



Role of Media vis-a-vis Visibility and Inclusivity of Sexual Minority in India in the Light of Human Rights

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ABSTRACT

The contribution of news media in the present scenario cannot be emphasised enough. Dubbing it as the fourth estate, is quite apt, when it comes to the immense impact the media has had in all spheres of life. Whether it be in form of provider of factual accounts, investigative reporting or as a watch-dog or mobiliser of collective will and opinion, its contribution in a democratic set-up keeps on evolving. On the same parity, all the progressive societies, characterised through democratic establishment, can effectively flourish only when its citizens are ensured their human rights. An individual cannot attain its optimum potential if he/she is denied the bare minimum rights. The members of the sexual minorities in India have faced much discrimination and harassment due to their non-conforming sexual identity and gender. The present article aims to examine the role that media has played in recent times in making the LGBTQ community more visible in the country, and providing the much-needed inclusivity and acceptance to the community.

“History owes an apology to the members of this community and their families, for the delay in providing redressal for the ignominy and ostracism that they have suffered through the centuries”¹

-J. Indu Malhotra

“Homosexuality was not a foreign import, homophobia was!!”

- Ruth Vanita²

Introduction

In a democratic set-up, the press and the news media has always played a key role- that of being a provider of information, imperative for holding a rational and logical debate in society. It has emerged as an effective watchdog in the country, constantly keeping a watch on nation's functioning,

bringing to light any excesses, exposing corruption, holding those abusing the powers, accountable. It, therefore, is rightly referred to as *the fourth estate*.

In its various forms, media, undoubtedly, has the potential of becoming a tool in throwing the spotlight and promoting any issue. In their capacity of advocacy and ability to frame political issues, all the branches of media have been supplementing the three branches of government through checks and balances.

Role of media has been pivotal, especially with reference to many human rights violations that

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adversely affect groups and individuals across the world, including the LGBTQ community. Media can and has been influential in mobilising public opinion and eliciting quick and remedial response from government bodies. As a non-legal vehicle for bringing about change, the media has exposed human rights issues and systemic harassment being faced by the transgender community in our country. It has time and again widely publicised the discrimination faced by them, not only at the hands of general public but also police machinery. This, not only brings such matters to the fore for debate, but also enables such issues to be raised as possible area to bring about potential law reforms therein. However mere publicising or exposure of such issues does not guarantee any legal protection to this hugely exploited community, they still have to largely rely upon judicial pronouncements or legislations by parliament for upholding and enforcing their rights.

Evolution of LGBTQ Rights: Historical Background

Criminalization of homosexuality in India found its roots in the Sec 377 of Indian Penal Code (IPC), 1860³, enacted during the British Raj in pre-independence era. The said legal provision infamously punished every kind of sexual act that was non-procreative in nature. The draconian provision was not only targeted at the homosexual unions but was also directed towards every other kind of “unnatural” sexual conduct including those involving heterosexual couples too. Consequently, this archaic provision could, at best, be deemed a vestige of the ultra-orthodox Victorian mores, gripping the Indian society during the British Rule,

and which should have been repealed long ago in consonance with the ancient Indian traditions and values. Such regressive degrading provision should have no place in any democratic set-up.

Nevertheless, it took the country more than seven decades to strike down this archaic law, which had become instrumental in harassment and exploitation of all those who did not fit in the gender-binary or did not conform to the stereotypical binary sexual orientations. Although, the long legal battle spanning over two decades could finally secure to this community the right of self-determination, right of gender identity and sexual expression, the long-denied dignity, the then current laws were found grossly lacking in procuring to the LGBTQ members even their most basic, rudimentary human rights. Furthermore, although the LGBTQ rights movement in India was kick-started in the 1990's, major developments, that took place, however, were through the hands of the Indian judiciary and much later in time.

