



ANALYSIS OF QUEER PROTESTS IN THE CONTEXT OF SECTION 377 OF THE IPC

SAGNIKA GUHA

Postgraduate Student , Department of Sociology Savitribai Phule Pune University

ABSTRACT :

This paper broadly focuses on the struggles of the queer community in India. The word 'queer' can be defined as a multidimensional concept, which has its meaning from one person to another. Still, in this context, queer is used as an umbrella term for the people who do not fit into the heteronormative society. The people who identify themselves as homosexual, bisexual, pansexual and asexual. This paper further analyses the various protests and struggles as well as their ongoing struggles with socio-legal marginalisation. The paper clarifies that concept of socio-legal marginalisation. The investigation was also documenting the social movements and protests undertaken by the queer community. The data were secondary and qualitative, therefore, they were analysed without using any statistical strategies. The result of this study demonstrates the victories and losses faced by the queer community and how they still fighting for their conjugal rights and their rights for adoption.

KEYWORDS: Queer community, heteronormative society, socio-legal marginalisation, conjugal rights, adoption rights, queer protest.

INTRODUCTION

Understanding the true meaning of gender and sex is one of the most orthodox approaches, which is also perceived as regressive. Feminist Scholars and intellectuals outlined that there is a distinction between the terms gender and sex. To begin with, both terms are used as synonyms of each other in various contexts, although it is very important to understand the difference between their true meaning. According to the famous feminist Judith Butler, 'gender constitutes a performance', which can be explained by the fact that gender is a performative act done by individuals in society (Salih, 2007). Moreover, another renowned feminist scholar, Simone de Beauvoir, explained 'One is not born but rather becomes a woman' (Beauvoir, 1949). Simone de Beauvoir is one of the pioneering French advocates for women's rights and also an eminent feminist author who explained the above-mentioned statement. In her published work, Eve Sedgwick explains the concept of chromosomal sex, which delves into the notions of sex and gender (Sedgwick, 2003). The history of homosexuality is very easily traced back to ancient times when homosexuality was not identified as homosexuality. The term used for homosexual relationships during the ancient period was 'sodomy'. According to the famous sociologist Michel Foucault, homosexuality in men was very prevalent during the ancient Greek civilisation. The records regarding this historical information indicate a heavy influence on Greek society. This is because the society of Greece had embraced the concept of homosexuality and same-sex unions around 400 BCE (Zervoulis, 2016).

BACKGROUND

The contemporary counterparts of sodomites are known as the MSM community in India. The term MSM is an abbreviation for men who have sex with men. According to Rao (2017), the most interesting fact of the MSM community was its repulsion with the term gay. They do not like to be labelled as gay, because of their dual existence. The men who are involved with other men have a leading dual life, where, in one life they are devoted husbands and parents to their kids. On the other hand, they have elicited relationships with numerous men. These parallel lines of these men help them to balance their as well as their desires. The most problematic part of the MSM community was their contribution to the growing number of HIV or AIDS victims. It has spread like Wildfire, and the members of these communities are the sole reason for the growing number of HIV or AIDS patients. It is because the community used to engage in numerous unprotected sexual activities, which gave rise to the transmission of the virus from male to male victims and, later on, from male to female victims as well. This was the reason behind the Indian government becoming strict with its laws regarding homosexual relationships. It is because they felt, the queer community was the reason behind the increasing cases of HIV patients. Secondly, from the British era, homosexual relationships were considered unnatural relationships in the eyes of the law.

The term social legal marginalisation can be defined as a phenomenon that affects a group of people or a community which are residing in the marginal section of society. These people are getting some cool opportunities and are being supported by society. These people who are considered socially marginalised are not only excluded from society but also have limitations regarding education, healthcare, and employment. They also face social stigma and discrimination, where they are excluded from any participation in social and cultural activities in society (Topidi & Pastor, 2024). The LGBTQ community is considered one of the socially and legally marginalised communities in India. To understand the concept of social legal

marginalization of the queer community, Understanding section 377 of the Penal Code of India is very important. This section was made during the British period of India. Section 377 explains that carnal intercourse against the order of nature is considered a criminal act. The law focuses on the sexual intercourse of the people who are going against the heteronormative society (Raj Rao, 2017).

Research aim

The aim of the study is to understand and evaluate the protests of the queer community in the context of section 377 of the Indian Penal Code.

Research Questions

1. In what ways do the Queer community in India face socio-legal marginalisation in the Indian society?
2. What was the role of Queer protests in India in addressing the marginalised conditions of the community?
3. How did the Queer protests impact the decision towards the decriminalisation of
4. Section 377 of the IPC?

