Beyond Binary and Heteronormativity in Indian Society and Human Right: The Union of Two Soul

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ABSTRACT:

'We are free to choose our partners, who we are inherent to our being'. This statement highlights the global perspective on heteronormativity and the neglect of homonormative existence. Every person is born equal and deserves to be treated equally under the law. An individual's fundamental human rights should not be denied based on their sexual orientation. Indian society is deeply rooted in traditional gender and sexual norms, has been long operated within the frameworks of binary identity and heteronormativity. These frameworks establish male-female and heterosexual/homosexual divisions as natural and universal, thereby marginalising those identities exist beyond such binaries. Homosexuality and same-sex relationships exist outside the bounds of heteronormativity. The heteronormative viewpoint has evolved since the post-colonial period and continues to prevail today. Cultural and ethical beliefs should not serve as justification for denying rights based on sexuality and gender expression. However, contemporary India has witnessed a gradual shift in perception through constitutional interpretation, judicial interventions, and evolving cultural narratives. Despite these advances, societal attitudes continue to be shaped by heteropatriarchal structures, religious conservatism, and socio-economic hierarchies. India needs to take appropriate legislative and judicial steps to accommodate a homonormative society. This paper is a doctrinal research study that relies on both primary and secondary sources. It focuses on the human rights of individuals with sexual orientations beyond heterosexuality, including same-sex relationships and marriage, in India. The study also explores the themes of sexual orientation and same-sex marriage within a heteronormative culture.

Keywords: Heteronormativity, Homonormative, Human rights, LGB, Same-sex, Sexual orientation

INTRODUCTION

'Love truly knows no bounds.' There are no conditions for one's feeling towards another, neither it has any boundaries. It's all about the beautiful connection between two souls, which can flourish regardless of gender. When we talk about same-sex relationships in Indian society, it's essential to recognise that some see them as a foreign concept influenced by Western culture. Interestingly, the notions of heteronormativity emerged only after British colonial rule, which entrenched specific regulations that have lingered for far too long. Many individuals identifying as homosexual have faced societal challenges and found it difficult to gain the acceptance they deserve from family and friends. It's important to remember that sexuality is not a choice influenced by cultural norms; it is an inherent part of who we are, something we are born with. Since the decriminalisation of homosexuality in 2018 under Section 377 of the Indian Penal Code, sexual minorities have courageously continued their fight for societal acceptance and the recognition of same-sex marriage. While heteronormativity has long overshadowed homonormativity, we need to change the conversation. Many still hold outdated beliefs, seeing sexual minorities as unrealistic or viewing their sexuality as something that can be altered through medical intervention or therapy. Yet, Indian history is rich with evidence showcasing the acceptance of homosexuality. If we investigate Indian mythology and Vedic literature, we find that homosexuality was traditionally seen as just as usual as heterosexuality. Ancient societies embraced it as a "creation of God", allowing individuals to live authentically and comfortably. A remarkable book titled "Tritiya Prakriti" explores how ancient cultures understood homosexuality, using terms like *Kliba* (gay), *Svairini* (lesbian), and *Kami* (bisexual). These individuals were recognised as part of a third gender and played significant roles in Vedic society.

Regrettably, modern India has, at times, distorted the concept of homosexuality, clinging to outdated principles. While we have made significant strides with the decriminalisation of homosexuality, many vital rights for sexual minorities still need attention. We have an exciting opportunity to work toward a more inclusive society. It's time for our judiciary and legislation to focus on securing these essential rights and fostering a thriving, accepting, and diverse community for all. Let's embrace love in its many beautiful forms.

Sexuality is not something that develops over time or is chosen; rather, it is inherent to an individual from birth. Cultural norms do not influence it, nor does it conflict with social or cultural ethics. 'Sexual orientation' refers to a person's capacity for intense emotional, affectionate, and sexual attraction to others. This attraction can be directed towards individuals of the same gender, different genders, or even multiple genders (The Yogyakarta Principles). For a detailed understanding of Sexual orientation, follow the table below: -

Table No. 1: Types of sexual orientation

Sexuality/Sexual Orientation	Concept
Heterosexual	Sexual and romantic attraction towards opposite sex i.e., male to female and vice versa
Homosexual	Sexual and romantic attraction towards same sex i.e., male to male (gay) and female to female (lesbian)
Bisexual	Attraction towards both the sex i.e., male to female/male and female to male/female
Asexual	Those who don't have the hormones for attraction towards any sex
Pansexual	Those who are sexually and romantically attracted towards anyone irrespective of any sex or gender
Queer	An umbrella term. Neither categories as heterosexual nor as cisgender

The **table no. 1** above showcases the various identities within the LGBTQAI+ community, highlighting just a few among many others that are yet to be identified. When a person identifies as 'heterosexual' (commonly referred to as 'straight'), it means they are sexually and romantically attracted to individuals of the opposite sex. The term 'heteronormativity' derives from 'heterosexual' and refers to the assumption that only heterosexuality exists and is acknowledged as the normative sexuality.

In contrast, when someone identifies as 'homosexual' (often termed 'gay' for men and 'lesbian' for women), they are sexually and romantically attracted to individuals of the same sex—men attracted to men and women attracted to women. The term 'bisexual' describes individuals who are attracted to both sexes, meaning they can be attracted to males and females. An 'asexual' person does not experience sexual or romantic attraction to anyone, regardless of gender. Conversely, 'pansexual' individuals experience attraction to others regardless of their sex or gender; they may be drawn to people based on their personality or essence rather than their gender identity. 'Queer' serves as an umbrella term within the LGBTQAI+ community, encompassing a wide range of sexual and gender identities. Those who identify as queer may use pronouns like 'they,' 'them,' and 'themself,' reflecting their status as individuals who do not align strictly with heterosexual or cisgender identities and may consider their gender as undefined.

History reveals a rich tapestry of human experience, including the vibrant existence of homosexuality and diverse family structures. Research indicates that during the Vedic period, intimate relationships between men and women of the same sex were regarded as quite natural. In fact, homosexuality is not a recent phenomenon but has been recognized since ancient times. Vedic texts such as Manusmriti, Dharma Shastra, and the Kamasutra explicitly mention and acknowledge the existence of same-sex relationships.

The notion of a 'third sex' has deep historical roots, as beautifully illustrated in the ancient text 'Tritiya Prakriti'. This term encompasses the experiences of those who identify as lesbian, gay, or bisexual—collectively known as 'LGB'. Lesbians were referred to as 'Svairini', gay men as 'Kliba', and bisexual individuals as 'Kami'. These identities have been celebrated since the Vedic era, a time when society recognized and welcomed these individuals, allowing them to live authentically according to their personal truths. This understanding fosters a more inclusive and accepting view of love and relationships, highlighting the enduring resilience of diverse identities throughout history. The concepts of homosexuality and same-sex activity are addressed in several Vedic texts, including the Kamasutra and Vatsyayana. Although homosexuality was not common in medieval society, there are documented instances of it. Research indicates that, despite being forbidden by Islam at the time, several Muslim empires had documented romantic relationships between men.(1) Furthermore, Hindu literature emphasizes that homosexuality is neither a disability nor a deviation from societal norms. Notably, one of the famous authors in her book named "Love's Rite: Same-Sex Marriages in Modern India" and "Same-Sex Wedding, Hindu Tradition and Modern India." She details the recognition of same-sex relationships from ancient times and illustrates how society has evolved since then. The author beautifully shares that love knows no boundaries; it's not just about our choices, but also what life gifts us. The term 'non-conventional' emerged after homosexuality was unjustly labelled as unnatural during the post-colonial era, leading to criminalization. Over time, Indian society began to embrace these outdated rules, but we're moving toward a more accepting future that celebrates love in all its forms.

