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Advancing The Rights of the LGBTQ+ Community and Judicial Pronouncements in India

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Abstract

This paper examines the significant role played by the Indian judiciary in advancing the rights of the LGBTQ+ community through landmark judgments such as National Legal Services Authority (NALSA) v. Union of India (2014) and Navtej Singh Johar v. Union of India (2018). These decisions established constitutional protections for gender identity, dignity, equality, privacy, and sexual orientation, marking a transformative phase in Indian human rights jurisprudence. Despite these judicial achievements, substantial gaps remain in implementation due to inadequate legislation, bureaucratic challenges, social stigma, and the absence of comprehensive anti-discrimination laws. The study highlights the difficulties faced by LGBTQ+ individuals, particularly same-sex live-in couples, in accessing legal recognition and protection. It further explores the role of Public Interest Litigation (PIL) as an effective mechanism for promoting LGBTQ+ rights and addressing systemic discrimination. The paper concludes that while judicial activism has laid a strong foundation for equality, meaningful social inclusion requires legislative reforms, effective policy implementation, and broader societal acceptance.

Keywords: LGBTQ+ Rights, Judicial Activism, NALSA Judgment, Navtej Singh Johar, Public Interest Litigation (PIL), Gender Identity, Sexual Orientation, Equality, Constitutional Rights, Anti-Discrimination Laws, Same-Sex Relationships, Human Rights.

Introduction

In India, over the past decade, the judiciary has played a transformative role in advancing the legal rights of LGBTQ+ individuals. Landmark Supreme Court decisions such as *NALSA v. Union of India* (2014), which affirmed the rights of transgender individuals, and *Navtej Singh Johar v. Union of India* (2018), which decriminalized consensual same-sex relations, marked significant milestones in recognizing the fundamental rights of dignity, equality, and non-discrimination for the LGBTQ+ community. These rulings brought progress within the Indian legal system. However, despite these judicial advancements, the day-to-day experiences of LGBTQ+ individuals continue to be challenged by the existing system's mindset and societal stigma. One particularly unspoken issue is the absence of legal recognition and protection for same-sex live-in relationships. While heterosexual couples benefit from evolving jurisprudence that safeguards their rights in cohabitation without marriage, via various judicial pronouncements, similar legal acknowledgment is starkly missing for LGBTQ+ couples. This gap in legislation not only denies them protection against harassment and eviction but also excludes them from access to remedies under domestic laws governing shared property, domestic violence, and inheritance. The failure to extend these protections to LGBTQ+ partnerships illustrates a lack of clarity between constitutional ideals and legislative implementation. This research paper aims to scrutinize the role of judicial activism in the advancement of LGBTQ+ rights, evaluate the enforcement and limitations of the rights provided by judicial pronouncements, and explore the strategic potential that Public Interest Litigation (PIL) holds in initiating further reforms particularly in areas such as live-in relationship recognition and cohabitation rights.

In *Sreeja S. v. Commissioner of Police* (Kerala High Court, 2018), a woman filed a habeas corpus petition at the Kerala High Court seeking the release of her lesbian partner, as her parents illegally detained her. The Court confirmed the right of two adult women to live together and recognized their relationship as protected under constitutional rights in terms of cohabitation.

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Although the judgment affirmed their right to live together, it did not help in granting a legal status or protection that is available to heterosexual live-in couples under laws such as *the Protection of Women from Domestic Violence Act*, 2005.

This case does not highlight the court's willingness to uphold the personal liberty of LGBTQ+ individuals for cohabitation, but also highlights the absence of a legislative framework that recognizes and protects same-sex live-in relationships. The court's grant of freedom did not provide recognition of the relationship in legal terms, reflecting the exact gap this research paper intends to discuss between constitutional recognition and comprehensive legal protection.

