

Changing Social Attitudes towards LGBTQ+ Communities in Contemporary India: Legal Milestones, Cultural Shifts and Persistent Barriers

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Abstract

Over the past decade and a half, the position of LGBTQ+ persons in Indian public life has undergone a transformation that few observers would have predicted in the early 2000s. Three Supreme Court judgements have reshaped the constitutional terrain—National Legal Services Authority v. Union of India (2014), which recognised transgender persons as a "third gender"; Navtej Singh Johar v. Union of India (2018), which read down Section 377 of the Indian Penal Code; and Supriyo @ Supriya Chakraborty v. Union of India (2023), which declined to recognise same-sex marriage while affirming the dignity of queer relationships. Alongside this legal trajectory, popular culture, advertising and survey data tell a story of gradual but uneven attitudinal change. This paper offers a historical-analytical account of these shifts, treating each judgement as a discrete case while tracing the cultural and sociological currents that have accompanied them. The argument is that India has moved decisively from a regime of legal prohibition to one of formal legal recognition, but that the gap between formal recognition and lived social acceptance remains substantial. Religious and familial resistance, the rural-urban divide, and the limits of the Supriyo verdict together mark the unfinished character of this transformation.

Keywords: LGBTQ+ rights, NALSA, Navtej Singh Johar, Section 377, Supriyo, marriage equality, social attitudes, India

1. Introduction

For the better part of a century and a half, the legal regulation of same-sex intimacy in India was shaped by a single colonial statute. Section 377 of the Indian Penal Code, drafted under the supervision of Thomas Babington Macaulay and enacted in 1860, criminalised "carnal intercourse against the order of nature" and was used, in practice if not always in prosecution, as the legal instrument through which an entire community of Indians was rendered suspect by their state. The provision survived independence, the writing of the Constitution and the first six decades of the Republic largely intact. Its eventual dismantling—first by the Delhi High Court in 2009, then briefly resurrected by the Supreme Court in 2013, and finally read down in 2018—was the work of a sustained legal and political movement that drew on constitutional argument, historical scholarship, and a slowly shifting cultural conversation.

This paper examines the changing social attitudes towards LGBTQ+ communities in India over roughly the past fifteen years. It does so through three principal judicial milestones—the NALSA judgement of 2014, the Navtej Singh Johar judgement of 2018, and the Supriyo verdict of 2023—and through a parallel reading of cultural production and survey evidence. The argument advanced is not that Indian society has arrived at acceptance; the evidence does not support so confident a claim. The argument is more cautious and, perhaps for that reason, more accurate: that the formal architecture of legal recognition has changed dramatically, that cultural visibility has expanded in ways that would have been difficult to imagine in the 1990s, and that the actual social conditions in which most LGBTQ+ Indians lead their lives continue to be marked by familial pressure, religious disapproval and a substantial rural-urban gradient of acceptance.

2. Literature Review

Scholarship on queer life and law in India has matured into a substantial interdisciplinary field. The foundational work remains Ruth Vanita and Saleem Kidwai's *Same-Sex Love in India* (2000), a textual archive that demonstrated through translations from fifteen Indian languages and across more than two thousand years that same-sex desire was neither absent from the Indian past nor uniformly condemned by it. The book was influential in disrupting the rhetorical claim—repeatedly made in the political debates around Section 377—that homosexuality was an "imported" Western category alien to Indian culture (Vanita and Kidwai 2000; Vanita 2005). Gayatri Reddy's ethnographic study *With Respect to Sex* (2005) extended this work into the present, offering a careful account of hijra lives in

Hyderabad that complicated easy oppositions between tradition and modernity, sacred and stigmatised.

A parallel legal-political literature emerged in the years around the Naz Foundation litigation. Arvind Narrain's *Queer: Despised Sexuality, Law and Social Change* (2004) and the essays collected in Narrain and Bhan's *Because I Have a Voice* (2005) framed the legal struggle against Section 377 within a broader account of how Indian constitutionalism could be made to speak to questions of sexual citizenship. Nivedita Menon's *Seeing Like a Feminist* (2012) integrated queer politics into a wider feminist critique of the Indian state's regulation of bodies, sexualities and intimate life.

More recent scholarship has examined the post-Navtej landscape. Akhil Katyal's *The Doubtfulness of Sexuality* (2016) traces the intellectual and cultural histories that made decriminalisation possible. Studies of media representation have proliferated, including work on the shift in Hindi cinema's portrayal of queer characters from caricature towards subjectivity (Joshi 2020; Nair 2017). Survey-based work by the Centre for the Study of Developing Societies and by Pew Research has begun to map the contours of attitudinal change in the general population, complicating both the celebratory narrative of progress and the despairing narrative of resistance (Pew Research Center 2023; CSDS-Lokniti 2023).

What emerges from this literature is a layered picture. Indian attitudes towards LGBTQ+ persons cannot be read off legal outcomes alone, nor can they be inferred from urban cultural production. They are shaped by family structures, religious affiliations, media exposure, regional variation and generational change, and any analytical account must hold these together rather than reduce them to a single variable.

