

A STUDY OF THE DISCRIMINATION AGAINST LGBT+ COMMUNITY IN SRI LANKA

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Abstract

Different countries have different societal perceptions on Lesbian, Gay, Bisexual and Transgender (LGBT+) people. States all over the world have made reformist moves to address the issues and correct, amend or remove discriminatory laws and regulations that affect the LGBT+ people. However, many Sri Lankans do not view LGBT+ people as real people. Due to traditional cultural norms that openly discriminate against this minority on the basis of custom, even concerns pertaining to the LGBT+ community are not publicly discussed. Accordingly, how does discrimination affect the LGBT+ community in Sri Lanka? was the main problem of this research. The main objective of this research was to highlight how the LGBT+ community in Sri Lanka is subjected to discrimination. Moreover, the sub-objective was to identify measures that can be taken to overcome the ways of discrimination among LGBT+ community in Sri Lanka. For this study, secondary data were collected through qualitative research approach, which was gathered from published research papers, journals, e-books, conference papers, annual reports and relevant websites. According to these sources, it was found that the socio-cultural, religious, political and Sri Lankan law has been a major obstacle for the LGBT+ community in Sri Lanka. As a result, many LGBT+ people experience pressure, fear, and unmet expectations. The consequences of this bias are severe because these people are more likely to experience psychological stress and suicidality. It is crucial to remember that since all people are born free, the LGBT+ group deserves to be treated with the same respect as all other people. Therefore, it is crucial to create a supportive social and cultural climate in which LGBT+ people can exercise their rights and live free from harassment, assault and other forms of intimidation.

Keywords: Criminalization, Discrimination, Gender Inequality, LGBT+ Community, Sri Lanka

Introduction

“It is absolutely imperative that every human being’s freedom and human rights are respected, all over the world.”– Jóhanna Sigurðardóttir

In numerous ways, people are unique in the society. Age, colour, ethnicity, class, gender and sexual preference are only a few of these factors. Despite the fact that society is still embracing the variety that is expanding, it is obvious that integrating some differences still encounters

major resistance. It is well known that Sri Lanka is one of the major countries where the LGBT+ community is still a socially and culturally feared minority. Generally, LGBT+ stands for Lesbian, Gay, Bisexual, Transgender and refers to a group of people or "community" that uses these terms. Even though the LGBT+ movement in Sri Lanka was started in the early 1990s, the progress of the movement cannot be identified as a success story as in India and other East Asian countries (Arteta 2019 & Ellawala, 2019). Although society does

not accept the LGBT+ community, the LGBT+ community is open to all people regardless of

these differences. Broadly, the term LGBT+ defines each letters as follows;

Table 1: Definitions of LGBT+

Lesbian	A Woman who is physically, emotionally and/or spiritually attracted to other women.
Gay	A man who is physically, emotionally and/or spiritually attracted to other men.
Bisexual	A person physically, emotionally and/or spiritually attracted to both men and women.
Transgender	A person whose sense of personal identity and gender does not correspond with their birth sex.
Intersex	A term to describe individuals born with any of several variations in sexual characteristics including chromosomes, gonads, sex hormones or genitals that do not fit the typical definitions for male or female bodies.
Questioning	A person who is questioning their sexuality or gender identity.
Queer	A word that describes sexual and gender identities other than straight and cisgender. Lesbian, gay, bisexual and transgender people may all identify with the word queer.

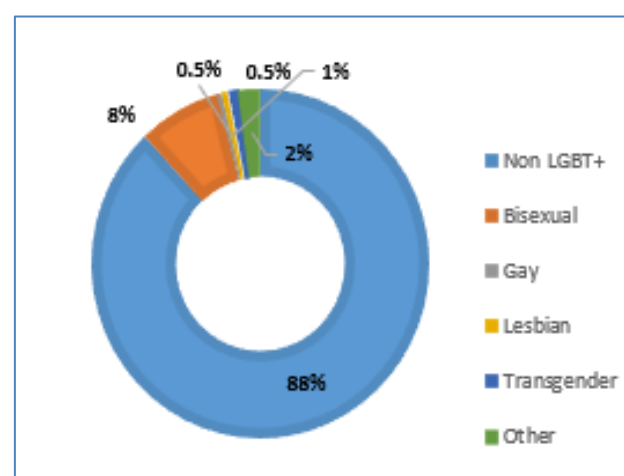
Source: Equal Ground, Sri Lanka. 2021

LGBT+ people are not yet accepted in our society and are thus subjected to prejudice based on these prejudices. This group experiences discrimination on a daily basis, whether it be in the workplace, the healthcare system, online or offline. They continually feel unaccepted, which has a detrimental impact on them both physically and mentally. These people's rights to happiness and the right to feel at ease being their authentic selves are violated by the issue of discrimination against the LGBT+ community. Many LGBT+ people experience serious violence and targeted physical assaults; they are beaten, sexually assaulted, tortured, and killed. Therefore, the main objective of this research was to highlight how the LGBT+ community in Sri Lanka is subjected to discrimination and criminalization. Moreover, the sub-objective was to identify measures that can be taken to overcome the ways of discrimination and criminalization among LGBT+ community.