Judicial Activism in LGBTQ+ Rights: The Post-NALSA and Navtej Judgements

1. The NALSA Judgment (2014)

In the landmark case of *National Legal Services Authority v. Union of India* (2014), the Supreme Court of India formally recognized transgender individuals as a "third gender" and affirmed their fundamental right to self-identify their gender, regardless of surgical or medical intervention. This historic judgment marked for the first time that the Indian judiciary directly addressed the constitutional rights of transgender persons, and recognized gender identity within the ambit of fundamental rights provided by the Constitution.

The Court's reasoning was based on Article 14 (Right to Equality), Article 15 (Prohibition of Discrimination), Article 16 (Equality of Opportunity), Article 19(1)(a) (Freedom of Speech and Expression), and Article 21 (Right to Life and Personal Liberty). It held that non-recognition of gender identity amounts to discrimination based on sex, which is prohibited under Article 15. Importantly, the Court expanded the understanding of "sex" in the Constitution to include gender identity.

The NALSA judgment was revolutionary in multiple respects. It not only acknowledged the oppression and social stigma faced by transgender individuals but also encouraged affirmative action from both the State and society. The Court directed the central and state governments to ensure legal recognition of gender identity, provide access to healthcare, education, and public employment, and include transgender persons within the ambit of social welfare schemes.

Furthermore, the Court emphasized the right to live with dignity and the freedom of personal choice in matters of gender, and made a broader way for discourse on LGBTQ+ rights in India. While it did not address same-sex relationships directly, it laid a foundation for legal principles that gender and sexual identity are protected under the Constitution, setting a precedent for future litigation and policy changes.

Despite the groundbreaking nature of this judgment, implementation remains a significant challenge. Legal recognition has not always obligated social acceptance or structural reform, and many transgender individuals continue to face hurdles in changing identity documents, accessing healthcare, and securing employment. Nonetheless, *NALSA* remains a

cornerstone in the fight for gender justice and a revolutionary moment in the evolution of LGBTQ+ rights in India.

Gender Identity and the Indian Law: An Analysis of the NALSA Judgment A book by Ramasubramanian, R., provides an in-depth analysis of the *NALSA* judgment Discussing its legal reasoning, constitutional basis, and implications for gender identity and rights in India.

2. The Navtej Johar Judgment (2018)

In the landmark case of *Navtej Singh Johar v. Union of India* (2018), the Supreme Court of India delivered a historic judgment that decriminalized consensual homosexual acts between adults by restricting the scope of Section 377 of the Indian Penal Code (IPC). Section 377, a provision of colonial-era law, had criminalized "carnal intercourse against the order of nature," which had for a long time been interpreted to include same-sex sexual relations. The Court, in a unanimous decision by a five-judge constitutional bench, held that this provision, wherever applied to consensual sexual conduct between adults in private, was unconstitutional and in violated fundamental rights.

The Court's reasoning was grounded in an expansive interpretation of several provisions of the Indian Constitution. It held that criminalizing same-sex relations infringed upon **Article 14** (Right to Equality), as it discriminated against individuals based on their sexual orientation. **Article 15**, which prohibits discrimination based on sex, was interpreted to include sexual orientation within its ambit. Further, **Article 19(1)(a)** (Freedom of Speech and Expression) was also violated because individuals were denied the freedom to express their sexual identity. Most significantly, **Article 21** (Right to Life and Personal Liberty) was understood to be violated, as it guarantees the right to privacy, dignity, and autonomy, all of which are essential components of sexual identity.

The judgment also pressed the importance of constitutional morality over social morality, as it recognized that the protection of individual rights must not be subjected to prevailing societal prejudices or majority views. The Court declared that constitutional values such as liberty, dignity, and equality must guide the interpretation of rights, even when societal attitudes are regressive or discriminatory. It stated that the Constitution exists to protect the rights of minorities against the tyranny of the majority, and that individual dignity and autonomy must be upheld regardless of public opinion.

In striking down the relevant part of Section 377, the Supreme Court not only restored dignity and legal recognition to LGBTQ+ individuals but also laid the groundwork for broader legal reforms concerning gender and sexual minorities in India. The *Navtej Johar* the decision thus represents a profound affirmation of human rights, equality, and personal liberty in the Indian constitutional framework. It built upon earlier progressive judgments, including *NALSA v. Union of India* (2014), and intimated a significant

shift toward inclusivity and justice for marginalized communities.