Research Objective

1. Understanding the ways the queer community in India face socio-legal marginalisation in the Indian society.
2. Evaluating the role of the queer protest in India in addressing the marginalised conditions of the community.
3. Analysing the implications of the decision towards the decriminalisation of section 377 of the IPC.

LITERATURE REVIEW

Analysing The WaysThe Queer CommunityIn India Face Socio-Legal MarginisationInThe IndianSociety.

The community, which is considered sexually minor, faces a plethora of social and legal marginalisation in the context of historical and cultural factors that play a significant role. To begin with the challenges, the most important challenge faced by the community is the legal challenges. The legal challenges include laws regarding marriage, adoption, inheritance and much more. The Indian Penal Code not only condemns same-sex relationships but also has no Uniform Civil Code regarding the above-mentioned laws for this community. The Indian Penal Code overlooks the requirements of sexual minorities. Moving on to the second challenge, which is legal assistance for marriage and family rights (Jhanwar, Uraon & Goyal, 2020). In 2018, the Indian government has legalised same-sex relationships, although they have not provided any assistance regarding marriage and family rights to the queer community. The lack of marriage rights exempts the community from getting any legal health regarding domestic violence marital rape or much more (Rahman, 2024). Moreover, transgender rights are also considered one of the major legal challenges because the stigma surrounding transgender people is still very much prevalent in society. This social legal marginalisation is one of the marginalisations of this community. Other than legal marginalisation, the most important and dark social marginalisation is rejection by family members. The familial rejections of the members of this community cause them emotional distress, financial troubles and lack of shelter. Mental health challenges and discrimination over education are also considered one of the major factors leading to marginalisation (Bowling et al., 2019).

Evaluating The Role OfThe Queer Protest in India in Addressing the Marginalised Conditions of the Community

The protest by the queer community has a very significant role which radically changed the condition of the community. The protest attacked the social stigma and the one-way heteronormative mindset. The pride march and non-violent protests have not only put pressure on society but also gathered like-minded people to change the orthodox norms (Bhattacharyya, 2016). These protests gave the community a light of hope, which helped them be more expressive and understand their rights. These protests were eye-openers for the public, which exempts trans rights and turns a blind eye towards their needs. The protests, moreover, played a crucial role in educating society. They have pointed out the discrimination and operations the society has towards the queer community. These challenges created by society are not only physically affecting the queers but also it was mentally distressing as well. The protest also promoted legal and social changes. The protest of the queer community altered the prominent law of India, that is, Section 377 of IPC through "377 Quit India" which was inspired by the Quit India Movement (Tonini, 2016). The community is still fighting and protesting against their legal rights, which include marital rights, adoption rights, inheritance rights, and much more. Protest is a phenomenon when people gather together to support each other. This sometimes gives rise to solidarity where people create a safe place or space for other people. During the protest, the queer community has built solidarity where the members can express their views in opinions freely, irrespective of any kind of judgment. the new members of the queer community who are confused and do not understand how to express themselves, the protest give them the surety to be themselves without any distress. The protest was a significant phenomenon where it became the voice of the marginalised community, which includes homosexual beings, transgender individuals, and other people who come from the same socioeconomic background. The protest also played a very significant role because it attacked the societal stigma and demanded respect for everyone irrespective of their colour, class, caste, sexual preferences and orientation.

Analyse The ImplicationsOfThe ProtestOnThe DecisionTo Decriminalise Section 377 Of The IPC

The protest has had a huge impact on the decision regarding the decriminalisation of section 377 of the IPC. For starters, the LGBTQ+ community has evolved to be much more mainstream, and society has started accepting the fact that it is not only a Western concept but a reality of human nature. Moreover, the protest initiated by the community has employed activists and lawyers to pressure the judiciary into making decisions for the community (Debnath, 2017). Furthermore, the scenario for the community has also changed, where they get to experience the differences in the circumstances of the society. The protests were not only initiated for the alteration of the legal policy but also as an initiative to change the state of the members of the LGBTQ+ community. The protests also commenced because they helped the members to share their experiences regarding their hardships and the suffering they suffered from society. The protest was not a pompous act, but the movement was a stimulus to bring changes in society. The protests were an instrument that helped them to be visible in front of society. It also demonstrated that their sexual preferences are not psychological problems but physiological phenomena. The protest helped society to get educated about this fact. The protest also helps to build a space where the community

and society can have a meaningful dialogue with each other (Shahani, 2017). The rallies helped the community to feel safe and empowered in a society where they are mostly marginalised legally and socially.

