

REVIEW ARTICLE

A Narrative Review on (CBME) Modified Competency Related to LGBTQIA+**Singh OG.**

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Abstract:

Of late the National Medical Commission (Undergraduate Medical Education Board) has recommended certain modifications to the existing competencies on issues related to LGBTQIA+. This was based on the decision taken by an expert committee formed by the Undergraduate Medical Education Board in compliance with an order dated 18.02.2022 by the Honorable Madras High Court. Accordingly, the Undergraduate Medical Education Board (UMEB) recommended certain modifications to the CBME competencies of Forensic Medicine and Psychiatric subjects. In the subject of Forensic Medicine, the affected competencies are FM3.13, FM3.16, FM3.17, and FM3.18. As per the modified new competency, the concept of adultery and other unnatural sexual offences related matters need to be dealt under different headings such as gender and sexuality-based identities, decriminalization of adultery, consensual adult homosexual behavior, nonconsensual or forced touching, forced or nonconsensual fingers or objects insertion, paraphilia and paraphilic disorders, and unscientific, inhuman and discriminatory nature of finger test on female genitalia. The new modified competency also mentions about POCSO Act related to medical examination, emergency medical care, and police information. In the present article, the discussion is confined to LGBTQIA+ as this topic is not included in almost all current available textbooks of Forensic Medicine & Toxicology.

Keywords: LGBTQIA+; CBME curriculum; Forensic medicine; Lesbian; Gay; Bisexual; Transgender.

Introduction:

We may presume that the history of LGBT (Lesbian, Gay, Bisexual & Transgender) dates back the ancient civilization when there were instances of same-sex love. The first celebrated achievement in the history of LGBT occurred when Queen Beatrix, a member of the Dutch Royal House, signed a law making the Netherland the first country to legalize same-sex marriage in the year 2000 which took effect on 1st Apr'2001.¹ Until now there are 32 countries in the world where same-sex marriage is legally recognized, with the most recent being Chile on 10 March 2022, Switzerland on 1 July 2022, and Slovenia on 8 July 2022 respectively.²

To know more about this category of people, first, let's know something about the acronym LGBT.

Lesbian: The first letter to come into existence was 'L' representing 'Lesbian'. Lesbians are women who are primarily attracted to women. This word had been associated with the works of Sappho, an ancient Greek woman who lived on the island of Lesbos.^{3,4}

Gay: Gay is a man who is primarily sexually attracted to men. But in a broad sense, it may also be used to denote both men and women attracted to the same sex. Sometimes, it is also known as homosexuality.^{5,6}

Bisexual: An individual who is sexually attracted to both males and females is known as bisexual. In a broader term, the concept of bisexual may also include any romantic or sexual attraction to people irrespective of their sex or gender. Such a type of sexuality is known as pansexuality.^{7,8}

Transgender:

An individual whose gender identity differs from their assigned sex at birth is known as a transgender.⁹

Queer: This broad term includes people who have non-binary, gender fluid, or gender nonconforming identities. This is a very vague term, still not accepted universally amongst their own LGBTQIA+ community.¹⁰

Questioning: It includes a group of people who are questioning their sexual orientation or gender identity. Sometimes, when the 'Q' is seen at the end of 'LGBT', it may also mean 'questioning'.¹⁰

Intersex: It denotes people where there is an intermingling of both male and female sexual characteristics in varying degrees. So, in cases of intersex, the assigned sex as a male or female at the time of birth may not match the gender identity of the child later on.¹⁰

Asexual: This term is used for those who don't feel sexual attraction to either sex or that don't feel romantic attraction in a typical way.¹⁰

+ **Plus:** This 'Plus' sign is used to include all cases of gender identities or sexual orientations that letters and words cannot describe properly.¹⁰

History of LGBTQIA+ in India: There was acceptance and celebration of all forms of sexual relationships in ancient India. According to ancient Hindu myth, lord Krishna took the form of a

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Article History

DOR : 17.10.2022 DOA : 29.03.2023

woman to marry Aravan before the battle of Mahabharata. Still today their marriage is celebrated as the Koovagam Festival, one of the largest festivals where thousands of trans people or Hijra gather annually. According to Bhagwada Purana, once Lord Shiva saw Lord Vishnu as Mohini and fell in love with him and Lord Ayyapa was born as their son. The great epic Mahabharata also mentioned the renowned characters of transgender like Shikhandi and Brihannala. In Ramayana it was mentioned that the birth of king Bhagirath was the result of the union of his mother and widow of the king Dileep, by the blessings of the Lord Shiva. Vatsyayana described about lesbianism and various sexual activities in his famous book Kama Sutra written during the second or third century. Various temples constructed in Puri and Tanjore during 6th to 14th centuries have graphic images of same-sex intercourse on their walls. The 12th centuries temples in Khajuraho, Madhya Pradesh also show overt erotic sculptures showcasing the existence of sexual fluidity between homosexuals.^{5,6}

During medieval times, there was some disapproval of homosexuality but LGBT people were not ostracized. Society was tolerant towards them and nobody was hounded for having a different sexual preference.

During the Mughal Dynasty also there were many incidents of homosexuality. Babur wrote about his love relationship with a boy named Baburi. There were many such incidents in which noble-class Mughals engaged in homosexuality. After the arrival of Britishers, in 1861, all sexual practices against the order of nature including all homosexual activities were banned legally under Sec.377, IPC. In 1994, Hijras were legally granted voting rights as a third sex. The first petition challenging section 377 was filed by the AIDS Bhedbhav Virodhi Andolan in 1994, however, it was eventually dismissed. In 2001, a PIL was filed by Naz Foundation to challenge section 377 in the Delhi High Court. In 2009, Delhi High Court found section 377 in direct violation of the fundamental rights of life, liberty, privacy, and equality provided by the Constitution of India.