The article *Navtej Singh Johar v. Union of India: Sound Constitutionality and the Transformative Constitution*, by Narrain, Arvind, provides a critical analysis of the *Navtej Johar* judgment, focusing on its constitutional reasoning, the concept of constitutional morality, and its implications for LGBTQ+ rights in India.

3. Judicial Activism: Beyond Decriminalisation

The case of *Navtej Singh Johar & Others v. Union of India*, (2018) 10 SCC 1, is a landmark judgment of the Supreme Court of India, which decriminalised consensual homosexual conduct between adults by restricting parts of Section 377 of the Indian Penal Code. The judgment marked a pivotal moment in the revolution of LGBTQ+ rights in India, asserting that the constitutional principles of equality, dignity, and privacy are fundamental and cannot be overridden by outdated moral codes, orthodox mindset, or societal prejudices.

Arvind Narrain in his article titled *Navtej Singh Johar v. Union of India: Sound Constitutionality and the Transformative Constitution*, has analysed the judgment, which helps us understand the jurisprudential depth and constitutional philosophy. He examines how the judgment is deeply rooted in the interpretation of constitutional morality and explores how the judgment contributes to a broader vision of a transformative constitution, one that protects the rights of minority communities and promotes substantive equality in society. The article provides insightful opinions on the judiciary and its functions in advancing civil liberties and explains the importance of the judgment in shaping future discourses on sexuality, identity, and constitutional rights in India. The article helps us with an in-depth analysis of LGBTQ+ rights, constitutional interpretation, and the evolving scenario of human rights jurisprudence in India.

The Enforcement Gap: Challenges in Implementing Court-Mandated Reforms

Despite the progressive and transformative nature of judicial pronouncements such as *NALSA v. Union of India* (2014) and *Navtej Singh Johar v. Union of India* (2018), these rights granted by the judgment have not been fully achieved yet. The Supreme Court has set a strong constitutional foundation for gender identity and sexual orientation rights, but there has been a significant gap between judicial intent and administrative or legislative follow-through of the judgment. Implementation of the judgment faces various challenges on various levels, right from the drafting of legislation to ground-level enforcement, which creates a substantial enforcement gap. This gap restricts the transformative potential of these landmark judgments and delays justice for the communities they seek to protect.

1. Lack of Legislative Follow-Up

An example of the enforcement gap can be seen in the response on the legislative front to the *NALSA* judgment, in particular, the enactment of the *Transgender Persons (Protection of Rights) Act*, 2019.

As the purpose of the enactment of the Act was to fulfil the directives issued by the Supreme Court in the *NALSA* judgment, it was criticised by legal scholars, activists, and the transgender community for not representing the judgment's intent.

The *NALSA* judgment established the right to self-identification of gender, without being forced to undergo medical procedures or get government approval. However, the 2019 Act introduced a screening process that requires transgender persons to apply to a district magistrate and undergo a certification procedure to have their gender identity officially recognized. This not only contradicts the principle of self-determination upheld by the Court but also places an undue burden on transgender individuals, forcing them to seek state approval for a natural personal identity.

Furthermore, the Act does not encourage positive action measures, social welfare schemes, or institutional protections that the *NALSA* judgment intended to bring into existence. Provisions for employment, education, and healthcare appear vague and cannot be fairly enforced. It invites criticism on the ground that rather than empowering transgender persons, the legislation often reinforces a paternalistic and bureaucratic approach that undermines their autonomy and rights.

In other words, while the 2019 Act represents a formal legislative response, it has been criticized as a symbolic rather than substantive advancement. The failure to match statutory provisions with constitutional guarantees, particularly the principles of dignity, equality, and self-identification, shows a distance between the judiciary's progressive vision and the legislature's conservative execution. This has not changed the fact that transgenders continue to face legal and social uncertainty, and remain vulnerable to discrimination, exclusion, and administrative apathy.