3. Methodology

The paper uses a historical-analytical method, with three legal judgements treated as case anchors and cultural and sociological developments traced alongside them. The chronological sequence is significant: each judgement built on the constitutional vocabulary established by its predecessors, and each was rendered possible, in part, by the cultural shifts of the years before it. The cases are *NALSA v. Union of India* (2014), *Navtej Singh Johar v. Union of India* (2018) and *Supriyo v. Union of India* (2023). For each, the paper examines the principal legal holding, the constitutional reasoning, the immediate cultural response and the gap between the judgement's formal recognition and its substantive implementation.

The discussion section also draws on three other strands of evidence: survey data from the Lokniti-CSDS attitudinal survey of 2023 and the Pew Spring 2023 Global Attitudes Survey; readings of selected films and streaming series that have shaped popular visibility (*Aligarh*, 2016; *Made in Heaven*, 2019–; *Badhaai Do*, 2022); and qualitative observations on the family, religious and rural-urban contexts that continue to shape acceptance. The aim is not exhaustive coverage but the construction of a textured account in which legal, cultural and sociological evidence are read together.

4. Discussion: Legal Milestones, Cultural Shifts and Persistent Barriers

4.1 NALSA v. Union of India (2014): The Constitutional Recognition of Transgender Persons

On 15 April 2014, a two-judge bench of the Supreme Court comprising Justices K. S. Radhakrishnan and A. K. Sikri delivered a judgement that, for the first time in Indian constitutional history, formally recognised transgender persons as a "third gender" entitled to the full protection of Articles 14, 15, 16, 19 and 21 of the Constitution. The petition had been filed by the National Legal Services Authority, with intervenors including the transgender activist Laxmi Narayan Tripathi. The Court held that gender identity is integral to personal autonomy and dignity, that biological sex cannot be the sole determinant of gender, and that the state was obliged to take affirmative steps in education, employment and social welfare to address the historical marginalisation of transgender communities.

The NALSA judgement was, in important respects, the doctrinal foundation on which the subsequent decisions in *Navtej* and *Supriyo* would be built. Its move from biological sex to psychological identification, and its insistence that constitutional protection extended to those whose gender experience fell outside the male-female binary, opened conceptual space that the later cases would occupy. The judgement's reach was also limited. The Transgender Persons (Protection of Rights) Act, 2019, which Parliament passed in implementation of the judgement, was criticised by trans activists for diluting the principle of self-identification through a certification requirement and for setting punishments for offences against transgender persons that were significantly lighter than those for analogous offences against cisgender women. The gap between the constitutional recognition of 2014 and the statutory implementation of 2019 was the first sign that legal milestones in this field would not translate automatically into substantive change.

4.2 Navtej Singh Johar v. Union of India (2018): Decriminalisation and Its

Cultural Aftermath

The Supreme Court's unanimous judgement of 6 September 2018, delivered by a five-judge constitution bench comprising Chief Justice Dipak Misra and Justices R. F. Nariman, A. M. Khanwilkar, D. Y. Chandrachud and Indu Malhotra, read down Section 377 to exclude consensual sexual conduct between adults. The judgement overruled the Court's earlier decision in *Suresh Kumar Koushal v. Naz Foundation* (2013), which had reinstated Section 377 after the Delhi High Court's 2009 decriminalisation in *Naz Foundation v. NCT of Delhi*. The four separate opinions in Navtej drew on constitutional morality, the right to privacy as articulated in *Puttaswamy* (2017), and an unusually expansive engagement with comparative jurisprudence and historical scholarship—including the work of Vanita and Kidwai, which had been cited in evidence.

Justice Chandrachud's opinion captured the cultural significance of the moment: a colonial-era criminal provision, in force for one hundred and fifty-eight years, had been read down by reference to the constitutional commitments of an independent republic. The cultural response was substantial and visible. Within months, queer-themed advertising appeared from mainstream brands; Pride marches in Indian cities grew in scale and profile; the Hindi film industry, which had treated queer characters as objects of ridicule for much of its history, began to produce films in which gay and lesbian protagonists were rendered with subjectivity and warmth. *Made in Heaven*, the Amazon Prime Video series that began streaming in March 2019, featured one of the first openly gay leads in mainstream Indian premium television. *Badhaai Do* (2022), a commercial Hindi film starring Rajkummar Rao and Bhumi Pednekar, treated a lavender marriage between a gay man and a lesbian woman as the central narrative premise without either tragedy or caricature.

The Ipsos LGBTQ+ Pride 2021 survey found that 56 per cent of urban Indian respondents reported that their views about homosexuality had shifted in the five years preceding the survey, and that two in three urban Indians supported equal adoption rights for same-sex couples. These figures register the immediate aftermath of Navtej and provide quantitative support for what cultural observers had already noted: that the judgement had not merely changed the law but had licensed a public conversation that the law had previously suppressed.

