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LGBT RIGHTS AROUND THE GLOBE

By Muskan Jain

INTRODUCTION

We live in a world where people are judged based on their gender identity and sexual orientation they face Violence, discrimination, torture and even execution for who they love and what they are. Gender identity is ones integral part and one shouldn't discriminate on the basis of that. In some countries its legal to discriminate on the basis of sexual orientation and gender identity not only this but also punishment like death penalty is awarded for being a homosexual. LGBT i.e. Lesbian who is a homosexual women, Gay who is a homosexual men, Bisexual who is sexually attracted to both men and women and Transgender, the people whose gender identity is different from the gender they were thought to be at birth. LGBT people want equal rights like any other human being and not special rights they want to live in a free space but face several kinds of abuses like as unequal treatment, unjust laws, torture, medical abuses, and discrimination in getting job, education and basic healthcare. They not only face discrimination outside home but also inside home like denial of family rights etc. Though there is a evolution of LGBT rights and in many countries the rights are recognized now but to gain LGBT rights all over the world the international law need to recognize it like we all have right to express ourselves as per Article 19 of Universal Declaration of Human Rights, similarly LGBT people should also have it which should be recognized globally and they are not declined to express their views like who they love and what they are. Similarly right to life, freedom and safety is everyone's right so, LGBT should identify that and also should reduce the risk of physical and psychological harm. Though in some parts of the world the rights of LGBT people are recognized out of many movements and protests but still there are 73 countries around world where homosexuality is illegal, this is a huge number where it is a crime to love someone irrespective of their gender also there are 11 countries where being a homosexual is awarded with a punishment of death penalty, like can someone imagine taking somebody's life because he love person of same sex or he/she is a transgender is the biggest violation of one's fundamental right which needs to get changed and all over the world LGBT rights should get recognized and acknowledged.

EVOLUTION OF LGBT MOVEMENT

In today's world many country recognize LGBT rights but previously the LGBT people were very harshly treated by other people. It is evidently seen that in every culture and region traces of homosexuality has been seen but it was discussed that sexual orientation and gender identity are natural but and cannot change by conversion theory¹ but by religious beliefs it was considered as an immoral practice. In Europe during 18th and 19th century homosexuality was considered as a socially intolerable crime and considered serious under Sodomy and sumptuary laws. One revolution took place in France where for the very first time homosexuality became legal in 1791 by Napoleonic Code by Jean Jacques Régis de Cambacérès² the another movement was seen in 1782 where the group of militant in Paris petitioned the Assemble national, the governing body of French revolution for recognition³. Since then though these efforts were made many countries criminalized homosexuality and amendments were made in laws of different nations. In 1895 the movement took different direction the poets and authors started protest against homosexuality being criminalized. The first group for homosexual rights was founded by George Cecil Ives in 1887 and he even recruits several poets and they thought that homosexuality is a natural characteristic and it should be recognized as a crime. Edward Carpenter wrote book on similar subject i.e. The Intermediate Sex, would become a foundational text of the LGBT movements of the 20th century. After that the European doctors researched about homosexuality and said that it occurs naturally and not an illness.

After this many movements took place like **Gay Liberation movement** of the early 1970s, **Homophile Movement** etc. but the movement which is still relevant is LGBT movement it evolved after all these movements and bring largest amount of chance in society.

LGBT MOVEMENT

In this movement it is first time portrayed that LGBT people are at minority and they need civil rights. Advocates fighting for LGBT rights argued upon ones sexual orientation that it does not denote gender i.e. they talked about homosexuality. At the time of 1977 when LGBT was a big topic then being in heterosexual marriage Maureen Colquhoun came out as the M.P for labor party in the UK. In Sweden became one of the first countries to remove homosexuality as illness in the whole world. In 1986 one of the landmark judgments came from US Supreme Court in the case **Bowers vs. Hardwick**⁴ where court upheld Georgia anti-sodomy law.