The research paper of *The Transgender Persons (Protection of Rights) Act, 2019: A Critical Assessment* by Chakrapani, V., Kavi, A., & Shunmugam, M. S. (2020) critically analyzes the limitations of the 2019 Act, mainly looks at how the law differs from the *NALSA* judgment's ideas of self-identification and personal freedom, and points out the problems in making and enforcing related laws.

2. Bureaucratic Apathy and Social Resistance

Despite the Supreme Court's clear directives and the enactment of the *Transgender Persons (Protection of Rights) Act*, 2019, the implementation of these provisions at the state level has been very slow, inaccurate, and inadequate. Many state governments have displayed bureaucratic apathy, showing little effort or urgency to set up important bodies like transgender welfare boards. These welfare boards were enacted for the protection and promotion of transgender rights, to facilitate access to healthcare, education, employment, and social security, and address grievances specific to the transgender community.

However, the inability of several states to constitute such bodies has created significant gaps in the implementation of the desired benefits and services.

As a result, transgender persons often they are often left without official support, making their exclusion and risk even worse. The lack of coordination between various governmental departments and inadequate training of administration on gender sensitivity are also responsible for the poor ground-level implementation of policies designed for transgender individuals to enjoy their rights.

In addition to administrative incompetence, resistance from society and deep-rooted cultural understandings continue to be barriers for transgender individuals wanting to exercise their legal rights. Traditional societal norms and widespread stigma against individuals of diverse genders encourage discrimination, exclusion, and harassment in public and private spheres. This social unacceptance comes from hostile attitudes within families, workplaces, educational institutions, and healthcare settings that tend to restrict transgender persons' access to opportunities and services guaranteed by law for all citizens or any person in general.

Widespread social bias makes bureaucratic problems even worse, as it creates an environment where even legally recognized rights remain inaccessible or unenforced. Discrimination by society at large minimizes the transformative potential of legal reforms and highlights the urgent need for awareness campaigns, sensitization programs, and community engagement initiatives. If social and cultural issues aren't fixed along with policy changes, transgender people still won't fully get equality and dignity amongst other individuals in society.

The landmark case of *K.S. Puttaswamy (Retd.) v. Union of India*, primarily dealt with the right to privacy, and laid the foundation for recognition of autonomy and dignity, for transgender individuals as well. It has also been cited in further cases addressing state responsibility and the need for sensitized governance in protecting minority groups.

Further, the paper, *Implementation Challenges of the Transgender Persons (Protection of Rights) Act, 2019 in India: A Socio-Legal Perspective*, by Mishra, A., & Shukla, A. (2020), examines the bureaucratic hurdles and social stigma faced by transgender persons in accessing rights and welfare benefits after the enactment of the 2019 Act.

Similarly, in *Social Exclusion and the Transgender Community in India: Challenges and Interventions*, by Majumdar, S., & Banerjee, D. (2018), the study explores social resistance and cultural prejudices that affect transgender persons' access to education, employment, and healthcare, stating the gap between legal rights and societal acceptance.

3. Absence of Comprehensive Anti-Discrimination Laws

The reason for the lack of full realization of rights for LGBTQ+ individuals in India is the absence of a comprehensive and constitutionally rooted legal framework explicitly prohibiting discrimination based on sexual orientation and gender identity across important aspects such as employment, housing, healthcare, and education. Landmark judgments of *NALSA v. Union of India* (2014) and *Navtej Singh*

Johar v. Union of India (2018) have set important constitutional precedents affirming the rights and dignity of transgender and queer persons, the potential that these judgements hold for transformation is substantially weakened due to lack of clear legislative foundation.

At present, there is a lack of specific anti-discrimination laws in India that provide protections for sexual minorities in day-to-day life and are positively enforceable. This legal gap creates ambiguity and leaves LGBTQ+ individuals vulnerable to bias in the existing system, prejudice, and exclusion in critical livelihood areas. For example, many transgender and queer persons face difficulties securing employment due to discrimination or implicit biases, that leads to economic backwardness. Similarly, access to healthcare remains inconsistent and limited, as many of them face denial of services or inadequate treatment due to their gender identity or sexual orientation.