The legal system in Sri Lanka does not recognize the concept of a third gender, despite the fact that the LGBT+ community has received some administrative recognition (Wijayath, 2020). The

fundamental human rights tenets established in the Universal Declaration of Human Rights are threatened by discrimination against LGBT+ people. However, it is all too typical for the LGBT+ community to experience discrimination and violence. LGBT+ Community representation in 2021 has been identified as follows by Equal Ground (2021) in their report on "Mapping LGBT+ Identities in Sri Lanka":

Figure 1: LGBT+ Community Representation in Sri Lanka



Source: Equal Ground, Sri Lanka. 2021

According to figure 1, it was indicate that 12% of respondents overall self-identified as LGBT+. 8% of them self-identified as bisexual, 1% as transgender, 0.5% as homosexual, 0.5% as lesbian. In addition, 2% more respondents identified as "other." The age range of 18 to 29 was found to have the largest percentage of people who identified as LGBT+. It was revealed that, The North Western and North Central provinces have the largest proportion of LGBT+ people in the region.

In keeping with the trend, numerous NGOs have been established since 2000 to advocate for LGBT+ rights in Sri Lanka. The first such NGO, called Equal Ground, was founded in 2004. It supports the LGBT+ community in securing their rights through many fields and occasions including Colombo Pride. While Sri Lanka's LGBT+ community celebrates Pride Month in June in a brave effort to promote diversity and equality, the country's society remains sharply divided over issues of gender and sexuality. Therefore, it is timely to study how the LGBT+ community in Sri Lanka is subjected to discrimination and criminalization.

Methodology

In order to investigate the experiences of discrimination that the LGBT+ community in Sri Lanka faces, this study employed a qualitative research approach. A qualitative approach was particularly suitable for this study as it enables a comprehensive exploration of the social, cultural, political, and legal dimensions of discrimination. By analyzing narratives, policies, and legal frameworks, this method provided a nuanced understanding of structural and institutional barriers. Given the socio-political sensitivities surrounding LGBT+ issues in Sri Lanka, this research relies on secondary data sources for a robust analysis of discrimination and criminalization.

The majority of the secondary data included in this study from academic books, journal articles, and academic papers that addressed LGBT+ rights, discrimination, and Sri Lankan legal systems. Used legal materials as well, including the Sri Lankan Penal Code, case law, and policy documents pertaining to the rights of LGBT+ people. The socio-legal elements influencing LGBT+ discrimination can be thoroughly examined using this approach. The collected data was analyzed using the Thematic analysis approach.

Results and Discussion

Socio-Cultural barriers against LGBT+ community

The LGBT+ community in Sri Lanka faces several areas of discrimination in society in terms of housing, employment, education, and health care in both the government and private sectors (Human Right Watch 2016). The gender given to an individual at birth must match the gender expressed, according to Sri Lankan society, which is conscious of gender norms and expectations. Because of this notion, LGBT+ persons face discrimination and criminalization in a number of contexts, including housing, work, education, and health care in both the public and private sectors. Many of these people struggle or are frightened to come out as a result. On the other hand, in Sri Lankan society, media is doing support in hate speech against LGBT+ community and making it legitimized (Thangarajah, 2013). LGBT+ people in various places in Sri Lanka have been reported to be ill-treated by the police, with some even alleging violence and sexual abuse.

Many LGBT+ people in Sri Lanka experience serious violence and targeted physical assaults due to socio-cultural barriers; they are beaten, sexually assaulted, tortured, and killed. Most abuse cases were reported by transgender women. Other LGBT+ people said that they had

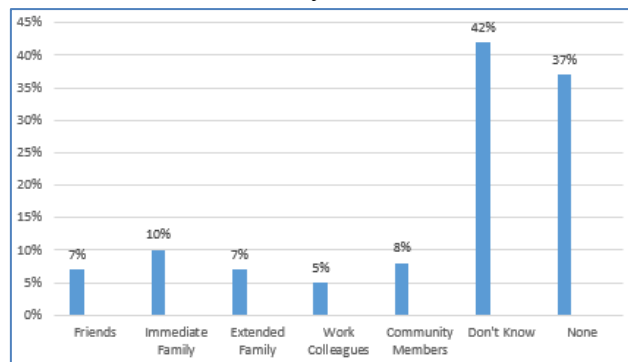
been the target of extortion and bribes in order to escape torture or criminal records.

