

QUEER IDENTITIES IN INDIA: A PSYCHO-LEGAL APPROACH

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ABSTRACT

Queer identities in India are not rare. With the repealing of section 377 and the NALSA judgment, there have been quite a few moments of celebration among queer youth to live a life of dignity. However, the recent Transgender Persons (Protection of Rights) Act, 2019 has again made the future look bleak for a large part of the queer community in India. Moreover, the intersectional identities of queer people in India that makes them a subject of unique and chronic stressors leading to a variety of mental health issues is a topic that is silenced and erased. The constant invisibilization of queer narratives from the mainstream culture calls for an analysis and interpretation of queer issues through a psycho-legal lens. This paper has attempted to do so whilst highlighting the issues of stigmatization, discrimination, mental health, and human rights.

Keywords: Queer, lesbian, gay, bisexual, LGBTQ

INTRODUCTION

Queer people in India have had a difficult past. Yet the lesbian, gay, bisexual, transgender, queer/questioning, intersex, asexual community (hereinafter referred to as LGBTQIA+) in India has managed to resist and persist in the face of injustice, and inaccessibility. The marginalization faced by queer Indians on the basis of Indian identity is so deep-rooted in the culture and conditioning of the Indian society that expecting the Indian society to change in a short period of time seems like wishful thinking.

With constant changes in legalities, a fight for justice has been a continuous struggle for the Indian queer community to assert their identities. Moreover, even though the constitution of India provides everyone the right of living with equality, liberty, and fraternity, the Indian queer community finds itself living amidst discrimination, oppression, marginalization, and

stigmatization where they face abuse, and violence not only from the community at large but also their own families. This constant “othering” of individuals leaves a deep psychosocial impact on people leaving them with a wide range of mental health issues. Moreover, people’s queer identity can lead to massive health inequities due to stigma and discrimination (Nakkeeran & Nakkeeran, 2018). Thus, in the context of the pandemic, the situation of queer people in India has only worsened with more people living inside abusive and non-accepting households. The multi-layered impact of one’s own identity coupled with the effects of the pandemic can bring to the surface a multitude of problems. In order to address such problems, community care, mutual aid, and intersectoral collaboration are needed.

The present paper interprets the general lives of queer identities in India through a psycho-legal approach whilst highlighting the issues of stigmatization, social exclusion, mental health, human rights, and criminalization. As far as possible, an attempt has been made to understand the extent of these issues in the context of the pandemic as well. The author has also tried to put forward certain suggestions surrounding the same themes. The terms queer community and LGBTQIA+ community have been used interchangeably throughout the paper.

PSYCHOLOGICAL VIEWPOINT

The psychological sciences pertain to studying the behaviour of an individual wherein the focus on analysis is the individual themselves as well as in the context of society wherein their emotion, behaviour, and cognitions are assessed and understood. This behaviour is shaped through learning, past experiences, and social interaction. As people develop in unique contexts, their identity developments are also unique. Similarly, for queer people who develop in a cis-heteropatriarchal world where they are constantly forced to be in a certain specific way that determines their gender expression, gender, and sexual identity, gender roles, etc. can be extremely stress-inducing.

For the longest time, the Diagnostic and Statistical Manual of Mental Disorders (hereinafter referred to as DSM) continued to pathologize the identities of queer people forcing people to go to conversion therapy or be the victim of other unwanted and unnecessary medical interventions. To date, the DSM-5 categorizes “gender dysphoria” as a mental disorder. There needs to be certain questioning of these abusive structures that continue to medicalize people’s identities and ways of being. Gender dysphoria is not inherently situated in one’s queer identity rather it is the cis-heteropatriarchal systems in which the queer person lives that give rise to dysphoric feelings as there is no way for them to affirm their identities. It is not an identity issue or a personal failure of the queer individual, rather it is a political issue.

Minority Stress Model

The minority stress model of Meyer (2003) might be directly correlated with higher psychological distress in queer populations across the globe (Dentato, 2012). The minority stress model states that people from sexual minorities experience unique stressors like homophobia, violence, abuse based on their stigmatized identity. These unique stressors are chronic as they stem from cultural conditioning and are socially based. These unique stressors then lead to a variety of mental health and physical health issues among the lesbian, gay, transgender, and other queer populations. It is also important to note that the model also makes visible the overlapping issues showing the interdependency of homophobia, stigmatization, prejudice as well as coping processes. In order to cope with the constant abuse and violence of a cis-heteropatriarchal world, queer people are forced to invest a large amount of their emotional and physical resources leading to strain on their overall health.