In the absence of enforceable anti-discrimination laws, courts have to rely on a broader interpretation of constitutional principles such as equality and dignity under Articles 14, 15, and 21. However, these principles are powerful, but are insufficient to address innovative forms of discrimination faced by sexual minorities. Unless there is an explicit legislative recognition and detailed enforcement mechanisms, judicial protections are not effective or helpful.

Moreover, education and housing still reflect deep-rooted social prejudices, making it difficult for LGBTQ+ individuals to access safe and inclusive environments. The lack of legal clarity also affects policy formulation and implementation by government agencies and private entities, resulting in inconsistent practices and inadequate protections.

Therefore, establishing a comprehensive anti-discrimination legal framework that explicitly includes sexual orientation and gender identity as protected categories is crucial. Such a framework would not only codify the rights affirmed by the judiciary but also provide clear standards for employers, educational institutions, healthcare providers, and housing authorities. It would enable proactive measures such as affirmative action, sensitivity training, and grievance redressal mechanisms, and a more inclusive and equitable society would be formed.

Without such a law, the goal of equality and dignity cannot be completed, and the transformative impact of judicial decisions remains only on books and is not achieved in practice. Legal clarity and enforceable, lawful protections are essential to minimise this gap and ensure that LGBTQ+ persons can live free from discrimination and enjoy equal opportunities in all spheres of life.

Suresh Kumar Koushal & Anr. v. Naz Foundation & Ors., (Overruled by *Navtej Singh Johar v. Union of India*, 2018) upheld the criminalization of consensual same-sex relations under Section 377 IPC but was heavily criticized for ignoring discrimination against LGBTQ+ individuals. It exemplified the limitations in legal protections before progressive rulings. *Navtej*

Singh Johar v. Union of India (2018) later overruled this case and emphasized constitutional rights, but the absence of comprehensive anti-discrimination laws is still a challenge.

The paper, *Anti-Discrimination Law in India: Gaps and Prospects for the LGBTQ+ Community* by Chakraborty, S., & Kesarwani, P. (2020) critically examines the lack of explicit anti-discrimination legislation in India protecting sexual orientation and gender identity, discussing its impact on employment, healthcare, and education. Similarly, in *Sexual Orientation and Gender Identity in India: Legal Recognition and the Need for Anti-Discrimination Protections* by Sharma, A. (2019), it is discussed that the transformative nature of judicial pronouncements is useless with the legislative void on anti-discrimination, highlighting the need for comprehensive laws.

Public Interest Litigation (PIL) as a Tool for Advancing LGBTQ+ Rights

Public Interest Litigation (PIL) has emerged as a powerful and innovative legal mechanism in India that enables minority communities, including LGBTQ+ individuals, to seek judicial intervention in matters concerning the public at large without requiring direct personal standing. The tool of PIL has played a crucial role in advancing the rights of sexual minorities by allowing courts to address systemic discrimination, social injustices, and human rights violations faced by these communities. PILs have effectively avoided legislative delays and social prejudices that often hinder progressive lawmaking. It has become a useful medium for social change and constitutional enforcement.

PILs have enabled the judiciary to engage with the issues and made the issues relating to LGBTQ+ noticeable, which used to get overlooked, and paved the path for equality, dignity, and freedom that challenge traditional norms. The courts, through PILs, have been able to expand the interpretation of constitutional provisions to recognize and safeguard the fundamental rights of sexual minorities, setting legal precedents that have implications for a wide range of society, where the involvement of individual litigants is not required.

1. Strategic Use of PIL by Civil Society

The landmark judgments in *National Legal Services Authority v. Union of India* (NALSA, 2014) and *Navtej Singh Johar v. Union of India* (2018) are prime examples of how civil society, including activists, non-governmental organizations, and legal professionals, has made a strategy to use PILs for the advancement of LGBTQ+ rights in India. These cases were not brought by individuals due to only personal grievances, but were initiated as PILs to highlight issues of discrimination, social exclusion, and denial of fundamental rights in a broader sense than an individual problem.