Especially, LGBT+ community are addressed using different names by Sri Lankan community. Therefore, according to Nichols (2010) and Samaraweera and Samarasinghe (2016), Men and women who are transsexual from one gender to the other are referred to as nachchi. But, a large portion of the populace prefers to refer to it as "Napunsakaya" rather than "Nachchi." In the meantime, the term "Ponnaya" is frequently used in society as "derogatory slang" to describe transgender people, and it refers to men who find it difficult to have satisfying relationships with women. (Nichols 2010). Lesbians have been labelled as ‘Aappa’, meanings hoppers, a breakfast common among Sri Lankans (Wijewardena 2007). According to Wijewardene and Jayewardene (2020), gay men have been verbally discriminated against using the word ‘Samanalaya’, which means butterfly. In Sri Lanka, transgender and intersex people are not considered ‘real men’ or women and, at the same time, bisexual women are considered masculine and men effeminate (Human Right Watch 2016).

Ellawala (2018) explains that, in all South Asian countries like Sri Lanka, the family accepts only heterosexuality, masculinity and femininity. Marriages are an important part of the Sri Lankan culture to protect cultural and historical values. It can also be identified that majority of LGBT+ community is afraid to reveal their social identity to friends and immediate family, since the fear of non-acceptance and embarrassment (Equal Ground, 2021). They struggle to find acceptance, especially from close friends and relatives who have more rigid expectations. In Sri Lanka, transgender people are infrequently able to obtain a national identity card and other official documents that reflect their preferred name and gender. As a result, they are subjected to constant and humiliating questions about their gender

identity from police at checkpoints, staff at public hospitals, employers, airport staff, and bank employees, among others.

Figure 2: Who do LGBT+ people hide their identity from?



Source: Equal Ground, Sri Lanka. 2021

According to figure 2, it was shown that 42% of LGBT+ people said they are unsure about the people they will hide their identity from. Moreover, 7% of LGBT+ people stated that they would hide their identity from friends and 10% would hide their identity from immediate family. Only 7% of those who said they would hide it from extended family and 5% of those who said they would hide it from colleagues. This demonstrates that LGBT+ people are most likely to hide their identity from their work colleagues, friends and immediate family.

Religious barriers against the LGBT+ community

Buddhism, Hinduism, Islam, and Christianity are the four major religions in Sri Lanka, with Buddhism constituting the majority of the population. Buddhism itself does not have a rule or mandate that forbids the rights of LGBT+ community (Jayatunge, 2014). De Silva in 2003 argues that the Lord Buddha recognized the truth of human sex, and neither homosexuality nor third-gender identities were stigmatized in his thought.

According to the "Vinaya Pitaka," the Lord Buddha proclaimed that there are two other genders besides male and female. They are "Ubhatobyanjanaka" (those with a dual sexual nature) and "Pandaka" (people who have deficits in their male sex nature). The name "Pandaka" is currently used to describe the group of third gender people who have either male or female bodies but lack the characteristics that would normally render them female or male as a result of recent adjustments to the Vinaya Pitaka (Wijayath, 2020).

A report by the Special Rapporteur of the Office of the High Commissioner of Human Rights (2019) further emphasizes the situation in Sri Lanka as “religious teaching is one of the important factors to marginalize LGBT+ people and it leads to deep personal stigmatization of them because they have failed to reconcile the religious identity with their sexuality”. In 2019, the local magistrate court detained and filed charges against an author who had written a brief book about a gay Buddhist monk. (Colombage, 2019). Colombage asserts that this accusation violated the International Covenant on Civil and Political Rights. Therefore, the attitudes of Sri Lankan society towards homosexuality may sometimes vary with religion.

Political barriers against the LGBT+ community

As most political bodies do not speak kindly of the LGBT+ population, it is clear that the political environment is likewise opposed to the concept of LGBT+. Although the current president, Ranil Wickremesinghe, and the former minister of finance, Mangala Samaraweera, have openly stated that they are a part of the LGBT+ community, they too have encountered hate speech and other issues from other politicians. Mangala Samaraweera voted in favour of homosexual rights in 2016 at the United Nations, making his nation the only one from South Asia

to do so. Gay rights advocates and the LGBT+ community respect Samaraweera's struggle as an openly gay man in parliament. Following the event, a number of MPs demanded that Mangala Samaraweera be detained on the grounds that he had broken the Sri Lankan Penal Code.