The gap of the study shows that Despite growing scholarship on gender and sexuality, significant research gaps persist in understanding non-binary and queer experiences within Indian society. Most existing studies remain urban-centric, overlooking the lived realities of individuals in rural and semi-urban areas. The intersection of caste and class with gender identity and sexuality is underexplored, leaving marginalized queer

voices insufficiently represented. While the *Navtej Singh Johar* (2018) judgment marked a legal milestone, there is limited longitudinal research on changing societal attitudes post-decriminalisation. Furthermore, institutional implementation of inclusive policies in education, healthcare, and employment remains inadequate. Media representations, though increasing, often reinforce stereotypes rather than fostering authentic inclusion. There is also a lack of systematic inquiry into mental health, access to healthcare, and the real impact of digital activism on awareness and community formation. Collectively, these gaps highlight the need for intersectional, empirical, and policy-oriented research that bridges legal recognition with lived realities.

The objective of the study includes – (i) to examine how legal, social, cultural, and institutional shifts since the decriminalisation of consensual same-sex relations have affected understandings and lived experiences of gender and sexuality beyond the binary in Indian society, (ii) to map differences in acceptance and lived experiences across caste, class, region (urban/rural), and religious communities, (iii) to investigate representation of non-binary and queer identities in mainstream and digital media post-verdict 2018, (iv) to evaluate the effectiveness of existing advocacy strategies and propose context-sensitive policy recommendations.

Literature Review

The Urban elite v. Union of India, The Unfulfilled Constitutional Promise of Marriage (IN) Equality by **Rohin Bhatt**

The author is a senior advocate of Supreme Court of India. The author has documented the feelings that were expressed by the LGBTQ+ community on the day of the *Supriyo Chakrabarty v. Union of India* ruling. The ruling was a gut hit to attorneys, as the author learned that the petitioner's side advocate had acted incorrectly. Nevertheless, the action done to legalize marriage equality was the right one.

WHO is EQUAL, the equality code of the constitution book by **Saurabh Kripal**

This book explains the philosophical and practical implications of the pervasive inequality in our country. The author has explained the notions that allow for a comprehensive analysis of a variety of topics and explained how the existing laws are interpreted. In the context of quality, this book aims to address many aspects of a person's life and interactions with the community and the state.

Sex and the Supreme Court, How the Law is Upholding the dignity of the Indian citizen By **Saurabh Kirpal**

This book examines and describes how the law has affected various aspects of gender, sex, and sexuality, with the Supreme Court being the organization that has been most affected. It examines the relationship between the Constitution, the law, an individual's rights, and the Supreme Court's enforcement of those rights. The cases presented in this book are the result of this court's adjudicatory procedure and constitute the subject matter.

Footprint of a queer history: life Stories from Gujrat by **Maya Sharma**

This book decodes the difficulties LGBT people and organizations confront in defending their rights throughout the state of Gujarat and other parts of the global south. shedding light on how, despite the enforcement of the 2019 Transgender Persons (Protection of Rights) Act and the decriminalization of homosexuality under section 377 of the IPC, queer people still face discrimination and struggle to fit into a single social category.

Maya Sharma - Loving women Being Lesbian in unprivileged India

The author has made an effort to bring homosexual identities back to life. According to author, the novel is about women's struggles to believe in their right to have and embrace such impulses, as well as their search for identities and self-description in environments devoid of language or recognition. This book also includes stories at every turn, little subversions against every dominant structure, so that the reader may observe the world and know that things are not

quite as they seem. reveals the tales of women from impoverished urban regions, small towns, and rural places, allowing each story to shine in all its complexity in a book that illuminates the importance of class in lesbian relationships and the scope of female kinship.

Tritiya-Prakriti: The people of Third Sex; Understanding Homosexuality, Transgender Identity, and Intersex conditions through Hinduism by Wilhelm Amara Das,

The author of this book makes a remarkable argument for the existence of the third gender, which dates back to the Vedic era and is recognized in Vedic literature. The author analyses the Sanskrit texts using the ancient Vedic 'three-gender' method, which has its roots in the tradition itself. The three sexes in ancient Hinduism - *pums-prakriti* (man), *stri-prakriti* (female), and *tritiya-prakriti* (third sex), are explained in the book. Each category had a distinct function in society. The Vedic text has been interpreted and understood by the author in his own way.

Queering India, Same-sex Love and Eroticism in Indian Culture and Society by **Ruth Vanitha**

Throughout South Asian history, the author and her co-author made an effort to document and analyse a variety of discourses on same-sex love, often within religious traditions. In particular, the book examines how nationalists and colonialists attempted to recast multivocal traditions into a unified, univocal tradition and how these attempts were contested in colonial and independent India. According to both authors, the nineteenth century was a crucial time of transition during which a small thread of precolonial homophobia took center stage in mainstream colonial and postcolonial discourse.

Same-Sex Love in India A literary History by Ruth Vanita and Saleem Kidwai

Scholars emphasize that pre-colonial South Asian cultures contained multiple forms of gender/sexual variance (e.g., hijra communities, literary evidence of same-sex love), but colonial legal and moral regimes imposed Victorian binaries and criminalised non-normative sexualities. Classic historiographic and literary studies document these continuities and ruptures.

The Yogyakarta Principle + 10

Analyses situate Indian developments within international human-rights norms, notably the Yogyakarta Principles and UN human-rights practice, arguing that transnational standards both inform Indian litigation strategies and provide normative tools for local advocacy. Comparative legal works show influence in reasoning about dignity, equality, and non-discrimination.

Arvind Narrain, Queer: Despised Sexuality, Law, and Social Change

Research on media and cultural representation notes increased visibility post-litigation, but also cautions against tokenistic portrayals that reproduce stereotypes. Activist studies document networked urban movements, the role of NGOs (e.g., Naz Foundation, Humsafar Trust), and the rise of digital platforms as mobilisation tools; however, scholars note limited penetration of these discourses in rural contexts.

Tritiya-Prakriti: The people of Third Sex; Understanding Homosexuality, Transgender Identity, and Intersex conditions through Hinduism by Wilhelm Amara Das, is an outstanding cogitation of author regarding the existence of third gender from the Vedic period and the existence has been acknowledged in the Vedic literatures. The author uses the ancient Vedic 'three-gender' approach to provide an analysis of the Sanskrit texts that originates in the tradition itself. The book gives explanation on the concept of three sexes in the ancient Hinduism i.e., *pums-prakriti* (male), *stri-prakriti* (female), and *tritiya-prakriti* (third sex), and each category had its own individual role to play in society. the author has given his own understanding and interpretation to the Vedic text.

Queering India, Same-sex Love and Eroticism in Indian Culture and Society by **Ruth Vanitha** in which author and her co-author attempted to track and interpret a diversity of

discourses on same-sex love, frequently within religious traditions, throughout South Asian history The essay focuses on colonial and independent India, specifically how colonialists and nationalists try to rewrite multivocal traditions into a univocal, uniform tradition, and how these rewritings are challenged. Both authors identify the nineteenth century as a critical transitional phase in which a tiny strand of precolonial homophobia became the dominant voice in colonial and postcolonial mainstream discourse.

Same Sex Relationship, Same-Sex Marriage, and Human Rights

Same Sex Relationship

Same-sex relationships have a rich and longstanding history, far beyond what is often perceived. They are not a new trend or simply a result of Western influence. It's genuinely heartening to see the current generation becoming more open and vocal about their identities! This openness is something to celebrate rather than shy away from. However, it's essential to acknowledge that the journey toward full recognition and acceptance of LGBTQIA+ individuals has been long and still has a way to go. Often, same-sex relationships are misunderstood and can clash with traditional views of morality in society. It's time for us to reflect on the moral frameworks that marginalise sexual minorities and limit the visibility of same-sex relationships. A key question we might ponder is whether the ethical standards we hold today in modern India are rooted in ancient traditions or drawn from mythology.

