



Sexuality, Democracy and Human Rights

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Abstract


Sexuality is a subject to be discussed without shying-away. This essay, discusses about how sexuality of a certain minority people in India and across borders, are being perceived by people in various countries and the consequences faced by the people whose sexuality seems deviant i.e. the sexual minorities from the majority . This essay provides illustrations in the form of research done by various sources that provides such evidences that paint a different picture of the sexual minorities viz. Lesbian, Gay, Bisexual, Transgender, Intersex and Queer (LGBTIQ) people in India and across the world aiming at eliminating the prejudice against them.


Keywords: Sexuality, Democracy, Human Rights, LGBTIQ, India, Sexual Minorities

Introduction

Human Rights are considered as those rights which are “inalienable fundamental rights to which a person is inherently entitled” (Ramaswamy & Mane, 2013). These human rights are provided to each and every one irrespective of their citizenship and nationality. In light of this definition, one may question if human rights are being enjoyed by all sects of people irrespective of their caste, creed, ethnicity, gender and sexuality to name a few discriminations. To any person, human rights are more invaluable than any other right. For example, to an Indian, it is more than the fundamental rights as the human rights are those rights enjoyed by people across nations by virtue of being humans.

The human rights have more of a moral nature rather than legal nature (Osiatynski, W., 2009). It would be immoral to provide one group of people with more rights leading to access of certain resources than to all. In a smaller scale this is indeed a question of morality. Sometimes in a broader sense, this is also meant as ethics and that people often happen to be in an ethical dilemma. Each and every person is required to be served with the same level of importance. In terms of human rights enjoyed by peoples across borders, one person is no superior to another. Individuals' rights are as important to those of organizations which are treated as ‘persons’ for legal convenience. Medieval rights were considerably different from the rights which are being enjoyed





age. This means people of different times have different needs. Due to the changing needs of the people, one could say that the rights have evolved accordingly (Osiatynski, W., 2009). Human Rights are very essential to thrive on this planet. Without certain rights with which one can claim it is not possible for one to survive especially with the growing violence and other social vices. Right to equality, right to freedom of speech and expression, assemble, movement, residence, practice a certain profession are all some of the human rights which is being guaranteed to people across the earth (Pancholi, P. V., 2014). This suggests that the human rights are universal in nature.


Human rights also form an essential characteristic of a democracy (Teitel, R. G., 2013). Democracy has different values to different people in different contexts. A definition for the concept of democracy can be arrived as follows:


“Democracy is a system of government in which ultimate decision-making authority resides in the body of the competent adult citizens, which typically exercises that authority through regular elections and by simple majority vote” (Peters, C. J., 2011).

Democracy involves equality (Forsey, E., 1942). The equality before the law, equal legal freedom, equality to hold office, etc., fall under the broader concept of democracy. Democracy involves liberty (Forsey, E., 1942). Liberty sought could vary from one person to another, from one group to another group and likewise. At present, we could at some parts of the world see a struggle for civil rights or civil liberties. Hence, as a characteristic of our political system which is a democracy, we are guaranteed these human rights – which are provided to us by virtue of humanity or us being human.

When talking about human rights being universal rights to all humans in the world irrespective of any distinction in terms of gender, race, caste, creed, etc., the importance of the same must be acknowledged at an international level. That which has been traditionally the function of the states or nations to monitor, govern and guarantee the human rights of the people have now become transnational. The onus of responsibility has been shifted from governments of nations to international governmental and non-governmental organizations to further assure from at a higher level the human rights of peoples rather than just to people of one particular country. This exhibits a resulting attribute of people – ‘universal personhood’ (Koenig & Guchteneire, 2007).

The concept of ‘universal personhood’ tempts one to understand and believe that people across the globe are treated as universally equal. However this may not be the case. Democracy is not always good. It indeed at times works-out counter-productive. Referring back to the aforementioned definition of democracy, a government is elected after measuring the simple majority-vote. This is termed as ‘majority-faction’. Whilst, on one hand it is good that a majority of people like or need one particular party to govern a democratic country such as India, the opinions and votes of the minority is simply unheard. In this case, by the term minorities, the sexual minorities could be looked at. Whilst the number of sexual minorities may seem a negligible number, these people should also be offered a voice. For a start, there could be constitutional remedies in the form of amendments recognizing sexual minorities in India, first of all as humans; as people. This could be enhanced to representation of sexual minorities in the Parliament and the Legislative Assemblies in India.