In Apr 2014, the honourable Supreme Court of India directed that all transgenders must be recognized as the third gender. On 24th August 2017, the honourable Supreme Court of India has given the LGBTQ community the freedom to express their desired sexual orientation freely without any fear. This one's sexual orientation was protected by the right to privacy law. On the 6th of September 2018, the Honourable Supreme Court of India removed part of section 377, IPC.⁷

The Parliament passed the Transgender Persons (Protection of Rights) Bill on 26th Nov 2019. This law prohibited discrimination against the community in employment, education, healthcare, and other services. But the Queer community rejected it as it made mandatory for each person to be recognized as transgender on the basis of a certificate to be issued by a district magistrate after proof of sex reassignment surgery is provided. The main problem was it gave more emphasis on Hijras or transwomen and there was little importance on intersex, gender Queer and transmen. Accordingly, Ministry of Social Justice and Empowerment passed the revised Transgender Persons

(Protection of Rights) Rules, 2020.^{5,6}

Important Milestone of LGBTQIA+ Movement in India:⁷

1. During the British period homosexuality was considered unnatural and was declared a criminal offence under chapter 16, sec 377, IPC.
2. After independence, on 26th Nov' 1949, the right to equality was implemented under article 14 but homosexuality still remained a criminal offence.
3. The first known protest for gay rights was held in 1999 in Kolkata. It was named as Calcutta Rainbow Pride.
4. In 2009 a landmark Delhi High Court decision in the Naz Foundation V. Govt. of NCT of Delhi case held that treating consensual homosexual consummation between adults as a crime is a violation of fundamental rights protected **the** by Indian constitution.
5. In the Suresh Kumar Koushal and another V. Naz Foundation and other cases in 2013, the Supreme Court overturned the Delhi High Court Naz Foundation V. Govt. of NCT of Delhi case and reinstated section 377, IPC.
6. The then MP Sashi Tharoor introduced a bill to decriminalize homosexuality but it was rejected by the Lok Sabha.
7. In Aug 2017, the Supreme Court upheld the right to privacy as a fundamental right under the constitution in the landmark Puttuswamy judgment. This gave renewed hope to LGBT activists.
8. On 6th Sept 2018, the Supreme Court ruled that sec.377, IPC was unconstitutional and subsequently, it decriminalizes consensual homosexuality in adults.

Discussion:

The LGBTQIA+ acronym stands for Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, and Asexual and others. In India, a specified social group of people known as Hijras is also included in the LGBTQIA+ community. They are culturally defined either as "neither men, nor women", or as men who behave like a woman. At present they are referred to as the "Third Gender".⁷

There are no official demographic figures for the LGBTQ population in India. However, approximately 2.5 million gays are there in India as per the report submitted by the government of India to the Supreme Court in 2012.¹⁰ As per a report on "LGBT+ Pride 2021 Global Survey" conducted between April 23 and May 7, 2021 published by Ipsos, a multinational research firm based in Paris, 3% of the Indian Population identified as homosexual (Including Gay and Lesbian), 9% identify as bisexual, 1% identify as pansexual and 2% identify as asexual. Totally, 17% identify as not heterosexual (excluding 'do not know', and 'prefer not to answer').¹¹ The actual number may be manifold than these figures because many of them will not come forward for fear of social discrimination.

On 6th Sept 2018, the five-judge bench partially struck down Sec.377, IPC decriminalizing same-sex relations between consenting adults. Now Indian law allows adult LGBTQIA+ individuals for consensual sexual intercourse,⁸ However, the

court has upheld provisions in Sec. 377, IPC that criminalize non-consensual acts or sexual acts performed on animals.

The four judgments cited fundamental right violations in reading down Sec.377, IPC. They observed that Sec.377, IPC discriminates against individuals on the basis of their sexual orientation, or gender identity. This violates articles 14 and 15 of the Indian Constitution. They pointed out that Sec.377, IPC also violates the rights to life, dignity, and autonomy of personal choice under Article 21 of the Indian Constitution. Further, they found that Sec.377, IPC inhibits an LGBTQIA+ individual's ability to fully realize their identity, by violating the right to freedom of expression under Article 19 (1) (a).⁸

In a survey conducted by Edelweiss Tokio Life Insurance in 2019, across 12 cities in India, revealed that 56% of Indians would refuse an organ from a homosexual person while 54% believe that LGBTQ persons should not be allowed to donate organs at all.¹²

Still, we are very far from being the land of 'Acceptance'. There is discrimination against a person due to their sexual or gender identity and orientation. This discrimination haunts them in employment, relationships, adoption choices, and general acceptance in society by and large. Our society is still full of Homophobia, Transphobia, and Biphobia. This leads to harassment, forced conversion, and sometimes killing.

A person's choice of partner should not be restricted because of his or her sexual orientation. It not only restricts their basic fundamental rights of equality and privacy but it also takes away their right to live with dignity enshrined within the right to life and liberty. In India persons not conforming to the socially accepted male or female genders are ostracized and rejected on the ground that they belonged to a third gender. It remains as taboo if we continue to disrespect and not treat them equally. It is high time that the regressive laws need to be abolished and shunned. It is better to embrace and practice progressive laws.¹³

Conclusion:

Sometimes people face violence, discrimination, torture, and even killed only because of how they look, who they are, and whom they love. Probably we forget that sexual orientation and gender identity are integral aspects of ourselves and this should never lead to abuse or social discrimination. It's high time that LGBTQIA+ should be freed from the shackles of orthodoxy for a better and equally developed society.

Funding: Nil

Conflict of Interest: Nil

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