Intersectionality Framework

was a black feminist, Kimberlé Crenshaw who introduced the analytical framework of intersectionality in 1989. The analytic framework of intersectionality helps one understand how having multiple identity markers leads to discriminatory experiences and oppression. In the Indian context, these identity markers include caste, religion, ability, neurotypicality, colour, sex, gender, sexuality, etc. People are discriminated against if they belong to a non-dominant group. For instance, black people are discriminated against by white people. In a similar context, upper-caste people oppress people from the lower castes belonging to Dalit, Bahujan, and Adivasi backgrounds in India. This discrimination and marginalization increase manifold when one's identity is shaped by more than one non-dominant identity marker. For example, a Dalit queer person faces multiple layers of marginalization when they are present in a queer community dominated by upper-caste queer people. These intersectional identities which are constantly "otherized" and invisibilized in the dominant queer narratives deserve special care and attention. It is also important to note here that people's marginalized intersectional identities also become a barrier in their access to healthcare, employment, housing, etc. which all end up having an indirect impact on their mental health (Priya & Jain, 2021).

Growing mental health concerns amongst the Indian LGBTQ+ community

It has been noted in the literature that there exists a poor health-related quality of life for gender-diverse individuals in urban India where poor mental health status is reported by trans and hijra

populations. The most vulnerable among these populations include individuals from low-income backgrounds who are younger in age (Bhattacharya & Ghosh, 2020).

Through a review of a decade of research surrounding LGBTQIA+ issues in India, Wandrekar & Nigudkar (2020) showed that a wide variety of mental health concerns like depression, substance abuse, loneliness, anxiety, suicidal ideations were common among queer people. Their review also brought to light that many Indian queer individuals refrain from accessing mental healthcare services due to the fear of stigmatization, medicalization of experiences, unwanted medical interventions, etc.

By collecting data from over 200 non-heterosexual Indian men, (Sharma & Subramanyam, 2020) following Meyer's model of minority stress reported that internalized homophobia was found to be positively associated with loneliness and depression.

During the COVID-19 pandemic, these mental health issues only worsened as evident by the findings of Banerjee & Rao (2021) who undertook a qualitative exploration of experiences of the transgender population in India and reported them to be experiencing marginalization, stigma, social disconnection as well as multiple survival threats pertaining to physical, emotional, and financial needs. Similar reports of coronavirus being an added burden on the wellbeing of queer people have also emerged from other parts of the world making it a universal experience for the global queer community (Banerjee & Nair, 2020; Sampogna et al., 2021).

Taking an intersectional approach to explore the experiences of the LGBTQIA+ community in India, Bhalla & Agarwal (2021) uncovered a variety of themes including poor mental health status, fear of loss of employment, shrinking personal spaces, physical symptoms of poor health, etc.

LEGAL VIEWPOINT

Decriminalisation

In a historic judgment in 2018, section 377 of the Indian Penal Code which penalised homosexuality in India was written down. In 2014, transgenders were legally recognized by their gender identity and were given special benefits and reservations. Although these legal changes have been welcome, there is still a long way to go when it comes to the freedom of queer people in India. The legal response has been inadequate in terms of bullying,

harassment, abuse, etc. of any kind against queer people (Knight, 2019). Additionally, the cases of moral policing of queer youth have been also all on the rise (Singh, 2016).

Human rights issue

The issue of human rights and sexual minorities in India is not commonly talked about. From cases of illegal detention, daily harassment in public places, abuse in private and public spaces, discrimination, outing without consent, the medicalization of their issues all count as a violation of their human rights of queer people as mentioned by the PUCL – Karnataka report (2001).

Additionally, the new Transgender Persons (Protection of Rights) Act, 2019 has also been criticized from a similar angle mentioning that it is an act that has only replicated the existing challenged but in a digitized format. The act has also received flak from the community as it violates the right of self-identifying by mandating a medical certificate for the confirmation of their gender identity. This is a complete violation of the human rights of transgender people. Moreover, the acts of heavy dependence on documents, identification proofs, etc. seem unrealistic in a country like India where whilst escaping from abusive households, many times it becomes impossible for people to hold on to their documents. The legal process to affirm one's own identity to receive the special benefits that they rightly deserve has only become a tedious process with this act (Brindaalakshmi, 2021).

PSYCHO-LEGAL VIEWPOINT

Now that we have understood the psychological and legal viewpoints surrounding queer identities in India, it is necessary to make an attempt to delineate the intersection between the two. Through the above discussion, it becomes increasingly clear that the psychological and legal perspectives feed into each other and that both thematic areas constantly interact and intersect to give rise to lived realities for queer people.