Media: Its Role as the Flag-bearer of Human Rights of LGBTQ community

The human rights jurisprudence has evolved from the natural rights of all humans, the same can be found recurring through-out the history of mankind, from Vedas through to Magna Carta, to the Bill of Rights. History bears witness that the human rights are a necessary concomitant to the well-being and existence of civilization at any given point of time.⁴

Ironically, the LGBTQ community has been one of the worst affected sufferers of exploitations and discriminations amongst the victims of human rights violations. The Transgender community is

worse off amongst them, on account of their social marginalisation and a lower educational and economic status. This community, further faces stigma and societal ostracism and are subjected to unspeakable atrocities, both, by society and authorities. Despite many human rights mechanisms in place in India and at international level, members of this community are largely unaware of their rights. In such scenarios, press and media, in all its form, has come to the aid of LGBTQ community by creating wider awareness about concept of human rights, their violations etc. Media may successfully investigate and also effectively report on any such contemporary human rights issue being faced by LGBTQ community. Being constantly ostracised by society, and without any access to resources or livelihood, the members of this community often are forced into prostitution or beggary, becoming increasingly susceptible to STDs, human trafficking. The media becomes the instrument to highlight the woes of the community in the society at large and helps in generating a response and eliciting concrete action from government. In modern times, the human sexuality, a complex phenomenon in itself, has become a hot topic of debate, the credit lies with the massive dissemination of information over social media. India has always boasted of cultural diversity, but, the British Rule and the strongly opinionated religious and political leaders of 20th and 21st century in India, converted sexuality and homosexuality into a thing of perversity in the human nature.⁵

The community is persistently disregarded and marginalised, they have no resources at their

disposal and as a consequence, are forced into penury and destitution. They are eventually left with only prostitution or begging to make ends meet, and in the process become predisposed to sexually transmitted diseases, discrimination at all levels and in all forms and also crimes like rape, assault or human trafficking.

Homosexuality in Ancient Indian History

It is worth noting that, to majority of Indians, the very notion of a homosexual relationship is unthinkable and still quite unknown, even alien, to the point of being a taboo. Such orthodox attitudes may be attributed to the Victorian prudery or morality, which negated our indigenous cultures and histories.⁶ *Same Sex Love in India*⁷ - the book co-edited by Saleem Kidwai and Ruth Vanita became the game-changer in the 1990s. At that time the homophobics commonly stated that same-sex relationships and homosexuality were never a part of either our country's history or traditions, which could not be farther away from truth. Homosexuality has always been a part of our history. Kamasutra, written by Vatsayayan as early as 2nd - 3rd century CE, has an entire chapter devoted to homoeroticism and homosexual sex.⁸ Homosexuality also finds a mention in such ancient texts as *Manu Smriti*, *Upnishads* and *Puranas*⁹. The book *Same Sex Love in India* corrected this erroneous narrative. It brought to the fore and out of obscurity a rich repertoire of historical prose, poetry and fiction, that celebrated same-sex associations and amorous unions, which were by and large ignored or pushed into oblivion.¹⁰ It is worth noting here that majority of Indian academicians, political establishments and the

social elite class had rejected the idea of homosexuality as being a western concept and an outrage to Indian society and cultural values.¹¹ These writings, translated from over a dozen languages, bear witness that same-sex love, in its various forms had existed in India since the ancient times and without any evident persecution, making the previously underplayed homoerotic content quite obvious.

Online Activism: Trudging beyond the Gender Binary

The multi-dimensional nature of sexuality is slowly gaining ground in the arena of the social media. Indian society too, is changing with technology and becoming more acceptable towards the possibility of co-existence of diverse sexual identities amongst this sexual minority. "History of homosexuality can be evinced from the ancient records of all prominent civilisations. There have been annals and accounts, showing that homosexuality, per se, has been present in Indian culture since ancient times and it is only in the recently that such experiences have been dubbed as either gay or lesbian to have a better understanding of human behaviour."¹² Further, it has been shown by the historians that the idea of defining and segregating human beings on the basis of their physical or psychological, more specifically their sexual orientation and gender identity, was a relatively new concept. In fact, they are of the opinion that the conception of homosexuals or, for that matter, heterosexuals- has been a construct of the 19th century Europe.¹³

The recent upsurge in social-networking and sprouting of innumerable sites have facilitated the

online communications amongst various minorities and marginalised groups so as to aid and assist one other. Research also has brought forth the fact that the use of internet has helped people with similar interests and situation to come together and bond and form associations. Additionally, it also showed that when people with different backgrounds came together, it helped bridge the gap and overcome their differences; social media platforms have also been pivotal in mobilising public opinions. Today, media's role is not just confined to only presenting facts as news-bite; it is also tasked with analysis and commentary upon these facts too. The media of today, consequently, has shaped the attitudes and approach of the people and helped in creating a space for healthy debates and discussions on topics which hitherto may have remained taboo. The impact that today's media has in every sphere of life, is beyond comparison. The media has provided to the country not only its political and economic agenda but also set its cultural and social milieu.¹⁴ With the boom of satellite channels, its influence is diverse as well as far-reaching; people cannot remain untouched by the content that the news channel dish out day and night.