An excellent book, "Marriage: 100 Stories Around India's Favourite Rituals," the author shares fascinating stories about marriages from our rich mythology, including tales of same-sex unions. These narratives remind us that historically, love and relationships have always existed in diverse forms.

India has made some strides toward acknowledging homosexuality and the validity of same-sex partnerships. While this is a promising step, there's still much work to be done to ensure that all individuals can live proudly and with dignity in society. The fight against discrimination is ongoing, and together, we can foster a world that embraces love in all its beautiful forms.

Concept of non-binary

Most people fall into one of two gender categories: male or female. This includes most transsexual people. This encompasses every single individual. But there are certain individuals who defy easy categorisation as either 'man' or 'woman', or even 'male' or 'female'. These individuals defy easy categorization. Gender hybrids are persons who exhibit characteristics more commonly associated with men or women, as well as those whose gender is distinct from that of either sex. A small percentage of the population may identify as neither male nor female. They may have a transition in gender at some point in their lives.

When expressing oneself, people who do not identify as either male or female use a wide range of languages. Among these individuals, 'nonbinary' (often written 'non-binary') is a popular phrase. Words and phrases like 'genderqueer', 'agender', 'bigender', and 'genderfluid' are all part of this umbrella term. Each of these statements has its own unique meaning, yet they all hint to a gender experience that goes beyond the simple concepts of male and female. To politely inquire as to the meaning of a term when one is unsure of its meaning is standard practice.

Why 'Nonbinary'?

Some societies, like the one in which we live, tend to recognize exclusively the sex binary. Our society is one example of this type. This is the case in several different cultures around the globe. A popular way to explain the idea that there are only two sex types in the world is the 'gender binary'. Reason being, according to its meaning, the word 'binary' stands for 'having two parts' (male and female), which is exactly what this concept represents. For identities that do not neatly fit within the male or female binaries, the term 'nonbinary' is used. One way that individuals describe these genders is as nonbinary. Many individuals use the term 'nonbinary' to characterize the situation because of this.

Same Sex Marriage

Marriage is a special union between two individuals that brings a unique blend of personal and social significance. It serves as the heart of family life and symbolises partnership in its most valid form. Traditionally, in many societies, marriage is seen as a union between a man and a woman, conferring the beautiful titles of husband and wife while establishing essential rights and responsibilities within that relationship. In India, marriage is guided by a rich tapestry of personal laws intertwined with cultural rituals and customs that reflect diverse religions and communities. While existing marriage laws may primarily focus on binary genders, it's inspiring to see that various forms of marriage are gaining recognition in society. These include widow and divorcee remarriages, inter-caste, and inter-racial unions, as well as same-sex marriages. Over time, the essence of marriage has shifted towards valuing consent and commitment above all else.(2)

Same-sex marriage, in its essence, represents a meaningful connection between two people, regardless of their biological sex or gender identity. It beautifully embodies the union of two spirits, highlighting that love knows no boundaries. As noted by researcher, her insightful conversations with a Hindu priest revealed that "Marriage is a Union of two Spirits, and the spirit is not male or female". This perspective encourages us to embrace the understanding that marriage holds the same depth of meaning for all couples. While societal norms have often imposed restrictions on same-sex partnerships, we are witnessing a growing support for inclusivity and acceptance. The researcher emphasises that the core elements of marriage should be mutual agreement and communal consensus. Additionally, it's terrific to recognise that the traditional expectation of procreation is no longer a prerequisite for marriage in many places.

Together, let's celebrate the evolving nature of love and commitment, championing a future where all forms of marriage are recognised and valued.

Table No. 2: Same-sex Marriage

Marriage	Concept
Heterosexual Marriage	Man with woman and vice versa (heterosexual couple called as husband and wife)
Same- Sex Marriage	Woman with Woman (lesbian couple called as spouse) Man with Man (gay couple called as spouse)

The above **table no. 2** defines the difference among heterosexual and homosexual marriage i.e., 'male and female' in a heterosexual marriage. whereas, in homosexual and same-sex marriage it involves 'male to male' or 'female to female'.

The right to marry is a fundamental human right that aligns with the right to life for every individual, regardless of sexual orientation or gender identity. Denying same-sex marriage constitutes clear discrimination against homosexuals, as it treats them differently and violates the fundamental rights guaranteed under Article 21 of the Indian Constitution, as well as the fundamental human rights outlined in the Yogyakarta Principles, specifically Principle 4, which pertains to the Right to Life according to International Human Rights Law concerning sexual orientation and gender identity. (3)

Allowing same-sex marriage under existing or appropriate laws would lead to a more satisfactory outcome, as marriage is a significant social and religious institution. Currently, a total of 38 countries recognises same-sex marriage, and it is crucial for India to proactively work towards recognising same-sex marriage as well. This recognition would enable sexual minorities to lead lives that are free from discrimination and filled with dignity.

Human Rights violation of sexual minorities

Every human being is born free, with equal rights and dignity. As people are endowed with reason and conscience, they should behave brotherly toward one another, as stated in Article 1 of the Universal Declaration of Human Rights (UDHR). Article 2 specifies that every individual has all the freedoms and rights, without any exception based on colour, gender, race, language, religion, political or other viewpoint, national or social origin, wealth, birth, or any other status. Regardless, there should be no inequalities based on its political, juridical, or international status, whether a country or territory is independent, a trust, non-self-governing, or subject to any other constraints on sovereignty. To clarify the above UDHR Articles, the phrase 'All Human Beings' refers to all human beings, regardless of gender expression, gender identity, or sexual orientation. Article 2 states that 'all rights and freedoms' include the rights provided by the Indian Constitution. Similarly, Article 15 of the Indian Constitution promised that no citizen shall face discrimination based on religion, caste, ethnicity, gender, or place of birth. According to Article 2 of the Universal Declaration of Human Rights and Article 15 of the Indian Constitution, everyone is right to be treated equally regardless of gender. In reference to the International Human Rights, the nation needs to prioritize the inclusion of sexual minorities people and their protection against prejudice.

Role of Judiciary

The Indian judiciary has been instrumental in transforming the conversation around homosexuality and LGBTQ+ rights. Its journey from criminalizing same-sex relations under Section 377 to decriminalizing them in 2018 marks a significant step forward. This progress showcases the judiciary's commitment to upholding constitutional protections for LGBTQ+ individuals. However, we must continue to address the remaining structural and social barriers to truly achieve equality for all. Together, we can support this important evolution.

On September 6, 2018, the Supreme Court made a landmark decision in *the case of Navtej Singh Johar v. Union of India,* (4) declaring that criminalizing homosexuality under Section 377 of the Indian Penal Code was unconstitutional. This ruling underscored the vital importance of fundamental rights such as intimacy, autonomy, and identity, and it solidified the notion that consensual relationships between adults of the same sex are lawful and deserve respect. In a complementary ruling in *Shafin Jahan vs. Asokan K.M. and Others*, (5) the court affirmed that the right to choose one's partner and marry is constitutionally protected. This significant recognition places marriage within a sacred realm of personal privacy, asserting that society should not interfere in individual choices of love.

Taken together, these ground-breaking decisions pave the way for a more inclusive society. They boldly suggest that any laws prohibiting same-sex or queer marriages conflict with the principles enshrined in Articles 14, 15, and 21 of the Indian Constitution, promoting a future where love and acceptance flourish.