4.3 Supriyo v. Union of India (2023): The Limits of Judicial Reach

On 17 October 2023, a five-judge constitution bench comprising Chief Justice D. Y. Chandrachud and Justices S. K. Kaul, S. Ravindra Bhat, Hima Kohli and P. S. Narasimha delivered the most disappointing of the recent judgements for the LGBTQ+ movement. The petitioners, led by Supriyo

Chakraborty and Abhay Dang, had sought a declaration that the Special Marriage Act, 1954, must be read to permit marriage between same-sex couples. By a 3:2 majority on the central question, and unanimously on the proposition that no fundamental right to marry exists, the Court declined to grant the declaration sought. Chief Justice Chandrachud, joined by Justice Kaul, dissented in part, holding that queer couples were entitled to legal recognition of their unions and that the state was obliged to confer attendant rights. The majority, however, held that the matter belonged to Parliament rather than to the Court.

The judgement is doctrinally subtler than the headlines suggested. All five judges affirmed that queer persons have the constitutional right to enter into intimate relationships free of discrimination; the Court directed the Union government to constitute a committee to examine the rights and benefits that could be extended to queer couples without statutory marriage. The case nonetheless marked the limit, at least for now, of the judicial route to LGBTQ+ equality in India. The cultural reaction was mixed: relief that the dignity of queer relationships had been affirmed; disappointment that the substantive remedy had been denied; and a renewed recognition that the next phase of the struggle would have to be political and parliamentary rather than judicial.

The Supriyo outcome also exposed the limits of the surrounding social consensus. The Pew Spring 2023 Global Attitudes Survey, released only months before the verdict, had found that 53 per cent of Indian respondents supported the legal recognition of same-sex marriage—a figure that placed India ahead of several Western European countries on the question but well behind the more permissive jurisdictions where same-sex marriage had been recognised. The judgement reflected, in some measure, the unfinished character of that consensus.

4.4 Persistent Barriers: Family, Faith, and the Rural-Urban Divide

The narrative of legal and cultural transformation is real, but it must be set against an equally real account of what has not changed. The Lokniti-CSDS attitudinal survey of 2023 found a sharp gradient of acceptance correlated with media exposure: only ten per cent of respondents with no media exposure reported acceptance of same-sex relationships, compared with thirty-three per cent of those with high media exposure. A 2024 community-based study in Coimbatore found overall acceptance of homosexuality at sixty-one per cent in the surveyed population, with significant variation by age, residence, marital status, religion and education (Arumugam et al. 2024). These figures are higher than they would have been a decade earlier; they also reveal that a substantial section of the Indian public, particularly outside metropolitan media markets, remains either unaccepting or undecided.

Three barriers in particular deserve mention. The first is the family. For many LGBTQ+ Indians, the most difficult negotiation is not with the state or with strangers but with parents, siblings and the wider kin network. The expectation of arranged heterosexual marriage remains deeply embedded across religious communities, and the figure of the "lavender marriage" that *Badhaai Do* depicted is, in many lives, less a comic device than a survival strategy. The second is religious authority. Conservative interpretations within Hindu, Muslim and Christian traditions have remained largely critical of same-sex relationships, and the Supriyo proceedings saw formal interventions from several religious bodies opposing marriage equality. The third is the rural-urban gradient. Acceptance of LGBTQ+ identities, as the survey evidence consistently shows, is concentrated in metropolitan areas with high media exposure and weaker among the rural majority of the Indian population. The cultural transformation that has occurred since 2018 has been real but spatially uneven.

These barriers are not arguments against the legal and cultural changes that have occurred. They are, rather, the markers of work that remains. A constitutional jurisprudence that affirms dignity must be matched by the slower social transformations that turn formal recognition into lived acceptance, and that work proceeds through families, institutions and communities rather than through courts.

5. Conclusion

The fifteen years between Naz Foundation and Supriyo represent the most rapid expansion of legal recognition for LGBTQ+ persons in the history of independent India. A criminal provision that had operated for over a century and a half has been read down; transgender persons have been recognised as a constitutional category; the dignity of queer relationships has been affirmed even where their formal marital recognition has been deferred. Each of these changes has been accompanied, and partly enabled, by a parallel shift in popular culture, advertising and public conversation. The legal trajectory has not been linear, the cultural transformation has been uneven, and the substantive equality that the petitioners in Supriyo sought has not yet been delivered. But the direction of travel is unmistakable.

The honest conclusion is twofold. India has moved, in fifteen years, from a regime in which LGBTQ+ persons were criminalised by colonial-era statute to one in which their constitutional standing has been progressively affirmed. That is a substantial and irreversible achievement. At the same time, the conditions in which most LGBTQ+ Indians actually live—within families, religious communities, and a polity whose rural majority remains undecided or opposed—have changed more slowly. The next phase of the transformation will not occur in the Supreme Court. It will occur in homes, in

schools, in workplaces, and in the parliamentary deliberations that the Supriyo majority has invited. Whether that next phase moves at the pace of the past fifteen years or at the slower pace of intergenerational change is, in the most precise sense, an open question.

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