In 1980's the gay male community was decimated by the AIDS epidemic. This broke out a demand for compassion and medical funding led to renewed coalitions between men and women as well as angry street theatre by groups like AIDS Coalition to Unleash Power (ACT UP) and Queer Nation. Also in military also expulsion of infected people occurs. 'don't ask don't tell' policy was passed in 1993 where gays were permitted to serve military but homosexual actives

¹(Rao, 2020)

²(Rao, 2020)

³(Rao, 2020)

⁴(Bowers vs. Hardwick),478 U.S. 186 (1986)

are not allowed. In the 20th century the generation of media and gay celebrity has seen. Many LGBT people came as celebrities and performers and also asked for equal rights and because of their hard works and NGO's support, it created a new environment for LGBT people to express their views and fight for their rights in the 21st century, Vermont law in 2000 recognized same-sex civil unions and also after 2 yrs. i.e. in 2003 Massachusetts became first state to recognize same sex marriages also first nation to allow same sex marriage was Netherlands. Also in the same year the US Supreme Court gave the judgment in the case **Lawrence vs. Texas**⁵ for which LGBT people in US were waiting for i.e. they struck down Sodomy laws in 14 states and also making consensual homosexual sex legal in whole nation. In 2006, November, the Yogyakarta principles were adopted on the application of International Human Rights Law in relation to Sexual Orientation and Gender Identity (SOGI) in meeting of 29 specialists, the International Commission of Jurists and the International Service for Human Rights⁶. In India in the case of **Naz Foundation vs. Govt. of NCT of Delhi**⁷, Delhi HC held that S.377 of Indian Penal Code was violating of Fundamental Rights for LGBT people, and in 2019 SC decriminalized S.377. Similarly, many nations started recognizing LGBT movement and gave rights to LGBT people.⁸

CURRENT SITUATION OF LGBT AROUND THE WORLD

World Health Organization said that Transgender people will not be considered mentally ill and in their new catalogue covering more than 55000 diseases, being LGBT is longer considered “mental, behavioral and neurodevelopment disorders” but now is mentioned under “conditions related to sexual health” this new classification by WHO⁹ will increase the acceptance of LGBT people and help them to get social acceptance. Also this step taken by WHO help people to remove the stigma that LGBT people being sick or mentally ill. In some parts there can be seen progressive growth of LGBT people whereas, in other parts the people still face punishment for being a homosexual and non-acceptance and the number of these countries is much on the higher side.

- **Where homosexuality is illegal**

There are 71 countries which criminalizes consensual sexual acts between same sex people is illegal some countries are **Afghanistan, Algeria, Bangladesh, Egypt ,Indonesia, Iran ,Iraq, Jamaica, Pakistan, Sri Lanka, Zimbabwe etc.** these and many other countries criminalizes private, consensual, same-sex activity majorly between two men via ‘sodomy’, ‘buggery’ and ‘unnatural offences’¹⁰. Here out of 71 countries almost half of them are common wealth nations. In these nations LGBT people face discrimination, arrest, violence, imprisonment etc. because of their gender identity. 43 countries out of 71 criminalize private consensual sexual activity

⁵(Lawrence vs. Texas),539 U.S. 558 (2003)

⁶(Rao, 2020)

⁷(Naz Foundation vs. Govt. of NCT of Delhi, 2009),160 Delhi Law Times 277

⁸(Rao, 2020)

⁹(Hutt, 2018)

¹⁰(Map of Countries that Criminalise LGBT People, 2021)

between women using laws against ‘lesbianism’, ‘sexual relations with a person of the same sex’ and ‘gross indecency and 15 countries where it criminalize expression of transgender people using ‘cross-dressing’, ‘impersonation’ and ‘disguise’ laws. Countries include **Bangladesh, Barbados, Cameroon, Cook Islands, Egypt, and Ghana etc.**¹¹

- **Where LGBT faces Death Penalty**

There are 11 nations in the world which imposes or likely to impose death penalty for being homosexual or a Transgender these nations are : 6 countries directly impose death penalty like **Iran, Northern Nigeria, Saudi Arabia, Somalia and Yemen** and death penalty for being LGBT is a legal possibility in **Afghanistan, Brunei, Mauritania, Pakistan, Qatar and UA.**¹²