Marriage is evolving beyond traditional definitions, as highlighted by the significant ruling from the Madras High Court *in the case of Arun Kumar & Sreeja v. The Inspector General of Registration and Ors.*,(6) This landmark decision embraces the principles established by the Supreme Court and interprets the word 'bride' in the Hindu Marriage Act of 1955 to encompass transwomen and intersex individuals identifying as women. This paves the way for marriages between a male and a transwoman, both practicing Hinduism, to be recognised as valid under the law. The impact of this ruling is truly remarkable, as it broadens the understanding of marriage within the framework of the Hindu Marriage Act, 1955 in a progressive and inclusive manner. It's a hopeful step forward, setting the stage for the reimagining of marriage rights for the LGBTQIA+ community. This is not just a legal victory; it's a celebration of love in all its diverse forms and an affirmation of equal rights for

everyone. Together, we can embrace a future filled with acceptance and understanding.

In a recent and significant development, the Uttarakhand High Court made an important ruling in *Madhu Bala v. State of Uttarakhand & Ors.*,(7) affirming that individuals of the same sex have the right to live together. While marriage for same-sex couples is still not recognized, the court emphasized that living together is completely permissible. This decision reinforces the fundamental right to liberty, which includes the freedom to choose one's partner and cohabitate.

Moreover, a married gay couple, Nikesh Pushkaran and Sonu, who are proud citizens of India, took a progressive step in February 2020 by filing a writ petition in the Kerala High Court. They are advocating for recognition of their marriage under the Special Marriage Act, 1954, challenging the discriminatory language that currently limits access to marriage for homosexual couples. Similarly, the Odisha High Court's ruling in *Chinmayee Jena v. State of Odisha & Ors.*(8) in August 2020, recognized same-sex live-in relationships under the constitutional right to life and equality. They confirmed that women in such relationships have protection like that afforded to heterosexual couples under the Domestic Violence Act of 2005.

Additionally, in July 2020, the Punjab and Haryana High Court concluded in *Paramjit Kaur v. State of Punjab,*(9) that same-sex couples deserve the same rights regarding live-in relationships and the protection of their lives and liberty as guaranteed under Article 21 of the Indian Constitution. These rulings reflect a positive shift toward greater acceptance and recognition of LGBTQ+ rights in India, paving the way for a more inclusive society.

On November 14th, 2022, a significant moment took place in the case of *Supriyo Chakraborty v. Union of India.*(10) Two courageous same-sex couples stepped forward to file writ petitions in the Supreme Court, passionately advocating for the legal recognition of same-sex marriages in India. These brave petitioners, representing diverse queer couples and individuals, sought to ensure that every couple, regardless of their sexual orientation or gender identity, would be embraced by existing marriage laws. They aimed to invoke the fundamental rights protected by Articles 14, 15, 19, 21, and 25 of the Indian Constitution, including provisions under the Special Marriage Act, 1954; Hindu Marriage Act, 1955; and Foreign Marriage Act, 1969. While the Supreme Court's decision on September 17, 2023, regrettably denied marriage rights for same-sex partners, it did allow members of the LGBTQAI+ community to marry their chosen partners under current laws. This ruling, while not ideal, still represents progress in the ongoing journey toward equality and acceptance.

Decriminalisation of Homosexuality

Homosexuality was criminalised under Section 377 of Indian Penal Code, 1890, which says –

"Anyone who wilfully engages in sexual activity with a man, woman, or animal in violation of the natural order faces life in jail or a term of imprisonment of any kind that can last up to ten years, in addition to a fine. Penetration is enough to qualify as the sexual contact required for the offense outlined in this section."

The Hon'ble Supreme Court decriminalised a part of Section 377 in *Navtej Singh Johar* case in 2018, stating 'consensual sexual between two adults of same-sex or otherwise' is unconstitutional. The Court ruled that Section 377 violated the right to dignity, privacy, and sexual autonomy, freedom of expression, equality, and non-discrimination of the Constitution. Section 377 will remain applicable to non-consensual sexual behaviour against adults, sexual acts against children, and bestiality. It unanimously repealed Section 377, decriminalising same-sex relationships between consenting people. It is applicable to all residents, not only the LGBT community. This decision has enormous persuasive power for other countries that continue to criminalise homosexuality.

Post-verdict of decriminalisation, the LGBTQAI+ persons still face violence and many more abuses. Only a minuscule initiation for the protection against discrimination of the queer people took place by decriminalisation of

homosexuality under Section 377 of IPC. It is to be noted that the miniscule community in our society faced trouble only because of their sexual orientation and gender identity, which doesn't fit to the gender binary or the heteronormative society. Discrimination such as social exclusion, marginalisation, family rejection, discrimination in employment sector, acceptance, and many more of such instances. Although the Court has acknowledged that a person's sexual orientation is an essential and natural characteristic, the LGBTQ population nevertheless experiences both overt and covert forms of economic, social, and political discrimination.

The Battle: Supriyo Chakrabarty v. Union of India

The Supreme Court ruled in *Navtej Singh Johar v. Union of India,*(11) that Section 377 was unconstitutional considering the LGBTQAI+ community's consensual relationships. The Court recognized that by restricting sexual privacy and discriminating against people based on their sexual orientation, Section 377 violated Articles 14, 15, and 19 of the Constitution. Numerous petitions have now acknowledged that the queer community must be granted a full range of fundamental rights. This included the right to sexual privacy and dignity, as well as the freedom to select your own partner. Various petitions for right to marriage for LGBTQIA+ couples filed before different High Courts of the country. It is argued that the non-recognition of same-sex marriage amount to discrimination of these sexual minorities and violation of basic rights guaranteed under the Indian Constitution. The acknowledgment of the same would lead to the exercise of their rights to free speech and expression, privacy, autonomy, and dignity, according to the petitioner. Other petitioners sought equal recognition to achieve social sanctity and benefit from the express and inferred benefits of legally recognized marriage under the SMA and FMA. Overall, petitioners claimed that the legal system discriminates against the LGBTQIA+ population by denying them the right to marry, which is a civic institution available to heterosexual couples.

The prime concern of this case was whether homosexual couples should be granted the basic right to marriage, or the 'right to marry'. Recognising the violence and discrimination experienced by the LGBTQIA+ community in India, the Court took *suo moto* cognizance of the cases. Twenty similar applications filed in different High Courts by fifty-two individuals, including seventeen LGBTQIA+ couples, were allowed by the Court. The Court recognized in allowing the case that people still faced discrimination and violence even after LGBTQIA+ sexual relationships were decriminalized. A five-judge Constitution bench of the Court heard the case due to the seriousness of the circumstance. Right to marry is not a fundamental right and that has not been expressly mentioned in the Indian Constitution. Nothing in the content of the law may elevate an institution to the status of a basic right. The right to human dignity, as well as the rights to life and personal liberty, are among the constitutional values that are reflected in various aspects of the marriage bond. The institutional restrictions of the Special Marriage Act (SMA) prevent the apex Court from either overturning the SMA's constitutional legitimacy or adding new provisions to it. Further the Court mentioned that it cannot read words into the SMA and other linked laws, such as the Indian Succession Act and the Hindu Succession Act, because doing so would constitute judicial legislation. In exercising its judicial review power, the Court must avoid subjects that come within the legislative sphere, particularly those involving policy. The Supreme Court mentioned that partners in relationships (unmarried partners) can jointly adopt child inclusive of queer couples. The JJ Act and Articles 14 and 15 are superseded by Regulation 5(3) of the Adoption Regulations. Regulation 5(3) is revised to remove the word 'marital'. The term 'couple' in Regulation 5 refers to both married and unmarried couples, as well as homosexual couples. The concept stated in Regulation 5(2)(a) that spouses in a marriage must get each other's approval if they intend to adopt a child together applies equally to unmarried couples who wish to adopt a child

together. However, while drafting regulations, the state may set requirements that promote the child's best interests and welfare in accordance with the explication in the judgment.

