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NOT A CRIME, STILL A CURSE? THE UNFINISHED FIGHT FOR LGBTQ+ RIGHTS

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In 2018, the Supreme Court of India finally decriminalized consensual same-sex behavior, repealing the colonial-era owner that placed consensual same-sex relations under Section 377 of the Indian Penal Code. The court stated that the Section "is irrational, indefensible and manifestly arbitrary." The unanimous judgment in Navtej Singh Johar was hailed as a historic triumph: one young LGBT supporter said, "We are not criminals in our own country." For many, the decision promised a new era of dignity and equality. Yet observers quickly warned that decriminalization alone could not erase decades of prejudice. As activist Reyansh Naarang later put it, "We still cannot marry, we still cannot adopt… We have many, many years before any of this happens." In practice, the ruling mostly removed the threat of prison; deep-seated stigma and gaps in the law remain.

Despite the legal milestone, LGBTQ+ Indians continue to face widespread bias. Reports find discrimination "in almost all facets" of life – in healthcare, education, jobs, and housing – by both state and private actors. A survey revealed that almost 34% of queer workers felt the need to hide their orientation in the workplace out of fear of bias. Violence and harassment continue: many LGBT individuals encounter either verbal or physical abuse and very few go on to report this abuse because they fear retaliation down the line. As one study points out, even after the prohibition against homosexual intercourse was lifted, discrimination "is still rampant in the socially conservative country." In short, being LGBT may no longer be illegal in India, but it is still often treated as a "curse" in practice.

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Legal progress has been uneven. In addition to Johar, India's courts have acknowledged some LGBT rights in recent years. For example, in Deepika Singh v. Central Administrative Tribunal (2022), the Supreme Court broadened the definition of "family" to protect non-traditional households. The bench declared that "familial relationships may take the form of domestic, unmarried partnerships or queer relationships," and that such "atypical" families deserve equal legal protection and benefits. Way back in the 2014 NALSA v. Union of India decision acknowledged the right of transgender individuals to self-identify as a third gender as a fundamental right, and in 2019 the Parliament passed the Transgender Persons (Protection of Rights) Act that (at least on paper) recognizes a right to change gender in official documents. These developments have helped win basic rights for transgender Indians and expanded the scope of equality.

However, many rights remain unaddressed. Same-sex marriages and civil unions are still not legally recognized – a glaring omission in a country where marriage is tied to hundreds of laws and benefits. In October 2023, the Supreme Court declined petitions to legalize gay marriage, saying instead that it is Parliament's duty to legislate. The Court did order that existing laws must not discriminate against same-sex couples, but it stopped short of granting any new rights. Sex and gender minorities literally have no legal protections against discrimination. There is no one national law in India that forbids discrimination based on sexual orientation at work, at school, in hospitals, in housing, or in public service. In brutal reality, this means being able to be legally dismissed, denied housing or services, simply for being queer. Scholars note that, after Johar, the private sector remains "highly susceptible to acts of discrimination" by employers and landlords. The Transgender Rights Act of 2019 offers some workplace protection to trans people, but even that law has serious loopholes and excludes cisgender LGB individuals.

Socially, however, acceptance is by no means guaranteed. Surveys indicate Indian public opinion is gradually changing: by late 2023, a survey conducted by Pew Research had found a slim majority (53%) of Indians felt same-sex marriage ought to be legal. This was a sensational difference from a decade earlier and implies that newer generations are more tolerant. Yet 43% continued to be against legalization, and there are still deep-seated cultural biases. Protection of LGBT individuals from physical attacks continues to be needed: studies show 79% of gay men and 44% of bisexual men in India report being physically or verbally attacked. Lesbians as well as LGBTI asylum seekers from religions that are minority faiths in India, or who are

publicly "out", are even more likely to be attacked. Familial and community pressure is also still very high: reports of forced conversion therapy and forced marriage to heterosexual individuals continue, particularly in more conservative regions. (The National Medical Commission formally banned medically oriented conversion therapy in 2022, but advocates say many quacks and even hospitals carry out “cures” under other names.) In short, many LGBT people live in fear or in hiding. As one activist put it, dismantling legal barriers was only “a great first step” – the struggle for social acceptance is only just beginning.

The road ahead requires concrete action. LGBT advocates in India continue to demand a series of reforms to translate legal rights into real freedoms. Key among these are:

- Recognition of partnerships. Marriage or civil-union law is desired by the same-sex couples to give their relationships equal status. Without it, they cannot adopt children together, inherit property as married partners, or avail family benefits, such as employment maternity leave. As an activist observed soon after Johar, “We have many, many years” to wait before marriage becomes possible. Lawyers urge Parliament to act on the failed marriage petition and grant equal family rights under the law.
- Consolidated anti-discrimination law. India has no blanket law against discrimination on grounds of sexual orientation and gender identity. Even though courts have theoretically indicated that equality (Article 15 of the Constitution) applies to the LGBT persons; however, no legislation is put in place to enforce it. In the working world, therefore, this ambiguity leaves queer people vulnerable on grounds of education, health, housing, and employment. Some activists drafted equality bills suggesting that protections should apply in all public and private spheres; however, those bills have never yet reached Parliament for passage. An anti-discrimination statute would have allowed victims to sue for redress and set the standards of fair treatment for the entire country.
- Enforcing the ban on conversion “therapy.” While India’s medical regulator condemned conversion therapy as professional misconduct, there is no criminal penalty for practicing it. Lesbian, gay, bisexual, and transgender children are still being coerced by families into dangerous "treatments" (drugs, shock therapy, exorcisms, etc.). Activists believe the government must criminalize conversion therapy through legislation rather than policy and prosecute those coercing LGBT individuals into these pseudo-scientific quick fixes.

- Public education and support services. To end stigma, social work as well as legislation is needed. Community organisations advocate inclusive education, education of the police and medical profession, and public education campaigns. Pride marches, media visibility, and open political backing can gradually alter attitudes. Even legislators have started speaking up: the opposition party circulated pro-LGBT statements and one government minister declared personal support for LGBT rights. Still, more leadership is needed.

These steps remain the “unfinished fight” for equality. As Amnesty International notes, even a “historic” missed opportunity like the same-sex marriage judgment should serve as a “springboard” for Parliament to overhaul all laws and policies that discriminate. Human rights groups urge India’s government not to delay. The recent rise in acceptance – a majority of Indians now back marriage equality – shows public attitudes are slowly evolving. Meanwhile, queer families have, with few exceptions, been afforded some measure of protection from courts. Civil society organizations continue reporting violations and calling for reform, which keeps lawmakers and judges aware that LGBT people "should be able to enjoy the full range of human rights."

In conclusion, the decriminalization of homosexuality in India was a necessary milestone – but far from a guarantee of happiness or safety. Criminal status may be gone, but social prejudice and legal gaps remain. Many LGBTQ+ Indians still feel like second-class citizens or targets of hate. As one activist put it, “Discrimination against gay and trans people remains prevalent” despite the 377 judgment. India’s journey illustrates that legal change is only a first step. For LGBTQ+ rights to be fully realized, both society and lawmakers must address the “curse” of stigma with concrete reforms. The unfinished fight continues on many fronts – in legislatures, courts, workplaces, and homes – until equality is more than just a legal principle on paper.

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