In Madison's words, "united and actuated by some common impulse of passion, or of interest" is the characteristic of the people who form this majority-faction (Peters, C. J., 2011). Hence, often in a democracy whilst the opinions of a majority of people are taken into account and are acted upon, the minority is left behind and is required to endure with the consequences. This means, personal freedom is not given importance to. Rather, it is opinion of a collective populace which determines who shall be free and not free. This seems contradictory to the phenomenon of universal personhood.


With the disagreement that could potentially build between the majority and the minority, there are often disputes which one could see occurring and recurring and still democracy is unable to disengage such disputes. It is agreed on a global-level that democracy is a good system of governance. However, one is not being instilled with a critical thought about the same. Considering the process of policy-making, there is supposed to be a broad participation of people of the country, especially of those of who are affected to make a policy more effective. However, in a democratic process this feature of a broad participatory system is close to absent if not absent at all (Peters, C. J., 2011).


Thus, it is clear that one group may be advantaged while the other being left disadvantaged. This is not only about poverty, however this happens in many aspects of democracy, giving rise to injustice. What is just for one may not be just for another. Sometimes law and legal institutions also acknowledge the fact that one man's food is another man's poison and vice-versa. Justice in this sense, is not being served equally even in a democracy. Societies still work without a definite clarity on what is just for their society. When trying to consider what

is just for a society, the process of consideration could be a democratic process itself. That is, only the opinion of the majority would hold good and the minority at many times, could be disregarded.

Justice, like many is an abstract notion, which does not have a perfect definition. According to Aristotle, 'the just will be both the lawful and what is fair, and the unjust will be both the lawless and the unfair' (Heinze, E., 2014). Studying about these concepts makes one acknowledge the subordination that is shown to certain sects of people such as women, the Lesbian Gay Bisexual Transgender Intersex and Queer (LGBTIQ) community, religious minority, etc. Hence in many ways, democracy, although a majorly good concept of governance, may not yield goodness to all the people on the whole. Perhaps one could draw attention to the concepts of inequality and injustice going together here. Inequality whilst often associated with indicating the economically downtrodden should also be associated with the people who are deprived of rights.

A lot of studies are being conducted on the issues of women, their rights and about how women are being treated. However, issues of the LGBTIQ community are understudied. Such studies are particularly negligible in the Indian context. It is often thought that being a lesbian, gay, bisexual or a transgender in the Indian context, is only due to the deficient sex that one has. Some other opinions are such that, these communities exist due to a choice they have made. Few others believe that the people belonging to the LGBTIQ community are more sexually deviant and promiscuous. Often people associate that the LGBTIQ people are more affected by HIV/AIDS. Adequate efforts are not made to study all these issues in an unbiased manner.





When, one studies about humanity, it is essential that one comes across the issues of sexuality. It is an inevitable part of human life. It is a historical belief that sex is an activity meant for reproduction. It is also believed that this activity is natural and occurs as per God's will. Some say that this is a natural course of life and associate it with the 'Mother Nature'. Also, the terms 'normal' and 'natural' are often being used to provide synonymous meanings to the effect that there are certain prescribed sexual attitudes and behaviours, which is acceptable and which is normal as it is considered to being a part of the plan of the supernatural being 'The God' or the plan executed by 'Mother Nature'. This belief has led to any sexual activity outside of the prescribed one simply unacceptable and ought to be condemned (Kauth, M. R., 2000).

To consider few examples, homosexuality or the same-sex attraction and masturbation are condemned according to many religions. Even the oral sex was banned long time ago. When these issues arise, one often is made to wonder as to who knows the plan of 'The God' or 'Mother Nature'. It provides one with the intellectual thirst to analyze, understand and to reason with what is being preached. What is preached often happens to be for the advantage of a certain majority, again applying the aforementioned definition of democracy. Democracy as agreed as being not all that bad of a governance system, it enables one to have access to knowledge and question certain ways that the world works. This is perhaps, one of the reasons if not the only one, for why the LGBTIQ community receives support from certain heterosexual people despite the fact that they do not belong to that community.