As we have talked about multiple marginalization and intersectional issues, the issue of “double stigmatization” also deserves attention. Mental health issues are already stigmatized by the larger population in India and so are queer people as their identities are considered deviant of the norm and thus not accepted. Queer people having mental health issues fall victim to double stigmatization which then acts as a barrier to them reaching out to healthcare providers to seek psychosocial help (Wandrekar & Nigudkar, 2020). The stigmatization faced by queer people also becomes visible in employment opportunities where they are discriminated against. This discrimination leads to loss of labour productivity leading to reduced economic output in the country (Badgett, 2014).

To not cause further violation and abuse, conversion therapy has also been banned by Indian high courts as it is an unethical practice (Kapoor, 2021). The unethical practice was banned only after there were cases of queer people dying from suicide due to being forced into conversion therapy as well (Gupta, 2020). However, people around the country continue to live in the fear of being forced to conversion therapy (Price, 2020). Not just conversion therapy, but moral policing of queer people also leads to a variety of mental health issues among the youth (Kar, 2018).

Finally, it is important to make a note of how marginalization, oppression, and discrimination of queer people happens due to both psychological and legal underpinnings. Their identities are considered flawed and deviant by the society which gives rise to multiple psychosocial issues that interact with the legal struggle of living a life of dignity. The discrimination is so rampant in public and private places that queer people struggle for access to healthcare, education, employment, housing, having children, marriage, etc. (Mirza & Rooney, 2018; Kealy-Bateman, 2018).

SUGGESTIONS

The multidimensional issues of queer people in India call for the collaboration of various sectors for the address and resolution of these issues. Therefore, the following suggestions are made with an invitation to all stakeholders to provide urgent attention to the matter of the LGBTQIA+ populations in the country.

1. **Queer-Affirmative Therapy:** For the longest time, the mental health issues of queer people have been medicalized where issues like gender dysphoria continue to be a psychiatric disorder as per the DSM-5. Moreover, conversion therapy still continues to exist across the world which can lead to more trauma and abuse. Although conversion therapy is banned in India, queer people still fall victim to the stigmatization of mental health professionals who also continue to medicalize their issues. In scenarios like these, there is an urgent need for queer affirmative therapy which recognizes and acknowledges that there are unique stressors faced by the queer population and the mental health issues that they face are located not in their queer identities rather in the dominant systems and structures of power around us that oppress us.
2. **Queer-centred policies:** The hate and stigma against queer people are quite deep-rooted in the country. In order to ameliorate this, one of the possible strategies could be policies that are made by centring the needs and wants of queer people. For example, accessible toilets, accessible healthcare, equal opportunity for employment, etc. are some of the

thematic areas that can be worked upon through a queer lens by including among the policymakers the voices of queer people.

3. Horizontal reservations: Horizontal reservations for the transgender community as well as other queer people including gender non-conforming and non-binary people could be a liberating reality. Horizontal reservations allow for reservations to beneficiaries to different groups of people in the same category. Mandating these reservations for queer people in India would mean equal access to education and employment opportunities thus leading to a decrease in loss of labour productivity and increase in economic output of the country.
4. Accessible psycho-legal aid: A community cannot be uplifted and empowered without the constant fight for justice and this path towards justice requires enormous resources. Making these resources accessible to the community at large could also be helpful. The government can be called upon to launch a helpline for queer people in the country that makes psychological counselling as well as legal aid available to them on an urgent basis.
5. Awareness: Lastly, no change would be possible without a change in people's thinking and perception of queer people. Awareness programs, campaigns, petitions, etc. are some of the ways that can lead to a decrease in stigmatization for the long term. Without awareness, knowledge dissemination, and continued conversations people's conditioning against the LGBTQIA+ youth would continue to become stronger.

Finally, lobbying with the government, community organizing, campaigning, etc. are the ways to get justice. Queer people in India have been arranging pride walks since the late 90s and have also been the forerunners of various public movements. It is only the queer community that teaches us the values of sharing resources, mutual aid, compassion, and collaboration to win over injustice. Their resistance and persistence have also helped in bringing awareness even in smaller cities of India.

CONCLUSION

The psycho-legal perspective was a much-needed viewpoint to understand the issues faced by the queer people in India. It has brought to light the constant interaction of psychological and legal underpinnings that revolve around the life of a queer person making them a subject of stigmatization, discrimination, and oppression. The liberation of the queer community lies in intersectoral care and collaboration where there is a need for the acknowledgment of these issues from a multidimensional lens.

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