Judicial Advancements

The landmark decision in *Navtej Singh Johar v. Union of India* (2018) saw the Supreme Court strike down Section 377, which had criminalized consensual same-sex relations between adults. This judgment restored dignity and privacy to queer individuals, emphasizing constitutional morality over social morality. It reaffirmed the rights to equality, dignity, and non-discrimination for all.

This ruling marked a turning point for our nation, promoting the inclusion of homosexual individuals and recognizing their rights, paving the way for acknowledgment beyond mere decriminalization. The judgment affirmed that LGBTQ+ individuals are entitled to the full spectrum of fundamental rights, not just the right to engage in consensual sexual relationships. The Court emphasized that sexual orientation is an inherent attribute, which protects individuals from interference by the state and society. The NALSA verdict serves as a progressive precedent for the transgender community within the LGBTQIA+ spectrum. In the case of *NALSA v. Union of India* (2014), the Supreme Court acknowledged the rights of transgender individuals, affirming their right to self-identify their gender. Although the *Shafin Jahan v. Asokan K.M.* (2018) case did not directly address homosexuality, the Court reaffirmed that the choice of a partner is a fundamental right under Article 21. The judiciary has increasingly drawn from international human rights frameworks, including decisions from the United States, United Kingdom, and South Africa, to bolster its reasoning. This has also contributed to a certain level of social awareness.

Judicial pronouncements, particularly in the *Navtej Singh Johar* case, have shifted public discourse and helped legitimize LGBTQ+ voices in the media, workplaces, and educational settings. As a result, the judiciary not only functions as a legal arbiter but also acts as a social educator in the fight against prejudice.

Weaknesses and Limitations

Undoubtedly, the judicial progress has opened the doors for praying rights that would lead to absolute acknowledgment. Nevertheless, the absence comprehensive legal rights factored the non-entirety recognition of the non-binary existence. Decriminalization does not automatically lead to equal rights in areas such as marriage, adoption, inheritance, or healthcare. Despite some judicial advancements, the Supreme Court in the case of *Supriyo v. Union of India* (2023) chose not to recognize same-sex marriage, leaving the matter to Parliament. This decision illustrates a reluctance within the judiciary to advocate for positive rights. Additionally, there is significant inconsistency in judicial rulings, as seen in the case of Suresh Kumar *Koushal v. Naz Foundation* (2013), where the Supreme Court upheld Section 377, labelling LGBTQ+ individuals as a 'minuscule minority'. Such contradictions undermine the credibility of the judiciary and demonstrate a hesitation to confront societal conservatism. Despite progressive rulings, state authorities and lower courts frequently fail to enforce protective measures. For example, instances of police harassment and 'corrective rape' against queer individuals continue to occur. The legal knowledge among law enforcement officials remains low, which undermines the effectiveness of judicial decisions. While the judiciary can declare rights, societal acceptance does not keep pace. In rural areas, caste and community norms often override judicial protections, leaving queer individuals exposed and vulnerable. The gap between legal recognition and social acceptance remains a significant issue. In India, advances in LGBTQ+ rights have primarily been driven by the judiciary rather than by Parliament. As a result, these reforms are susceptible to political backlash and rely on judges' interpretations rather than on a democratic consensus.

Landmark rulings like *NALSA and Navtej Johar* have proudly positioned India as a leader in constitutional progressivism. Yet, there are challenges ahead, such as the absence of marriage and adoption rights, inconsistent rulings, and social pushback, which hold back the full potential of these judicial milestones. To foster a more inclusive society, it's vital that we combine judicial advancements with legislative change, compassionate administration, and a shift in cultural attitudes. Together, we can elevate LGBTQ+ rights in India from acknowledgment to true realization.

Differences Between Caste and Class, Urban and Rural and the Changing Perceptions

Our society is characterized by the concurrent influence of caste and class, both of which affect access to resources, social mobility, and cultural identity. Caste is a hereditary status system based on ascription, while class is determined by factors such as occupation, education, and wealth. The interplay between caste and class varies between rural and urban India, leading to diverse experiences for marginalized groups, including LGBTQ+ individuals. The Supreme Court's ruling in Navtej Singh Johar, which decriminalized consensual same-sex relations under Section 377, increased visibility for queer rights. However, the impact of this ruling on perceptions and lived realities has been inconsistent.

Caste and Class

Caste has traditionally been defined as a 'closed system of stratification' based on heredity and ritual hierarchy, allowing limited opportunities for individual mobility.(12) It influences social honour, marriage alliances, and exclusionary practices, especially in rural India. In contrast, class is considered an 'open system' that is determined by economic power and educational attainment, where individuals can achieve mobility through their personal accomplishments.(13)

Caste and class are interrelated and not mutually exclusive. Scholars have demonstrated that caste influences access to education, employment, and resources, which shapes class position.(14) LGBTQ+ individuals often navigate complex hierarchies, resulting in 'double marginalisation' for Dalit or lower-caste queer people who face discrimination based on both caste and sexuality. Their experiences highlight the need for inclusive understanding and support.(15)

Urban versus Rural

In rural India, caste plays a central role in shaping social dynamics, influencing marriage, politics, and kinship. While traditional norms can be rigid, it's important to recognize the resilience of queer individuals who navigate these challenges. Many strive for acceptance amid societal pressures, working towards a more inclusive future where diverse identities are celebrated rather than suppressed.(16)

In urban India, class plays a significant role in shaping opportunities and identities. While caste still influences aspects like housing markets and marriage choices, factors such as urban anonymity, exposure to global media, and the presence of activist networks have contributed to the emergence of more visible queer cultures. Events like pride parades, university collectives, and workplace inclusion programs are phenomena primarily found in urban settings.(17) Class privilege plays a significant role, while elite queer individuals may experience safety, working-class and Dalit queer people face ongoing challenges of discrimination and invisibility.

Changing Perceptions after the Decriminalisation of Section 377

The Supreme Court's decision in *Navtej Singh Johar v. Union of India* (2018) represented a significant shift by decriminalizing consensual same-sex relationships. Justice D. Y. Chandrachud highlighted that "the right to choose a partner is intrinsic to the right to life and liberty".

- Urban Impact: Major cities have seen a surge in queer activism, inspiring corporations to launch diversity initiatives and boosting the visibility of queer identities in mainstream media.(18) University spaces also

became safer for LGBTQ+ students to come out.

- Rural Impact: While the ruling has had less influence in rural areas, where traditional caste hierarchies and social norms remain strong, it highlights an important issue. Many queer individuals are courageously seeking safety and community in cities, illustrating the ongoing journey for acceptance and connection. Progress is possible.(19)

The decriminalization of Section 377 was a monumental step forward for LGBTQ+ rights in India. While it marked significant progress, we must recognize that challenges like caste and class still influence our society, especially in rural and urban areas. For a truly inclusive future, we need to address not just sexuality but also these social dynamics. Together, we can shape queer politics in a way that promotes equality and breaks down existing hierarchies. Let's stay engaged and drive positive change.

