

AS INTRODUCED IN LOK SABHA

Bill No. () of 2021

EQUAL PROTECTION OF RIGHTS FOR
LGBTQIA+ PERSONS BILL, 2021

By

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BILL

to equally protect the rights of LGBTQIA+ persons

BE it enacted by Parliament in the Seventy- Second Year of the Republic of India as follows:—

1. (1) This Act may be called the Equal Protection of Rights for LGBTQIA+ Persons Act, 2021

Short title,
extent and
commencement

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Union Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires, —

(a) “LGBTQIA+” is an acronym of Lesbian, Gay, Bisexual, Transgender, Queer, Inter Sex, Asexual and ‘+’ denotes members of the community who did not identify or included in LGBTQIA acronym. They have

Definitions

different sexual orientation and gender identities. Here after in this act LGBTQIA+ rights will also be denoted as LGBT rights which should not misunderstood.

Explaining the acronym:

- i. "Lesbian" a term for a woman who is emotionally and physically oriented towards another woman.
 - ii. "Gay" means a person who is emotionally and physically oriented to the people within the same gender.
 - iii. "Bisexual" a term for person who is emotionally and physically oriented to people with more than one Sex, Gender or Gender Identity.
 - iv. "Transgender" a term for person whose expression of gender is different than their sex assigned at birth
 - v. "Queer" a term for person having non-binary or gender-fluid identities
 - vi. "Inter Sex" a term used to describe a person who is born with differences in their sex traits or reproductive anatomy that don't fit typical definitions of female or male.
 - vii. "Asexual" a term used to describe a person who lacks sexual attraction or desire for other people.
 - viii. "+" denotes the community is not strictly into the above said acronym, it's a inclusive way of denoting the community who have different sexual orientation and gender identities but not fit into the LGBTQIA acronym.
- (b) "Sexual Orientation" refers to a person physically, emotionally or oriented towards another person.
- (c) "Gender Identity" describes a person of internal sense of being female, male or someone outside of that gender binary, it is not determined by one's Sex assigned at birth.

3. (I) LGBTQIA+ persons will have the right of

Equal protection of rights
for LGBTQIA+ persons

- (a) Right to adoption
- (b) Right to guardianship
- (c) Right to surrogacy
- (d) Prohibits discrimination at the workplace
- (e) Prohibits discrimination in housing
- (f) Right to recognition of LGBTQIA+ as families
- (g) Right to marry
- (h) Right to Maternity benefits
- (i) Protection against sexual harassment at work place
- (j) Right to openly serve in military
- (k) Protection against bullying in educational institutions
- (l) Any act, ordinance, rules, regulations, bye-laws, order or other instrument which provides rights to heterosexual couples or in sense of gender binary shall also apply for LGBTQIA+, unless and until said otherwise.

STATEMENT OF OBJECTS AND REASONS

The first resolution passed in international forum for recognizing LGBT rights is in 2011 by United Nation Human Rights Council (UNHRC) which urged all countries to enact law which protects basic rights for LGBTQIA+ community. In India, evolution of LGBT rights from Naz Foundation v. Govt. of NCT of Delhi (2009) to Navjet Singh Johar & Ors. v. Union of India (2018) is remarkable feat where in later Supreme Court pronounced landmark verdict which decriminalized consensual homosexual intercourse by reading down Section 377 of the Indian Penal Code which was colonial-era law. It is against Article 15 where no one should be discriminated based on sexual orientation and gender identity also. The government also enacted Transgender Persons (Protection of Rights) bill, 2019. Despite this the need of the act is that the court judgement marked a progressive beginning and it has to be accompanied with comprehensive law on equal protection of rights for LGBTQIA+ persons and lacunae in earlier laws has to be corrected. The amount of homophobia presents in society and discrimination they undergo is immense in day to life which undermines the dignity and privacy of LGBT persons. A survey conducted by multinational research firm where it's finding is that in India totally 17% identify themselves as non-heterosexual. With this significant amount of population there is need of separate law for protecting the rights of LGBT people because there is still many legal and social difficulties they face. As a first step we should ensure a broad legal protection and through this there should be the creation of public awareness and eliminate the stigma and notion against the LGBT persons. Two way it can be done either amending a existing personal and secular law where it strictly speak of rights of gender in binary sense and also the places where it lacks gender neutral which has to amended for the same which includes different gender identities and sexual orientations and recognizing LGBT as also a families. The second way is there should be a formulation of new laws which focuses specifically on equally protecting the rights of LGBT persons on same footing with heterosexual, gender binary individuals, where this act takes the second approach because India being a diverse country where amendments in existing personal laws will not be a practical solution and there will be little change in status quo. This act encapsulates the right of autonomy, privacy, to determine one's sexual orientation, legalize same sex marriages which act as a hurdle in many fields such as adoption, guardianship, inheritance & succession, enjoying maternity benefits, surrogacy, dependant or act which recognizes only heterosexual couples as the family. In world as of now 31 countries legalizes same sex marriages. This act also bans conversion therapy because it makes non-heterosexual individuals feel guilty of their orientation and which affects oneself psychologically. The Indian Psychiatric Society (IPS) states "that there is no evidence to substantiate the belief that homosexuality is a mental illness or a disease and there is no evidence to prove that homosexuality is unnatural". As Justice N Anand Venkatesh said "ignorance is no justification for normalizing any form of discrimination". The universal law of Human Rights states social norms, custom, culture or traditions can never be a valid justification to suppress another individual from asserting his/her fundamental and constitutional rights.

Hence this Bill

NEW DELHI;
December 13, 2021

Dr. DNV SENTHIL KUMAR S