It is being said that there are two major forces which shape our lives – the genetic force and


the forces around us in the environment (Kauth, M. R., 2000). Such features like our skin colour, body shape, etc., are provided to us genetically. Our behavior, attitudes, etc. are modified by the environment. One must find a common point viz. our human body, to tackle the complex relationship between these two forces. One is required to know the balance between the two forces to be able to tackle the two forces in a way that it benefits us to be able to live in harmony with the rest of the world.

Hence, this helps us understand that whilst we have certain physical features, it is the society and the societal forces which help an individual act or behave in a certain way. This behavior is required to be congruent with their body. By congruence, it is to mean that there would have been a set of traditional behaviours which the world would have seen as being common and existing among all men and another set with the women. These would have been documented and in time utilized for child rearing purposes which is why one receives a lot of conditioning from the family and society.

Congruent to that populous opinion, sexual activity is believed to be for reproduction. In some countries the sexual activity forms a part of a person and their life. For example, in the western countries, sexual feelings and personal identity become very important of a person's personality (Kauth, M. R., 2000). It should also be noted that association of culture and heritage to sex would vary from one society to another (Kauth, M. R., 2000). "Genes associated with sexual attraction create predispositions in how key neural systems receive and process particular sex-related stimuli" (Kauth, M. R., 2000).

This indicates the possibility that irrespective of whether male or female, gay or straight, the





sexual attraction works the same for all people the same way. Moreover the receipt and the process of particular sex-related stimuli add further idea of how sexual attraction could work differently from one person to another. This means that, this warrants further analysis as to how, why and even perhaps when the LGBTIQ people develop such different sexual feelings and behavior. Without stopping just there, one also is required to appreciate such people and their behavior rather than forsaking them.

At times, with the way, especially in India, when boys are warned against talking to girls at schools and colleges, one is made to wonder if the attraction to the same-sex is built due to the contribution received from the restrictive behavioural conditioning such as this. Evidently, most men, spend time with other males and not with females (Geary, C. D., 1998). Coalition of men, as many seem to understand due to false propaganda has existed in many ancient societies. Hominid males existed in same-sex coalitions. This has not only helped them to keep away enemies and gather food but also for sexual happiness. There were also political benefits between two males – especially between an older male and a younger male (Kauth, M. R., 2011). This kind of a social relationship between two men could help them and their societies.


Homosexuality has for long time now been a serious and a sensitive topic of debate. Despite having existed in almost every civilization and culture all along history, for some reason the acceptance of the same is close to nil. Homosexuality is often associated with bestiality. The need for laws protecting the homosexual couples has been seriously questioned. This behavior is particularly associated as being deviant from

'Normal' or 'Natural' sexual behavior. However, when saying so, one might have to also consider the fact that our genetic makeup contributes equally to all sexes and responds to certain sexual stimuli differently.

Don Wildmon is quoted as writing, “Every time you go against the law you pay. The problem is that by the time we admit that we have gone wrong against the laws of nature and nature's God, the damage has already been done”. Such perceptions in society might create or amplify the hatred behavior towards homosexual individuals. Whilst analysis one could easily figure out many unnecessary and biased propaganda about homosexuality. During the analysis, people, if when unbiased easily dispel certain myths that have been made associate with homosexuality. Some of them are discussed in the following paragraphs.

In this age of information, in India, a girl was found dead. She is quoted to have written in her last letter to her mother, “Forgive me, Ma, I am leaving like a coward. But I can't help it; I love her and she also loves me; it is impossible for us to live together. Nobody is responsible for our death. Our only request to you, Ma, let us both be cremated at the same crematorium”.