Civil society groups have skillfully used PILs to beat slow lawmaking and conservative views that often delay or stop progressive laws for sexual minorities. By approaching the courts through PILs, they have compelled the judiciary to take on the responsibility of

protector and promoter of constitutional morality, ensuring that the rights of minority communities are recognized and enforced.

Moreover, these PILs have proved to be platforms for raising public awareness and generating questions on social issues of LGBTQ+ individuals, helping to shape public perceptions and reducing stigma. The strategic move of PILs has thus not only secured judicial relief but also encouraged broader societal change and made the judiciary the centre in India's ongoing struggle for sexual and gender justice.

National Legal Services Authority v. Union of India (NALSA), (2014), a landmark PIL recognized transgender persons as the "third gender" and affirmed their constitutional rights, marking a major judicial intervention in favor of LGBTQ+ rights through public interest litigation.

Similarly, *Navtej Singh Johar & Ors. v. Union of India*, (2018) another key PIL that decriminalized consensual same-sex relations, showcasing the strategic use of PIL by civil society to advance LGBTQ+ rights in India.

Also, the paper, *Public Interest Litigation as a Catalyst for LGBTQ+ Rights in India* by Kumar, A. (2019), analyzes how PILs have been used effectively by activists and legal professionals to push for judicial recognition and protection of LGBTQ+ rights, especially focusing on the NALSA and *Navtej Singh Johar* cases.

2. Potential for Future Litigation

Public Interest Litigations (PILs) have been established as a significant potential strategic tool for advancing LGBTQ+ rights in India by addressing a broad range of issues and emerging problems faced by the community. Given the judiciary's visible willingness to interpret constitutional guarantees in favor of sexual minorities, future PILs can be effectively used to confront systemic discrimination and advocate for comprehensive social justice reforms.

Specifically, PILs can be instrumental in:

- Challenging discriminatory practices in workplaces and educational institutions: Despite constitutional protections, LGBTQ+ individuals frequently face explicit and implicit biases that limit their access to equal employment opportunities and inclusive educational environments. PILs can compel institutions to adopt anti-discrimination policies, enforce diversity and inclusion measures, and hold violators accountable for prejudicial conduct.
- Demanding legal recognition of same-sex marriages: Currently, India does not legally recognize same-sex unions, leaving LGBTQ+ couples without rights related to inheritance, adoption, taxation, and spousal benefits. PILs could press courts to reinterpret existing marriage laws or challenge their constitutional validity on grounds of equality and dignity, thus paving the way for legal reforms.
- Seeking remedies for hate crimes and police violence: LGBTQ+ persons often face targeted violence and harassment, sometimes aggravated

by law enforcement's neglect or complicity. PILs can push for stronger protections, proper investigation, and accountability mechanisms against hate crimes, thereby reinforcing the State's duty to protect vulnerable groups.

- Encouraging inclusive curricula and sensitization programs: Educational institutions and public agencies frequently lack awareness and sensitivity toward LGBTQ+ issues. PILs can push for adding clear and supportive information about sexual orientation and gender identity in school syllabi and promote widespread sensitization training for educators, police personnel, healthcare workers, and public officials.

However, while PILs serve as a crucial element for change, there is a limitation to relying only on litigation without effective ground-level implementation and policy reform. Judicial pronouncements must be complemented by concrete administrative action, societal acceptance, and changing institutions to turn legal wins into real-life benefits for LGBTQ+ people.

Without these supporting measures, the transformative potential of PIL-driven progress remains ineffective, resulting in symbolic gains that do not adequately address systemic barriers. For long-lasting impact, coordinated efforts among the judiciary, legislature, executive, and civil society are essential to ensure that legal advances lead to genuine social inclusion and equality.

In *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) the right to privacy judgment laid the groundwork for recognizing autonomy and dignity, which supports challenges against discriminatory practices and the enforcement of inclusive policies.

