that in England the offense of homosexuality between consenting accomplices has been nullified by the Sexual Offenders Act 1967 (that is in the nation of source of this law) though in India, the assent is calm unimportant for constituting an offense as defined under this section.

Consequently in India it is basically section 377 which clarifies and defines unnatural offences. It is this section which makes Homosexuality illegal with life imprisonment or with imprisonment for a long time with fine.

8. Suggestions

- India, in 21st century is attempting to end up a super power and the world pioneer; in reality it has all the possibility to wind up one. Be that

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as it may, this potential would not be acknowledged until and unless we as a general public won't have the capacity to openly acknowledge and talk about alleged forbidden issues, for example, homosexuality.

- What's more, for that to occur most importantly attitude of the general population should be changed. The initial step is sex education in schools and at homes. A child must feel good to talk about his/her issues or issues identified with sexual issues and even their sexual decisions with their folks or educators. What's more, it is imperative that guardians/educators completely value their wards' circumstance and guide them as needs be. In this manner, kids as well as adults or grown-ups require more training and sharpening the extent that issues identified with sex are concerned.

- Law enforced agencies, for example, police likewise require sharpening with the goal that they will have the capacity to value the veritable worries of LGBT individuals.

- So also, our media and film brotherhood are required to be more circumspect while portraying such individuals in their shows and movies separately. Truth be told they can assume a critical part in bestowing learning and dispersing genuine data about LGBT individuals and their sexual decisions with the goal that society could get a genuine photo of their circumstance and conditions.

- Aside from all these, the most essential single step in dispensing with the disgrace over LGBT individuals is to decriminalize section 377 of the IPC so they could have an ordinary consistent life like others and benefit their fundamental human rights without provocation or segregation. Ideally our administrators would soon tune in to their legitimate supplication and roll out essential improvements in the law.

9. Conclusion

The choice of Delhi High Court in Naz Foundation Case was additionally challenged an appeal at the Supreme Court of India. The SC in an expansive judgment suppressed the choice of the Delhi High Court and returned to the before position i.e. by and by made homosexual relationship as criminal offense. The choice came as a stun to the LGBT people group and furthermore to the liberal individuals from the general public. The thinking of the SC was that the Indian culture isn't yet completely develop to acknowledge same sex connections and if important changes are expected to decriminalize Section 377 of the IPC, it must be finished by the Parliament and not by the SC.

A few legitimate and established specialists have condemned the choice as backward and frustrating. Specialists are of the view that the SC could have maintained the choice of Delhi High Court or could have exhorted the Parliament to roll out essential improvements in the IPC; however shockingly the SC missed the mark concerning in satisfying such desires and securing fundamental human privileges of sexual minorities.
In this way according to the present situation, LGBT people group individuals are again feeling themselves uncertain and victimized. On the off chance that the SC had given a definitive judgment on the issue, the issue would have been made due with all circumstances. What's more, it was likewise expected of the most elevated Court of the nation that it would perceive the privileges of LGBT individuals and would decriminalize a similar sex relationship. However, the same number of specialists are calling attention to, the SC has missed a memorable chance to give meet established and human rights to LGBT individuals.

India has a long tradition of tolerance for all kinds of beliefs, faiths, philosophies, orientations and ways of living. Though India is a deeply religious country but at the same time it is also a country which has accepted non-religious communities as well. Our ancient India, people with different sexual choices i.e Homosexuals activity are not treated equally in todays society. Section 377 of Indian Penal Code, 1860 says about unnatural offence in Naz foundation case, it states that having same sexual activity between two consenting adult of same sex will comes under offence with punishment for imprisonment extend to 10 years. Our legal system will not enforce the Homosexuals activity in India, if it so it leads to unconstitutional.

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