Caste, Class, and Sexuality

The diverse impacts of Section 377 truly illuminate the significance of intersectionality. While upper-caste, urban queer individuals enjoy visibility and supportive spaces, lower-caste, rural, and working-class queer folks still deal with significant challenges. It's crucial to recognize that Indian queer politics often elevates upper-class voices, leaving out the rich and varied experiences of marginalized communities. Understanding this can empower us to create a more inclusive future. (20)

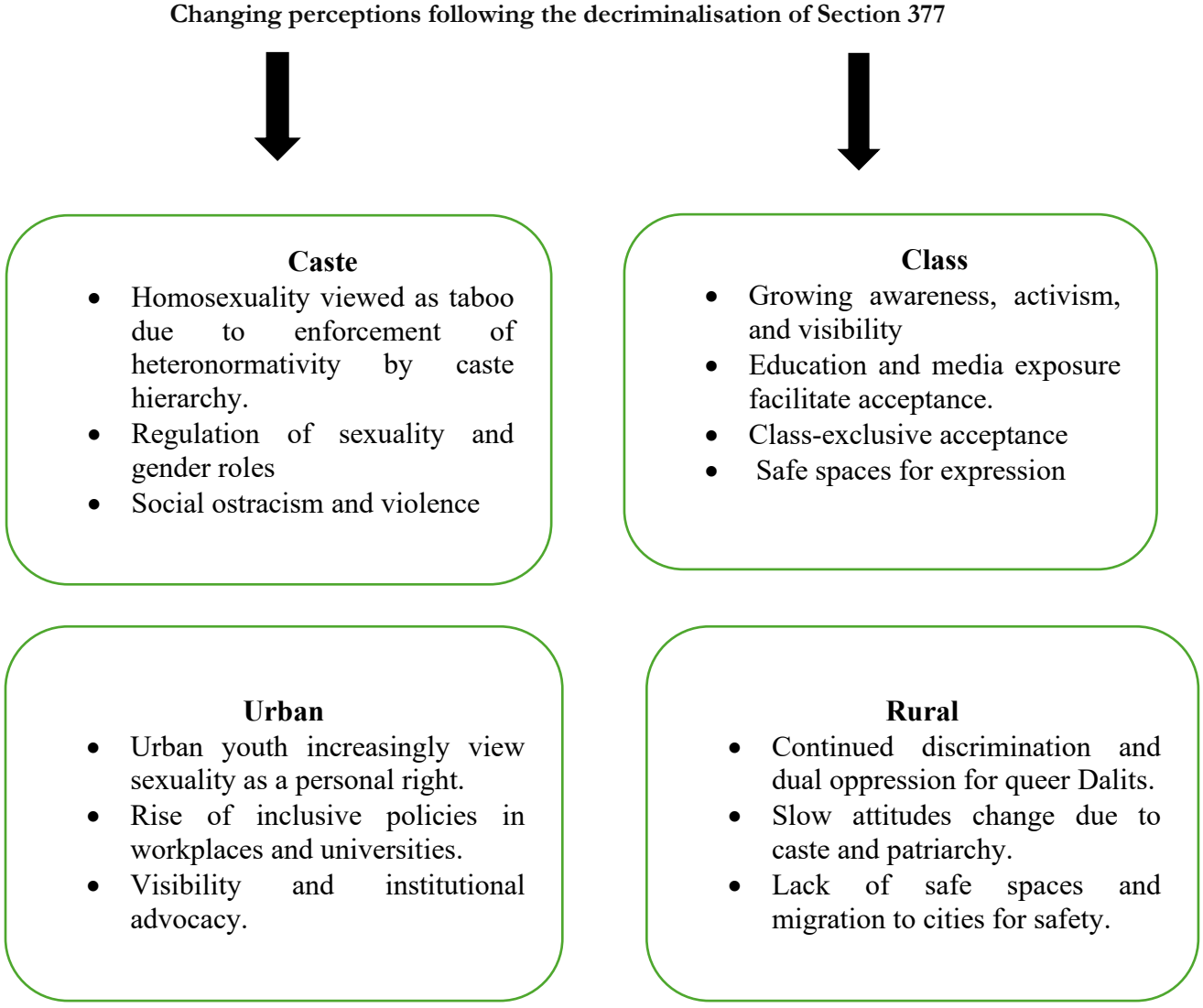

Figure No.1: Changing perceptions following the decriminalisation of Section 377

The above **figure no. 1,** shows a flowchart on the comparative analysis of different sectors i.e., the class versus class, and rural versus urban concerning the perception post decriminalisation of homosexuality in the landmark verdict of *Navtej Singh Johar* case. This also conclude that legal recognition led to increased awareness across categories, but caste and class differences persist in levels.

Policy and Strategies

The entrenched notions of heteronormativity and gender binarism have historically structured societies, laws, and institutions to privilege cis-heterosexual identities. In the 21st century, movements advocating for gender and sexual diversity have challenged these frameworks, demanding inclusivity, and recognition. This paper explores advocacy strategies aimed at transcending binary and heteronormative systems, emphasizing legal reform, educational inclusion, media representation, community mobilization, and intersectional approaches. It underscores the transformative potential of advocacy in fostering a pluralistic society that celebrates the fluidity of identity.

The binary conception of gender and sexuality, dividing humanity into male/female and heterosexual/homosexual, has been deeply ingrained in societal institutions. This dichotomy, often reinforced by colonial, religious, and legal systems, marginalizes those who do not conform to normative gender and sexual roles. The term heteronormativity denotes the institutionalized assumption that heterosexuality is the default or 'normal' sexual orientation, while binarism imposes restrictive categories of male and female identity.

Following judicial advancements such as *National Legal Services Authority (NALSA) v. Union of India* (2014) and *Navtej Singh Johar v. Union of India* (2018), the Indian judiciary has paved the way for broader gender and sexual inclusivity. Yet, advocacy beyond binary and heteronormative frameworks requires multidimensional strategies spanning law, education, media, and community structures.

Legal and Policy Advocacy

Legal advocacy remains the cornerstone of queer liberation. The recognition of transgender persons as a 'third gender' in NALSA established the principle that gender identity is integral to personal autonomy under Article 21 of the Constitution.(21) Advocacy must now extend toward non-binary recognition in official documentation, gender-neutral drafting of laws, and the inclusion of gender identity and sexual orientation as explicit grounds of protection under anti-discrimination statutes. Internationally, the Yogyakarta Principles (22) provide a normative framework to interpret existing human rights obligations in relation to gender and sexuality. Legal change without institutional understanding risks superficial compliance. Sensitization workshops for police, judiciary, and administrative officials can help address bias and foster empathy toward gender-diverse persons. These initiatives must be embedded in training curricula at national and state judicial academies.

Educational Advocacy

Education is central to dismantling heteronormative conditioning. Advocacy should emphasize the integration of gender studies and sexuality education into mainstream curricula. By revising textbooks and classroom materials, institutions can normalize discussions around gender fluidity and same-sex relationships, fostering acceptance from a young age.(23) Universities should adopt gender-neutral infrastructure, including restrooms, housing, and dress codes. Establishing Gender Sensitization Committees and Queer Resource Centres can serve as institutional safe spaces for non-binary and queer students.

Media and Cultural Advocacy

Media has the power to shape public perceptions. Advocacy must encourage authentic representation of queer and non-binary identities in cinema, television, and digital platforms.(24) Initiatives such as 'Beyond Binary' and 'Queer Visibility' can amplify voices that have historically been excluded. By showcasing plural expressions of love and identity, the media can challenge

entrenched gender stereotypes and normalize diversity. The digital realm often reproduces real-world biases. Advocacy should also focus on cyber safety and digital literacy for non-binary individuals, alongside mechanisms to report and redress online harassment.

Community-Based and Grassroots Advocacy

True advocacy must be intersectional. Non-binary and queer individuals often experience compounded marginalization along lines of caste, class, disability, and religion.(25) Coalitions between LGBTQIA+ movements and feminist, Dalit, and indigenous rights organizations can create solidarity-based advocacy that transcends identity silos. Local queer collectives, helplines, and community centers play a vital role in providing psychosocial support, legal aid, and healthcare access. Advocacy should aim to expand these grassroots institutions, particularly in semi-urban and rural regions, where visibility and acceptance remain limited.