Nalinda Jayatissa, a former member of parliament, opposed LGBT+ rights in 2015, claiming that same-sex marriage is unnatural and "against the growth of human beings" and that such "unnatural impulses" occur after stressful conditions. (Gonzalez, 2019). Moreover, even the circular the Sri Lankan government published in 2016 authorising the issuance of Gender Recognition Certificates to transgender people was a covert way of further humiliating them. Politicians are attempt to regularize changes for the LGBT+ community in order to inspire voters. In 2021, Sri Lanka decline United Nations recommendations to repeal anti LGBT+ laws.

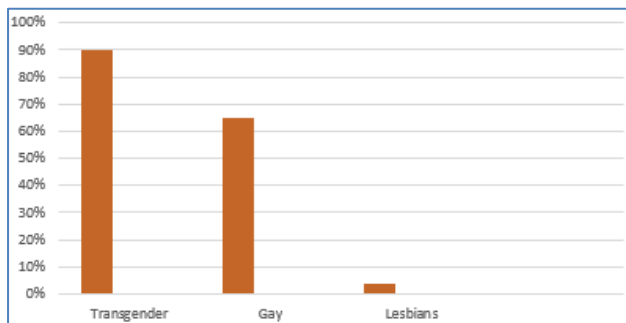
Sri Lankan Law against the LGBT+ community

Since the British Empire imposed its laws on Sri Lanka more than 139 years ago, the island nation has been independent for more than 72 years. Unfortunately, same Victorian laws are still in the enforcement by criminalizing consensual same sexual acts, resulting silent society that denies or rejects the rights (Holm, 2020). Despite the fact that a gender recognition process is now being considered, Sri Lankan law does not clearly outline how one can change their legal gender.

Human Rights Watch published a report on the mistreatment of the LGBT+ community in Sri Lanka in 2016. The research was based on in-depth interviews with LGBT+ people as well as representatives of the medical and other professional communities. Sections 365 and 365A of Sri Lanka's penal code, which also make same-sex activity illegal, are almost verbatim copies of similar laws in India. A person is

subject to a 10-year prison sentence under Section 365 of the Penal Code if they freely engage in same-sex behaviour with or without the other person's agreement. Therefore, it is illegal to act homosexually in Sri Lanka whether with or without the other person's consent. Also, Sri Lankan police use the criminal laws frequently to target the LGBT+ community, especially among transgender people and gay men who are involved in commercial sex work (Nichols, 2010).

Figure 3: Police Violence Faced by LGBT+ community



Source: Thangarajah, P. 2013 (Equal Ground, Sri Lanka)

According to Figure 3, it shows that 90% of transgender people face more police violence than gay people in society. Therefore, Sri Lankan police use these criminal laws frequently to target the LGBT+ community, especially among transgender people and gay men who are involved in commercial sex work (Nichols, 2010). Some police officers rape young gay, bisexual, and transgender people despite the state's expectations that child abuse would be minimized, especially in well-known tourist locations. (Ghoshal, 2017).

Conclusion and Recommendation

In Sri Lanka, there are social, political, and legal restrictions on the population that identifies as lesbian, gay, bisexual, transgender, intersex, and questioning (LGBT+). The community is severely marginalized as a result, being pushed

to the periphery of the social structure. The stigma, discrimination and criminalization that the community encounters in numerous contexts and in society at large not only create barriers to service access, but also put them at increased risk of social and economic isolation. The LGBT+ community is consequently compelled to conceal both their identities and the structural and physical violence they experience. Therefore, it is time to alter the system and eradicate discrimination from society.

A process of amending the constitution and verifying the correct application of each constitutional item is necessary to mitigate this problem. Governments must do more to address the violence and insecurity experienced by gay, lesbian, bisexual, transgender and intersex people, and ensure the safety of all who live within its borders. It would be preferable if the Sri Lankan government could pass a separate proclamation on the protection of the LGBT+ community, which would legalize the idea of a third gender and gradually change how the non-LGBT+ community feels about it. New laws should be enacted to create workplaces, the health sector, and law enforcement organizations that welcome LGBT+ people.

To protect the right to the best attainable standard of health for LGBT+ people in Sri Lanka, medical professionals like doctors, nurses, and other medical practitioners, as well as support workers, require stronger training, policies, and accountability systems. Furthermore, educational institutions should create strict anti-harassment and anti-harassment laws to protect LGBT+ students. Schools and other educational institutions such as universities, higher educational institutes ought to hold awareness-raising events for both students and teachers on topics like gender, sexuality and sex education.

In present, many multinational corporations have taken voluntary actions to stop discrimination against LGBT+ people in order to maintain a competitive workforce and are rapidly realizing the links between the inclusion of LGBT+ employees and business outcomes. Therefore, it is crucial to create a supportive social and cultural climate that enables LGBT+ community to exercise their rights and live free from harassment, assault and other forms of intimidation.

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