Internet and more particularly, social media, has provided a platform, for the LGBTQ community to garner support, by facilitating people to connect with each other, so as to engage in dialogue and exchange ideas and share individual experiences. Furthermore, this community's members get ample opportunity to reject religious dogmas, challenge the archaic judicial system, and question the draconian social mind-sets and defy the moral policing.

There has been a gradual but discernible shift where cis-gender populace is being acquainted with their non-binary and LGBTQ counterpart. The sexual minority, celebrating its sexual identity, has found its voice, with social media witnessing uncountable coming-out stories. The wide-spread growth of social media had also brought about greater acceptance of this community in society.

Media, thus, has made people not only aware of their rights but also made the society aware of the transgressions faced by the LGBTQ community, consequently, exposing the gross human rights violations thereof. The public is thus sensitised towards their issues. It can and does inform and educate members of this community of their human rights, at the same time suggesting measures to solve the problems of the LGBTQ people, ways to empower them and ensure protection of their rights and non-discrimination. Simultaneously, the authorities are also made aware of their own duties.¹⁵

Online platforms like *Gayasi*¹⁶ and *Galaxy*¹⁷ and publisher like *Queer Ink*¹⁸, as shown by research, have helped in creating an open space for member of the LGBTQ community to share, interact and collaborate with each other. Many bloggers, vloggers and influencers from the community, have been working in tandem, creating awareness about the LGBTQ issues. One such popular blogger, Alexander Balakrishnan, has been covering the young urban gay community of New Delhi, through his wide-ranging online content. Some social network platforms, like Facebook, have even stepped beyond the virtual world and taken concrete measures by providing housing assistance

to those LGBTQ people who move out of their homes to live with their partners and roommates. In India, however, since people live with their parents till they get married, it becomes a task to convince the parents to allow one to move out and live with their partners.¹⁹

Indian Television and Cinema: Depiction of the LGBTQ Community

The gender identity amongst the LGBTQ community is wide-ranging and diverse; it is more often than not, misrepresented in the mainstream media. If at all, any gay or lesbian couple found a space or mention in media, it was usually relegated to a secondary position or confined to doomed circumstances or ill-fated love. References made were, often, oblique. The Indian cinema is guilty of frequently showing gay characters as overly effeminate. This, in turn, unfairly, led to creation of a homogenised and standardised identity for all of the gay community.²⁰ Consequently, the stereotype has oversimplified the diverse and complex nature of the LGBTQ identity. It is only in the recent times that the Indian cinema has boldly experimented with complex dynamics of homosexual relationships. The 1996 Hindi movie, *Fire*, portraying a lesbian relationship, was made at a time when even talking about homosexuality was considered taboo. This movie created a lot of furore and controversy and evoked public outrage. Another movie, *My Brother Nikhil*, is a sensitive depiction of the issues like HIV/AIDS, non-acceptance by society, fear of coming out etc. The 2015 film *Aligarh*, a masterpiece in the genre, showcases the special bond shared by a professor with a journalist who covers the latter's story,

following a sting operation to determine his sexual orientation.

The Indian advertising world is also breaking away from stereotypes and has provided a platform to ensure creation of a more inclusive and accepting society. The themes and taglines used by them in some of their advertisements clearly indicate defiance and a challenge to societal conventions towards an individual's gender identity and its sexual orientation. Allan Solly, the famous clothing brand of Aditya Birla Groups, changed their official Facebook page to an image of rainbow colours with words "*All Colours were Created Equal.*"²¹