Workplace and Economic Advocacy

Corporate and institutional environments must be reimagined beyond gender binaries. Implementation of gender-neutral HR policies, inclusive hiring, and sensitization workshops can ensure equitable treatment. Moreover, economic empowerment programs, including entrepreneurship training for non-binary and trans individuals, can foster financial independence and dignity.

Global and Transnational Frameworks

The global queer rights movement offers valuable frameworks for domestic advocacy. The United Nations Free & Equal Campaign promotes legal reforms and awareness worldwide.(26) Indian advocacy can leverage such global standards to hold national institutions accountable while tailoring strategies to local cultural contexts. Advocacy beyond binary and heteronormativity necessitates a holistic transformation of legal, educational, and cultural structures. It is not merely about recognition but about restructuring society's moral and institutional frameworks to accommodate fluid identities. As India and the global community continue to evolve, inclusive advocacy must remain rooted in the principles of dignity, equality, and freedom of self-expression, ensuring that no individual is confined by the boundaries of binary thinking.

Comparative Analysis: Indian and International LGBTQIA+ Movements

The fight for LGBTQIA+ rights in India aligns with a global movement towards equality and human dignity. India's journey, from colonial-era criminalisation under Section 377 IPC (1861) to decriminalisation in *Navtej Singh Johar v. Union of India* (2018), reflects both local struggles and international human rights trends.

Globally, milestones such as *Lawrence v. Texas* (2003),(27) in the U.S. and *Toonen v. Australia* (1994),(28) at the UNHRC framed sexuality as a right to privacy and non-discrimination. Similarly, Indian courts grounded their reasoning in constitutional morality, linking dignity and privacy under Articles 14, 15, 19, and 21 of the Constitution.

While Western movements evolved through feminist and civil rights traditions, India's advocacy integrates caste, religion, and social hierarchy, making it uniquely intersectional. Post-decriminalisation, India still faces challenges of social acceptance and inclusion, contrasting with countries that have progressed toward marriage equality and anti-discrimination protections. Thus, both movements share a common goal, affirming that sexual orientation and gender identity are integral to human rights, but India's path remains intertwined with its social structures and postcolonial realities.

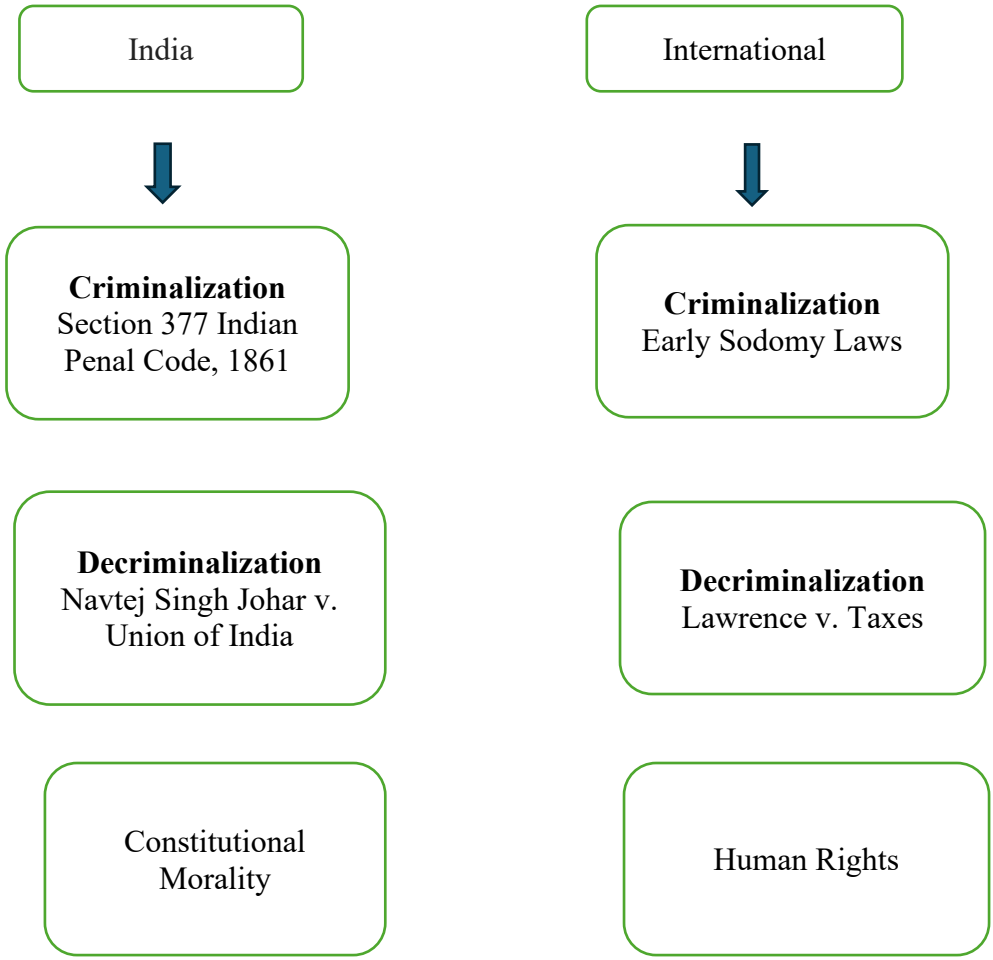

Figure No. 2: Comparative flow chart

In the above **figure no. 2,** shows the comparative flow chart of Indian and International changes on homosexuality. The Indian battle for homosexual rights mirrors a universal pursuit for dignity and self-expression. While the *Navtej Singh Johar* verdict aligns India with global human rights standards, challenges persist in transforming legal recognition into lived equality. By combining constitutional mortality with international human rights norms, India can advance an inclusive model of queer justice, rooted in both local tradition and global solidarity.

The Yogyakarta Principle

The Yogyakarta principle states - "Every human being has inherent freedom, equality, and rights from birth. Every human right is inherent, indivisible, universal, and interconnected. Every person's gender identity and sexual orientation are essential to their humanity and dignity, and they ought not to serve as justifications for mistreatment or discrimination." The Yogyakarta Principles address a wide range of human rights issues, including gender identity and sexual orientation. The principles reaffirm states' fundamental commitment to implementing human rights. Each premise is supported by comprehensive recommendations for nations. Nonetheless, the experts stress that it is the duty of all parties involved to uphold and defend human rights. The UN human rights system, national human rights authorities, the media, non-governmental organizations, and donors are among the actors to whom additional recommendations are made. The Yogyakarta norms set forth binding international legal norms to which all states must conform. They envision a better world in which all persons born free and equal in dignity and rights can exercise their precious birth right.(29)

The principle ensures the rights of all human beings and shall not be denied as because of their sexual orientation and gender expressions that

differ from heteronormativity. Principle 4 states 'Right to life' that is- All individuals are entitled to life. No one may be unilaterally deprived of their life, including based on their gender identity or sexual orientation. No one shall be put to death because of their sexual orientation or gender identity, or because they have engaged in consensual sexual conduct with someone over the legal age of consent.