The paper, *Strategic Litigation and the Future of LGBTQ+ Rights in India: Opportunities and Challenges* by Narayan, J., & Raj, A. (2021) examines the role of PILs in advancing LGBTQ+ rights, including challenges related to enforcement and policy implementation.

Similarly, *Legal Recognition of Same-Sex Marriage in India: The Next Frontier* by Rao, S. (2019) discusses the potential and challenges of litigation aimed at recognizing same-sex marriages in India.

Further, *Police Violence and LGBTQ+ Rights in India: Legal Responses and Gaps* by Sharma, P. (2020) analyzes the legal framework addressing hate crimes and police violence against LGBTQ+ individuals and the need for judicial intervention.

The paper establishes how gender and sexual minority groups are recognised due to judicial activism. It also explains how a lack of comprehensive legislation affects the LGBTQ+ community and how dependency on judicial pronouncements delays the implementation of legal rights for the LGBTQ+ community.

While the research paper examines these judicial pronouncements, it will also shed light on the less-discussed issue of live-in-relationship couples amongst the LGBTQ+ community struggling for their

living conditions. These couples often face difficulties in gaining basic services such as housing, healthcare, and police protection due to the absence of legal recognition and social stigma. It's difficult for them to find an accepting neighbourhood and reasonable landlords, as social and moral concern is an issue in such circumstances. Moreover, there is no legal framework that protects same-sex live-in couples from such problems while finding housing, while facing constant fear of eviction and discrimination.

Live-in relationships continue to face legal uncertainty in their daily lives. As there are no laws that recognize or regulate same-sex cohabitation relationships, this results in poor responses for law enforcement, including cases of domestic violence, financial disputes, custody issues, or inheritance. In various cases, police refused to intervene and help protect same-sex couples in case of disputes due to a lack of legal framework and uncertainty of jurisdiction.

As there is complete dependence on judicial pronouncements and the absence of legislation or policies to safeguard LGBTQ+ couples in a live-in relationship judiciary becomes the only source for legal relief. This brings a burden on courts and leaves couples vulnerable and helpless. In the absence of established legislation, the court is required to start from the basics every time such a new case comes into court, resulting in uneven outcomes and prolonged litigation, wasting the court's time while dealing with a new issue.

Moreover, this research paper will also analyse the significant enforcement gap where the implementation of judicial pronouncements is delayed due to traditional standards, institutional inertia, and non-acceptance by society as a result of widespread social prejudice. This also includes the unwillingness of local administrative bodies, police, lower courts, and conservative social groups to honor the Supreme Court judgments and implement them accordingly. There is a need for structural reform through inclusive legislation, in the absence of which these judicial pronouncements are mere symbolism for LGBTQ+ individuals.

Conclusion

The Indian judiciary has acted as a powerful medium in advancing the recognition of LGBTQ+ rights, especially through landmark judgments such as *National Legal Services Authority (NALSA) v. Union of India* (2014) and *Navtej Singh Johar v. Union of India* (2018). These judgments not only marked a historic acknowledgment of transgender identity as a third gender and decriminalized consensual same-sex relationships, but they also set a precedent that has been recognised as transformative for society and that challenged inbuilt norms of gender and sexuality within the Indian legal and social landscape. By rooting these rights firmly in constitutional guarantees, such as equality before the law, freedom of expression, and the right to life and dignity, the judiciary has provided the LGBTQ+ community with a critical foundation for legal protection and recognition.

However, the journey from legal recognition to actual implementation in society and societal transformation is full of challenges. The enforcement gap, in other words, the disconnect between judicial pronouncements and their implementation, remains a significant hurdle. Institutional stubbornness, displayed by bureaucratic delays and a lack of political will, often weakens efforts to fulfil the goals of these important court decisions. For instance, despite the directives in the NALSA judgment, many states have been slow or resistant to establish transgender welfare boards or to provide adequate healthcare, education, and employment opportunities for transgender individuals. Simultaneously, social stigma and conservative attitudes continue to marginalize LGBTQ+ individuals, making it difficult for them to access the very rights guaranteed by law without facing discrimination, harassment, or violence.