Another such commercial floated was by the Accessories Company Fastrack, wherein two girls are shown coming out of a shaking closet, instead of a heterosexual couple, with the tagline reading "*Come Out of the Closet...Move On.*"²² Tanishq, the jewellery brand could not have been more obvious when its twitter page showcased diamond ear-rings with the tagline "*Two of a Kind Always Make a Beautiful Pair! # 377.*" It is worth noting here that Tanishq also supported the cause of remarriage of women.²³

The Fashion Industry- Sartorial Expression and Gender Identity

Even the Indian fashion industry, challenging these conventions, has actively brought out various issues of the LGBTQ community to the fore and provided it with a means to portray express its identity.²⁴ The social media and its extensive usage allowed for the experimentation of the queer fashion and exploration of diverse concepts of gender on various platforms. It has been confirmed

by majority of the members of community that social media platforms offer them a better opportunity to express their sartorial preferences than the actual physical world. It, however, is distressing to know that lesbian is more fearful of coming out and revealing their true gender identity as compared to their gay counterparts. Furthermore, it was also highlighted that the lesbians and the bisexuals are usually overlooked as their sartorial preference are more aligned and similar to cis-gender women. In a study of 117 respondents, it was found that the community members have all used the social network to connect with one another. 67.6 % of the respondents have stated that Facebook, WhatsApp, Instagram and similar online networking sites presented an easy option to them for expression of gender identity.²⁵ Further, majority of those who participated in the study also admitted that they found social media safer to show and assert their true self, since they faced flak backlash from their own family members and fellow-mates. In some instances, the gender identity presented by them on the social media was the complete opposite from the one projected in their actual life. Nevertheless, most of the respondents felt that acceptance towards the community members had increased in Indian society.²⁶

Equally notable is the advancement made by our country's first LGBT online magazine, "*Pink Pages*" which was brought out days after the Naz Foundation²⁷ judgment that legalised homosexuality. Thereafter, following suit, the first Indian Gay Magazine, launched in the 1990s, "*Bombay Dost*" was re-launched by Celina

Jaitley.²⁸ The Pride Marches and the Gay Pride Parades are frequently held in metropolitan cities of the countries. Mumbai is also a host to pride events like “*Kashish Mumbai Queer Film Festival*,” which was the first queer film festival in India and is held in a mainstream multiplex cinema theatre that screens LGBTQ films from across the world.²⁹ Competitions like Mr. Gay World, wherein Indian gay models have also participated and represented the country are path-breaking, but have fair-share of set-backs too.

Conclusion

The foregoing content clearly illustrates that awareness concerning the societal acceptance and acknowledgement of the LGBTQ members has been wide-spread. Since there has been sensitization towards the hardships of community, the media, in all its forms, would naturally be a flag-bearer for their rights. The public opinion has been found to have been gradually mobilised and manifested in favour of the LGBTQ community and its result was visible when the Indian Judiciary gave the land mark decisions, firstly in 2014, of recognising the LGBTQ community as the third gender, holding that gender identity is an integral and inherent part of an individual’s personal autonomy and self-expression, falling under Art. 21³⁰ and, thereafter, in 2018, decriminalising the consensual homosexual relations amongst adults.³¹ No doubt that the recent years have witnessed a huge spread of information on the social media about subject (homosexuality, non-conforming gender binaries) that has remained predominantly taboo, allowing for the LGBTQ community to shrug off the cloak of invisibility and obscurity, to

become more visible and take on a voice. The activism that leads to Pride marches and protests have made it crystal clear that the community doesn’t crave sympathy but dignity, understanding and acceptance in society, which all humans deserve. And media remains the watch-dog to ensure that it happens.

Endnote

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¹⁴G.N.Ray, *The Role of Media in Protection of Human Rights*, Available at: <<http://www.presscouncil.nic.in>> (Last Visited on May 8th, 2024)
¹⁵*Ibid*
¹⁶<http://gaysifamily.com/> - Gaysi Family was started in 2011 as a blog to provide a voice and a safe space to people from the South Asian Subcontinent that identify as Lesbian, Gay, Bisexual, Transgender or Queer
¹⁷<http://www.gaylaxymag.com/> Online WhatsApp support group for LGBTQ in India.

- ¹⁸ <http://queer-ink.com/category/q-india/documents/>:Online LGBTQ support group working in this field from past two decades.
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- ³¹ Navtej Singh Johar v Union of India, AIR 2018 SC 4321