States shall abolish all crimes that serve to forbid consensual sexual relations between people of the same sex who are of legal age, and they must never execute anyone found guilty of violating such laws until they are repealed; they must also remit death sentences and free all people awaiting execution for crimes involving consensual sexual relations between people of legal age. Also cease any attacks on people's lives that are state-sponsored or state-condoned because of their sexual orientation or gender identity. Make sure that all attacks, whether they are carried out by government agents or by any other person or group, are thoroughly investigated. If relevant evidence is discovered, those responsible are prosecuted, tried, and given the proper punishment. Interpreting the principle 'right to marry' is 'right to life' which is also guaranteed under Article 21 of Indian Constitution, and one shall not be deprived of his/her rights. The 'right to marry' and 'right to choose partner' are fundamental human rights for all individuals, however members of the sexual minorities continue to be denied this privilege. 'Sexuality is not a matter of choice; it is what given, or one is born with it'.

METHODOLOGY

The non-binary existence in our society presents an exciting frontier for research, filled with opportunities for discovery and understanding. Currently, the available literature is limited, predominantly featuring novels, documentary films, and a handful of judicial decisions. While much research has focused on the broader legal and fundamental rights of the LGBTQIA+ community, there's a noticeable gap when it comes to the specific rights and legal status of same sex partners and same sex married couples. The landmark *Navtej Singh Johar* Judgment has paved the way for this significant exploration by allowing for the recognition of various civil rights, particularly regarding the matrimonial rights of same-sex couples in India. This emerging area is ripe for investigation, and the potential to further understand and document these rights is both promising and crucial. Together, we can delve into this uncharted territory and contribute to a more inclusive understanding of marriage rights for all. The author has used doctrinal method for the research. The data collected is based on the primary and secondary sources. The primary data are gathered from legal documents and judgments of the Supreme Court and data collected through interactions from various LGBTQIA+ groups and public in general. The legal materials were collected through online sources. The secondary data are collected from books, articles, and newspapers. There is a wealth of intriguing articles and journals discussing the advantages and challenges of legalizing same-sex marriage in India. However, many of these works overlook the important legal and jurisprudential aspects. Interestingly, most existing literature is authored by foreign writers, with only a handful of Indian perspectives on the legal status of homosexuals and same-sex couples. The researcher discovered a range of fascinating works on the historical context, showcasing that homosexuality has existed since ancient times. Yet, there is a notable scarcity of literature focused on the legal rights of the non-binary individuals and same-sex couples who have celebrated marriage ceremonies in India. This presents an exciting opportunity for doctoral research, inviting passionate scholars to explore and contribute to this vital and evolving field.

There's an exciting opportunity to explore the socio-legal landscape of non-binary existence in India, particularly concerning the LGBTQIA+ community. While some literature touches on the legal and policy dimensions, it often overlooks the deeper social implications faced by individuals within this community. Most existing research leans heavily on qualitative

methods, which can limit the broader applicability of its findings. This highlights a compelling need for a thorough empirical study that employs a mixed-methods approach. By doing so, we can uncover a richer understanding of the diverse socio-legal challenges impacting non-binary existence in India. This proposed research aims to bridge the existing gap by delving into the complex interplay of social and legal factors that shape the experiences of the LGBTQIA+ community.

Moreover, the insights gained from this study have the potential to inform policymakers and stakeholders, paving the way for meaningful legal and social reforms that champion the rights and well-being of this vibrant community. By fostering a more inclusive dialogue, we can work together towards a brighter, more equitable future for everyone in India.

RESULTS AND DISCUSSION

From the above discussions, the finds of this paper resulted that legal reforms such as *NALSA v. Union of India* (2014) and *Navtej Singh Johar v. Union of India* (2018) have advanced recognition of gender and sexual diversity, challenging India's binary, and heteronormative frameworks. These decisions affirm dignity, privacy, and equality as fundamental rights. As shown in **table no. 1** and **table no. 2,** the concept of sexuality is clearly defining that differentiates from the concept of gender identity. The theory of same-sex marriage and heterosexual marriage in the heteronormative society gives a transparent picture and will lead to awareness to the corners of the States. The comparative flow chart as shown in **figure no. 1,** describes that Caste and class both have an impact on cultural identity, social mobility, and resource access, which together define our society. Class is based on things like work, wealth, and education, whereas caste is a system of inherited position based on ascription. Different caste and class dynamics in rural and urban India result in different experiences for oppressed groups, such as LGBTQ+ people. In **figure no. 2,** it clarifies a worldwide quest for self-expression and dignity is reflected in the Indian fight for LGBT rights. India already complies with international human rights norms thanks to the *Navtej Singh Johar* ruling, but there are still obstacles in turning legal recognition into actual equality. An inclusive form of queer justice that is based on both local tradition and international solidarity can be advanced by India by fusing international human rights standards with constitutional mortality.

However, societal acceptance remains uneven. Urban spaces show growing inclusivity, while rural areas continue to uphold caste-based patriarchy and moral conservatism. Despite legal victories, queer individuals still face discrimination in family, education, and employment. Advocacy by community groups and digital activism has widened public dialogue, emphasizing intersectionality across caste, class, and gender. Yet, structural change demands more than decriminalisation, it requires transforming cultural attitudes and institutional norms. In essence, India's movement beyond binary and heteronormativity reflects legal progress without complete social liberation, highlighting the need for sustained education and inclusive representation.

SUGGESTIONS AND CONCLUSION

To truly uphold our Constitutional values and ensure that the human rights of every individual are respected, the State must prioritise equality for all. This commitment requires proactive measures from government entities, such as implementing progressive laws that safeguard these rights. The judiciary plays a crucial role in addressing cases related to same-sex relationships, and the government needs to look to countries that have successfully legalised same-sex marriage, drawing insights from their experiences and understanding the rationale behind such advancements in human rights protections. It's essential to recognise that sexual minorities and same-sex relationships have existed throughout history, often in less visible or acknowledged forms. Far from being a modern phenomenon, these relationships have long been a part of our social fabric. Everyone deserves to

have their fundamental human rights honoured, regardless of sexual orientation or gender identity. Unfortunately, many individuals from the LGBTQ+ community, encompassing those who are homosexual, bisexual, and transgender, continue to face significant prejudice from society and even from their own families.

To foster inclusivity, we must ensure that our Constitution reflects the values of mutual respect and acceptance. The responsibility of the judiciary and legislative bodies is crucial in this ongoing journey. The State needs to create and implement thoughtful legislation that fully recognises and protects the rights of sexual minorities, paving the way for a more inclusive and homonormative society. Together, we can shape a future where everyone's rights are celebrated and upheld.

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AUTHOR CONTRIBUTIONS

The manuscript represents original research and makes a significant contribution to the study of non-binary existence in the traditional society and the consideration of the homosexuality in the heteronormative culture.

ETHICS APPROVAL - Not Applicable

DATA AVAILABILITY

The data supporting the findings of this study are available from the corresponding author upon reasonable request. The data available are from the mixed primary and secondary sources. The mixed Primary data are collected from observations and interactions with the LGB groups. The secondary materials collected are from books, article, newspapers, magazines, and websites. There is genuineness in collections of data through the mixed source.

ABBREVIATION

- AIR - All India Reporter
- Del - Delhi
- DRJ - Delhi Reported Journal
- Hon'ble - Honorable
- i.e. - that is.
- IPC – Indian Penal Code
- LGB - Lesbian, Gay, Bisexual
- LGBTQAI+ - Lesbian, Gay, Bisexual, Transgender, Queer, Asexual, Intersex+ (rest not listed)
- No. - Number
- Nos. - Numbers
- MD - Madurai Bench Matter
- Ors. – Others
- SCC - Supreme Court Cases
- SC - Supreme Court
- SOGI – Sexual Orientation and Gender Identity
- UDHR - Universal Declaration of Human Rights
- UNFE - United Nations Free & Equal Campaign
- UNHRC - United Nations Human Rights Council
- UNESCO – United Nations Educational, Science and Cultural Organization
- WP - Writ Petition

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