METHODOLOGY

The methodological approach of this study is a qualitative one. The qualitative research approach can be described as understanding human nature and aligning it with social phenomena. The main focus of the study is an interpretation of the behaviour and experience of human beings. In the study, the queer people are examined through their experiences. The data collected for this study was through a secondary data collection method. The secondary data collection method is illustrated as an analysis of the previous works of the researchers and draws a new inference for the research.

For this study, the articles, journals newspapers are the main sources of data. The data collected for the study are purposive samples. Purposive sampling can be defined as the type of sampling which are selected with a non-probability technique, in which the members of the population are selectively chosen by the researcher in order to fulfil the study.

Research Methods

The study focused on collecting and analysing the books written by feminists such as Simone de Beauvoir's "The second sex" and the works of Eve Sedgwick and Judith Butler. Moreover, the book written by Raj Rao, "Criminal Love?" was also analysed for this study. The study basically focused on the difficulties and issues faced by the square community in the context of social legal marginalisation. According to the works of Zervoulis (2016), there is evidence that homosexual relationships are present in the historical context as well, especially in Greek history. There are articles which focus on the social legal issues faced by the LGBTQ+ community and how their struggles have impacted their future. Moreover, the research work analysed and evaluated the protest against the society that led to their permanent place and how the protest changed the perspective of the society. The articles used in the study explain how these protests were not only a Revolutionary act but also a challenge thrown at the society which is extremely heteronormative. According to the journals, it can be simplified that gender is a social construct and it is not a synonym of sex. The books written by the feminists further elaborate, on how gender is extremely different from sex, and how society tries to align sex with gender because that fits their heteronormative mindset. Content analysis is a tool used for the study, and it is one of the most important and effective research tools used for analysing secondary data. The main aim of content analysis is the interpretation of the articles and books according to the needs of the study. The researchers are expected to draw a conclusion according to the analysis drawn from the articles and books. The research tool, content analysis, is very effective when a researcher is focused on getting a perspective of a cultural and social dimension. Content analysis takes the researcher to that era and helps the researcher understand the environment and is most fair during that period of time. The articles and the books are the materials which reflect the era during which it is written or documented. Content analysis is one of the most important research tools used for analysing qualitative data; It is one of the most important cost cost-effective and versatile tools used for research (Aacharya, 2022). Although the study is only used for the evaluation of qualitative information, content analysis is an extremely effective tool utilised to understand and elucidate qualitative as well as quantitative data, along with massive datasets. Content analysis is extremely effective when used for purposive sampling.

Sampling Design

In order to understand and interpret the research work, one should consider sampling as one of the most important parts of the research. Purposive sampling is a type of sampling that is also known as subjective sampling. The technique of purposive sampling is non-probability. It is a non-probability sampling because the researchers are sure of what they are selecting and what the proba outcome of the study can be (Ahmad & Wilkins, 2024). The selection of a sampling design is made according to the needs of the study. For example, for the study, purposive sampling has been chosen because the study focuses on the LGBTQ + community, Therefore, the samples are selected according to the needs of the study. The study was conducted by a secondary method; therefore, the samples are articles and books focused on the sexually minor community. Hence, the sampling design was purposive for this study.

Ethical Considerations

Ethical consideration is one of the most important steps for research. Ethical consideration can be defined as the principles that are morally correct and help the researcher to maintain transparency and moral guidelines during the whole procedure of research procedure. In this study, the ethical considerations that are taken into account or as follows:

1. **Credibility:** The first and most important essential consideration that is used for this study was credibility. There are examples of many research works where the authors and other contributors were not given proper credit. Hence, in this study, the authors and the social thinkers were given credit for their proper contribution to this study.
2. **Mitigation of Biased Perspective:** The biased perspective is a very common issue that occurs during research. The research always has a personal opinion in it and is interpreted according to the interpretation of the researcher, It can become biased according to the perspective perceived by the researcher. Therefore, in the study, the biases are eliminated through the mention of the facts and figures only and the protest is analysed according to the truth depicted in the news, articles and newspapers.

KEY TAKEAWAYS

There are few key takeaways from the study which are the highlight of the whole study. They are as follows:

1. The present state of the queer community in society

After the protests and movement all over the country, it is quite clear that the community has recived their much awaited freedom to choose

and express their voices. However, they are still marginalised in the society. They are still facing discrimination because of their sexuality. According to the Pandit(2023), if a person from minor ethno-cultural background claim and stand by their identity, the discrimination is getting multiplied.