- **Where Discrimination on the basis of Gender Identity and Sexual Orientation is illegal.**

There are more than 26 countries in which same sex marriages are legal and also provide non - discriminatory rights to LGBT people. Out of those only five countries in the world i.e. Bolivia, Ecuador, Fiji, Malta and the UK which guarantees equality in their constitution on the basis of gender identity and sexual orientation. Also, there are 29 countries which allow gay marriages in their respective countries. some countries are **US, Scotland, Ireland, Colombia, Australia, Northern, Ireland, Costa Rica, France, New Zealand, Argentina,** and some other nations also.¹³

LIST OF LGBT RIGHTS ORGANIZATIONS

These international organizations helped LGBT community to gain recognition and still working to provide recognition in each and every corner of the world.

1. **International Lesbian, Gay, Bisexual, Trans and Intersex Association:** it is an international organization working for promotion of LGBT and intersex human rights it is institution of more than 1600 organization from more than 150 countries. Their main aim is to provide human eights to each and every person of LGBT community¹⁴.
2. **IGLYO : The International Lesbian, Gay, Bisexual, Transgender, Queer & Intersex Youth and Student Organization** (IGLYO) is an international organization that was created in 1984 as a reaction to the need for better cooperation among regional, local and national LGBTQI youth and student organizations. It is a membership based umbrella and its main objective is to ensure representation of LGBT youth and student issues, and it also works on behalf of international organizations etc.¹⁵

¹¹(Map of Countries that Criminalise LGBT People, 2021)

¹²(Map of Countries that Criminalise LGBT People, 2021)

¹³(Hutt, 2018)

¹⁴(world)

¹⁵(iglyo)

- 3. International Lesbian, Gay, Bisexual, Transgender & Intersex Law Association (ILGLaw) :**It is an international organization working with lawyers who are of [gay](#), [lesbian](#), [bisexual](#), [transgender](#) and [intersex](#) and also working with law professors, [judges](#), law students, [paralegals](#) and laypersons, as long as they are committed to [LGBTI](#) equality under the law.¹⁶
- 4. OutRight Action International (formerly IGLHRC):** it is an NGO addressing human rights violation against LGBT and intersex people. It is an organization in partnership with activists, advocates, media,etc.¹⁷

These are only few organizations which are working for LGBT rights and there are many more organizations such as [Organization Intersex International](#) (OII),[Gay and Lesbian International Sport Association](#) (GLISA),[International Lesbian Information Service](#) (defunct) and many more international as well as national organizations which work specific nations helping LGBT community to gain human rights and recognition in the world.

DEVELOPMENTS ON LGBT RIGHTS

Discrimination and Violence on the basis of gender identity and sexual orientation has been seen and recognized in the world and many countries and started taken steps to prevent and stop the stigma of LGBT people being considered ill and not treated well. Also as discussed earlier many countries have legally recognized same sex marriages. Countries like US have legalized homosexual marriage in 2015 in all the states. By vote Ireland became the first country to recognize same sex marriage and also appointed the very first Prime Minister who is Gay **Leo Valadkar**. Very conservative countries that even punish death penalty for being a homosexual have shown some positive responses towards sexual minorities. Pakistan is one of them who issued passport to a transgender and granted legal recognition to her with X as a symbol in the passport denoting third gender other than male and female. Nepal being one of the only nation's in Asian continent providing constitutional guarantee to LGBT and also giving certificates to transgender for registration and marriage.¹⁸ Not only these developments have been seen but developments have also been seen in underdeveloped economies and other parts of the world which proves that LGBT people all over the world are fighting for their rights.

OBLIGATION'S OF COUNTRIES UNDER INTERNATIONAL HUMAN RIGHTS LAW.