These women were unable to conform to the norms and practices set by the society which had a set structure to live by. Recalling the words of Don Wildman, one may wonder if this is what was meant when he wrote about having to 'Pay'. And of course, this is not the end of the discrimination that is faced by the members of the LGBTIQ community. Every day, these people live a silent-life which is in danger of being persecuted at any point in time. The point here however is that the women showed a great deal of love and care for each other, on which any family and family



values are built on. Hence, this helps one to understand that even lesbian couples are indeed fit to enter matrimony. However, it is just the majority of people who seem to exercise democracy, who are disapproving of such people. There is also a contention that homosexuals are not fit to run a family based on the fact that homosexual people have multiple sex partners or companions. There is another statement that these homosexual people are having multiple sex partners and practice unsafe sex, with at least many of them if not all, are very highly prone to Sexually Transmitted Diseases (STDs) such as HIV/AIDS. It is necessary to understand the significance of institutionalizing the same-sex marriage. Societies must allow marriage between same-sex couples so that they could have one partner alone. One of the consistent findings says that lesbian and gay couples value relationships more than the heterosexual couples (Dunne, G., 1997).

When marriage or civil unions are considered, the concept of similarities and dissimilarities come in, to better understand the differences in the way of life of the lesbian and gay and heterosexual couples. Obviously, in heterosexual marriages there is a stark gender difference. On the contrary, in homosexual civil unions, there is no such concept (Kitzinger, C., 2001). This gender difference becomes an inevitable barrier to cross for the heterosexual couples. This is definitely in the attitudes of the couples in the heterosexual marriage.

Research evidences according to Kurdek L. A. (1993) suggest that it is due to this gender difference that there is a strong difference in the way homosexual and heterosexual people share household work. Whilst the lesbian couples shared the work on the basis of equality, gay couples shared the work based on balance. However, the heterosexual

couples shared their responsibilities by segregation according to Kurdek, L.A. (1993). Much of the household work which included kitchen-work was left to the female partners. Hence the study concludes that the couples could do much better without establishing gender as the concept of sharing the household work resulting in a successful marital life.

Jan Pahl, is the first to have pursued research on money in the relationships of the homosexual couples. Pahl in her research in 1989 concluded that women felt much better living in refuge than living in the control of the male bread-winner. This happens to be the result of many marital relationships between heterosexual people. Hence, this only suggests that heterosexual marriages are not successful as they claim that homosexual civil unions, let alone marriages are being banned in many parts of the world. Similarly, another study concluded that homosexual couples, when it comes to financial management or simply put, money management, manage the same effectively by adopting to the merge or pooling some or all of their income together (Clarke et al., 2005)

A Decade of Change in Favorable Views of Gay Men, Lesbians

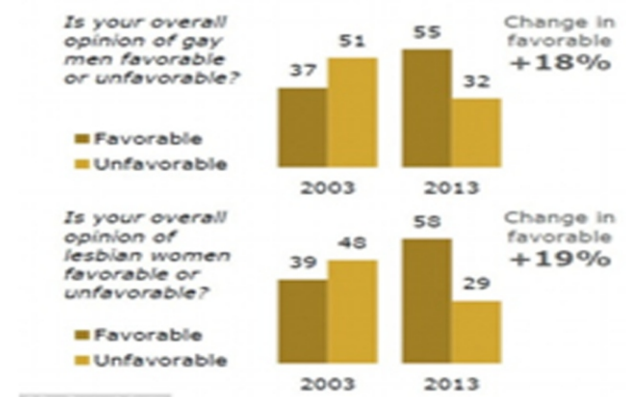


Figure 1.1 PEW Research Centre Data

The next debate that requires careful attention is that homosexuality is by choice. However the homosexual people claim that this is not true and place many facts for assessment. Pew Research Centre (PRC hereafter) study (Figure 1.1) shows that majority of the Americans, around 50% were not in favour of Gay men and Lesbian women in 2013. Another study by the PRC in 2013 shows that there was an increase in the people viewing Gay men and Lesbian women favourably. These studies show a considerable shift in the attitudes of the people of the United States of America (USA).

Whilst the Americans seem to be growing out of their prejudice, it is quite the contrary in many parts of the world. In many conservative countries like India, Malaysia, Zimbabwe, Nigeria, etc., homosexuality is condemned. This is the same trend in the middle-eastern countries as shown in Figure 1.2. This shows the tolerance and prejudice level on homosexual people and homosexuality in one country viz. the United States as opposed to many others across the world. These differences may have arisen due to cultural differences as the peoples in both the countries differ from one another in many ways including the way they might have been brought-up, their religious teaching, the values that the people have imbibed as a result of the value education they have received, their belief system, etc.