2. Socio-legal marginality

The socio-legal marginality is still very much present in the society and in the eyes of the legal system of India. The society has still not been able to overcome their homophobic outlook and accept the sexual diverse beings. One of the most highlighted marginalisation faced by the community is the lack of conjugal rights. The recent queer protest in New Delhi where 2,000 queer people were gathering to voice out their disappointment with the Indian Legal System (Associated Press, 2023). Still now the members of the queer community were discriminated from conjugal rights and adoption rights. The exemption of conjugal rights and adoptions is considered as the lack of equality

CONCLUSION

In order to conclude, the study has evaluated the marginalisation of the sexually minor community. The study also evaluated the legal backwardness faced by the LGBTQ+ community. The community faced marginalisation from society because of their sexual orientation and were also brutally insulted because they did not fit into the heteronormative society. The research also investigated the historical context of the queer community and how it has had a relationship in the past. The mention of the MSM community is also documented in this research, and how it has its ancient history linked to the Greek Civilisation. The study also documented the perspective of the feminists and their interpretation of the concept of gender. The study further explained the nature of the protest and how it has impacted society. The analysis also evaluated the changes brought in the legal system as well as society because of the protest. Lastly, it is also mentioned in the research how the study has been undertaken, and the research technique and designs chosen for this study are also mentioned. Therefore, it can be concluded that the protest initiated by the community has changed the climate of the society in their perspective towards sexual minorities. The protests are of different types, but their agenda is to create a space for the community where they can express themselves. The study summed up the event and its impact on society, which led to the change.

REFERENCES

- Aacharya, H. (2022). Content analysis. *EPRA International Journal of Research and Development (IJRD)*, 7(4), 177-180.
- Ahmad, M., & Wilkins, S. (2024). Purposive sampling in qualitative research: A framework for the entire journey. *Quality & Quantity*, 1-19.
- Associated Press. (2023, November 26). India's LGBTQ+ community holds pride march, raises concerns over country's restrictive laws. Retrieved October 18, 2025, from POLITICO website: <https://www.politico.com/news/2023/11/26/india-lgbtq-community-holds-pride-march-raises-concerns-over-countrys-restrictive-laws-00128604>
- Beauvoir, S. de. (1949). 1949 Simone De Beauvoir The Second Sex. In Internet Archive. <https://archive.org/details/1949SimoneDeBeauvoirTheSecondSex>
- Bhattacharyya, A. (2016). The Variation in the Depiction of Queer Sexuality in India and the Question of Social Change. *International Journal of Innovative Research and Development*, 5(5), 81-84.
- Bowling, J., Mennicke, A., Blekfeld-Sztraky, D., Simmons, M., Dodge, B., Sundarraman, V., ... & Herbenick, D. (2019). The influences of stigma on sexuality among sexual and gender minoritized individuals in urban India. *International Journal of Sexual Health*, 31(3), 269-282.
- Debnath, K. (2017). LGBT identity: The illustration of "othering" in India. *Sexuality, Gender & Policy*, 1(1), 89-100.
- Jhanwar, S., Uraon, K. K., & Goyal, N. (2020). LGBTQ+ in India: An evaluation of their socio-legal acceptance. *Supremo Amicus*, 21, 422.
- Pandit, A. (2023, April 20). LGBTQI+ community face bias across nations due to sexual orientation, gender identity: UNDP Report. Retrieved October 18, 2025, from The Times of India website: <https://timesofindia.indiatimes.com/india/lgbtqi-community-face-bias-across-nations-due-to-sexual-orientation-gender-identity-undp-report/articleshow/99633821.cms>
- Rahman, W. (2024). Gender, Homosexuality and the Right to Marriage in India: A Critical Analysis. *NUJS J. Regul. Stud.*, 9, 12.
- Raj Rao, R. (2017). *Criminal love? : queer theory, culture, and politics in India*. SAGE.
- Salih, S. (2007). On Judith butler and performativity. *Sexualities and communication in everyday life: A reader*, 55-68..
- Sedgwick, E. K. (2003). Epistemology of the Closet. *Queer theory and the Jewish question*, 41.
- Shahani, N. (2017). Patently queer: late effects and the sexual economies of India. *GLQ: A Journal of Lesbian and Gay Studies*, 23(2), 195-220.
- Tonini, M. (2016). The ambiguities of recognition: young queer sexualities in contemporary India.
- Topidi, K., & Pastor, E. R. (2024). Minority groups at the crossroads of social change: A socio-legal framework. In *Minority Rights and Social Change* (pp. 1-20). Routledge.
- Zervoulis, K. (2016). The Greek context in relation to homosexuality, homophobia and gay identity and community. *Psychology of Sexualities Review*, 7(1), 15-28.