Human rights are the rights which one gets by birth and for which we all are equally entitled to without discrimination irrespective of their nationality, ethnic origin, color, religion, language, or any other status, such as age, disability, health status, sexual orientation or gender identity. The countries are under an obligation to protect these rights for LGBT people and these human rights have derived from various international human rights convention and treaties.

¹⁶(International lesbian and gay law association)

¹⁷(Outright International Organization)

¹⁸(Rastogi, 2018)

The obligation of countries towards individuals induces the following:

1. The obligation to protect the right to life, liberty, and security of individuals

Article 3 of the Universal Declaration of the Human Rights guaranteed right to life, liberty and security to all individuals universally. Article 6 of the International Covenant on Civil and Political Rights further declare that the Right to life is inherent in every individual. The above mentioned rights are to be protected by the law of the States and no person shall be arbitrarily deprived of the right to life thus every country should provide protection to LGBT people and their basic human right of right to life and liberty.¹⁹

2. The obligation of the States to protect individuals against torture, inhuman or degrading treatment on the basis of sexual orientation and gender identity.

The right to protection against torture, cruel, inhuman or degrading treatment guaranteed under the International Human Rights law is absolute. Article 5 of the Universal Declaration of the Human Rights and Article 7 of the International Covenant on the Civil and Political Rights provides for the protection of individuals against torture, cruel, inhuman or degrading treatment or punishment.²⁰ Thus it is an obligation of every nation to protect an individual from torture, inhuman treatment and degrading treatment and should not give punishment for being a homosexual or having different gender identity.

3. The obligation of the States to protect the right to privacy and protection against arbitrary detention on the basis of sexual orientation and gender identity.

The right to privacy is guaranteed under Article 12 of the Universal Declaration of Human Rights and Article 17 of the International Covenant on Civil and Political Rights, which state that the State parties should ensure to all the individuals within their jurisdiction, the right to the protection of privacy and against arbitrary detention.²¹ Thus by obligation of this law every country should legalize homosexuality as it is one's personal right to love whosoever they want to irrespective of gender and sexual orientation. Also, the punishment given LGBT people is arbitrary and should be abolished and every nation who follows such kind of punishment needs an amendment.

4. The obligation to protect individuals against discrimination on the basis of sexual orientation and gender identity

The principle of non-discrimination and equality is embodied in the International Human Rights law. International Human Rights law comprising of all the International Covenants, Declarations

¹⁹(Rastogi, Sexual orientation and gender identity issues in the present legal scenario Human Rights perspective, 2018)

²⁰(Rastogi, Sexual orientation and gender identity issues in the present legal scenario Human Rights perspective, 2018)

²¹(Rastogi, Sexual orientation and gender identity issues in the present legal scenario Human Rights perspective, 2018)

and Conventions provides for the rights against discrimination of any kind. Article 26 of the ICCPR also guarantees right to equality before the law, which further imposes an obligation on the State parties to prohibit discrimination of all kinds which includes discrimination on the basis of gender identity and sexual orientation²².

If all the countries around globe started recognizing this obligation under International Human rights then it will be a better place for all the people come under LGBT community and the differences will be over. All the countries where consensual sex between same sex people or same sex marriages are illegal and which does not recognize transgender rights should take these obligations and also references from the countries who have adopted these practices and work for the development of LGBT people.

CONCLUSION

Though there are many positive things done to provide equal rights to LGBT people and many countries have started recognizing that LGBT people are not different it's just that they are at minority and being a homosexual and transgender is not a disease or crime it's just a normal part of life like it is considered men loving women is normal similarly men loving men and women loving women is also a normal thing. They are born with that and no-one can take their Fundamental Rights for being at minority. But sadly many nations does not recognize this right and LGBT people find it hard to survive in this homophobic and trans phobic environment as the people and the law both are not accepting them and in countries law is accepting them but people is are and which is more harsh to them thus social-acceptance is very important. Thus all the globe every country should recognize the obligations of human rights law and make better place for LGBT people to live.

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²²(Rastogi, Sexual orientation and gender identity issues in the present legal scenario Human Rights perspective, 2018)

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