Further, it gets more complicated in the absence of comprehensive anti-discrimination legislation specifically protecting sexual orientation and gender identity. While the judiciary has made significant efforts, a lack of legislative and policy frameworks creates gaps that expose LGBTQ+ individuals to systemic discrimination in everyday aspects such as workplaces, educational institutions, healthcare systems, and housing. Without specific laws explicitly prohibiting such discrimination, legal victories remain only symbolic, offering very little protection in actual practice on the ground.

In this context, Public Interest Litigation (PIL) remains an invaluable tool for LGBTQ+ advocacy. PILs have been instrumental in bringing critical issues to the courts and maintaining pressure on governments to uphold constitutional rights when legislative bodies fail to act. Activists and legal professionals have strategically used PILs to challenge discriminatory laws and practices, highlighting the voices of minority communities. However, the effectiveness of PILs depends on long-term efforts that go beyond courtroom battles. Achieving meaningful change requires a joint approach that involves civil society organizations, policymakers, law enforcement agencies, educational institutions, and the general public working together to promote awareness, acceptance, and enforcement of LGBTQ+ rights.

For India to fully realize the promise of equality and dignity for its LGBTQ+ population, the country must move beyond symbolic justice, where rights exist on paper but are not reflected in lived realities, towards substantive equality, where individuals experience true inclusion, safety, and empowerment. This intends not only to implement judicial mandates effectively but also to encourage social and cultural change through education, sensitization, and affirmative action. Additionally, comprehensive legislative reforms are urgently needed to fill existing gaps, providing clear, enforceable protections against discrimination and violence.

Ultimately, the advancement of LGBTQ+ rights in India reflects broader struggles for social justice and human rights. The progress made by the judiciary is significant and inspiring, but it must be supported by concrete actions at all levels of governance and society to ensure that every individual, regardless of their sexual orientation or gender identity, can live with dignity, freedom, and equality.

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References

1. National Legal Services Authority v. Union of India, (2014) 5 SCC 438.
2. Navtej Singh Johar v. Union of India, (2018) 10 SCC 1.
3. The Transgender Persons (Protection of Rights) Act, 2019.
4. Narrain, A. (2018). "The Transformative Constitution: A Rights-Based Perspective on Section 377." *Economic and Political Weekly*.
5. Sreeja S. v. Commissioner of Police (Kerala High Court, 2018)
6. The Protection of Women from Domestic Violence Act, 2005.
7. Gender Identity and the Indian Law: An Analysis of the NALSA Judgment A book by Ramasubramanian, R. (2015), *Indian Journal of Gender Studies*
8. The Transgender Persons (Protection of Rights) Act, 2019: A Critical Assessment by Chakrapani, V., Kavi, A., & Shunmugam, M. S. (2020)
9. K.S. Puttaswamy (Retd.) v. Union of India
10. Implementation Challenges of the Transgender Persons (Protection of Rights) Act, 2019 in India: A Socio-Legal Perspective, by Mishra, A., & Shukla, A. (2020)
11. Social Exclusion and the Transgender Community in India: Challenges and Interventions, by Majumdar, S., & Banerjee, D. (2018),
12. Suresh Kumar Koushal & Anr. v. Naz Foundation & Ors., (Overruled by Navtej Singh Johar v. Union of India, 2018)

13. Anti-Discrimination Law in India: Gaps and Prospects for the LGBTQ+ Community by Chakraborty, S., & Kesarwani, P. (2020)
14. Sexual Orientation and Gender Identity in India: Legal Recognition and the Need for Anti-Discrimination Protections by Sharma, A. (2019),
15. Public Interest Litigation as a Catalyst for LGBTQ+ Rights in India by Kumar, A. (2019),
16. Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017)
17. Strategic Litigation and the Future of LGBTQ+ Rights in India: Opportunities and Challenges by Narayan, J., & Raj, A. (2021)
18. Legal Recognition of Same-Sex Marriage in India: The Next Frontier by Rao, S. (2019)