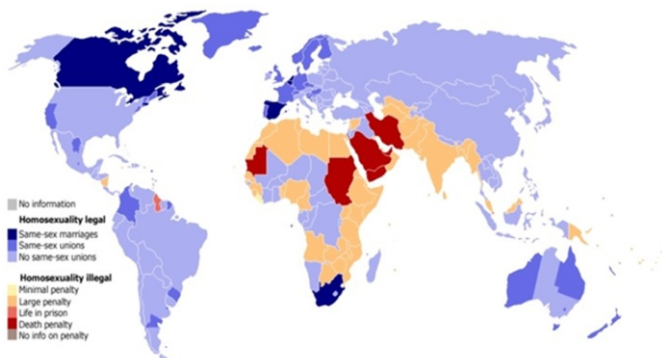
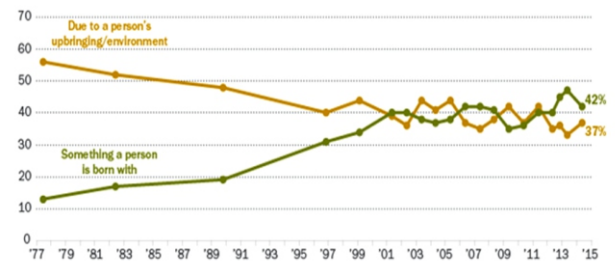


Figure 1.2 Pew Research Centre Data

The Figure 1.2 does not only show the countries where homosexuality is legal but also where the penalty or punishment is minimum and maximum (death penalty). It is clear that whilst there are four territories where homosexuality leads to death penalty in a majority of the places there is no legality of same sex unions. In a few other places there is legality for same-sex unions and countries like Canada, South Africa and Spain are the only countries allowing same-sex marriages. This is another PRC finding (Figure 1.3) which indicates the bifurcation of the opinions of the people in the USA. Here the study shows that the people believe that homosexuality is by an effect by birth or that which occurs due to the person's upbringing and other environmental factors that would otherwise contribute to a person's personality.

Americans Are Split on the Origins of Homosexuality

% saying being gay or lesbian is ...



Source: Gallup

PEW RESEARCH CENTER

Figure 1.3 Pew Research Centre Data

The Figure 1.3 now leads this discussion to yet another aspect of human sexuality by and large. As seen in the diagram it is to assess if or if not, sexuality and homosexuality in particular is something innate, as in, if it is as a consequence of a particular genetic make-up or a chromosomal composition or if it is as a result of the various exposures and treatments which as humans we come across

in our environment. For this it is essential that there is at least a glance at the bio-psychological aspects of sexuality of human-beings. Also it is essential for one to understand that there exist other forms of gender – viz. Intersex.

Essentially the notion that homosexuality is a result of some form of biological difference from that of the heterosexuals, is a widely accepted notion that acts as a good enough sign-post for one to research further upon with respect to the medical aspects of the homosexual beings across the globe. It is important that it is this notion which has aided in 'gay' movements across the globe especially in the USA. However, this phenomenon should be discouraged from being used as a tool to denote and attribute homosexual men and women of the LGBT community as somewhat abnormal and as people who require some sort of treatment.

Conclusion

The Lesbian, Gay, Bisexual, Transgender, Intersex and Queer (LGBTIQ) community seem to form a negligible minority in the Indian scenario. As a result of this, these individuals, as mentioned in the examples above, even in the day and age of the 21st century continue to constantly face serious lapses in enjoying their human rights, despite the truth that human rights are those to be ensured and enjoyed by all individuals across race, colour, gender, caste and sexuality.

Certain beliefs about the people belonging to the LGBTIQ community such as they are more prone to or are more affected by HIV/AIDS is not true. There are such other beliefs that the LGBTIQ people are unfit for family due to their perceived promiscuity. There have been evidences as mentioned above that certain countries are very

unfriendly towards the LGBTIQ community in terms of their legal provisions, prejudice and so on.

This essay tries to convey that the LGBTIQ community deserves a recognition so that they could enjoy their human rights bestowed upon them without any discrimination and prejudice. Author believes that in a country as large as India, certain constitutional amendments must be made to recognise the existence of the LGBTIQ community in India, may be as minority to ensure their rights and peaceful co-existence.

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