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Review Article

Exploring the psycho-social dimensions of same-sex marriage and LGBTQIA++ mental health in India

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Abstract

This research paper explores the dynamics of same-sex marriage (SSM) in India and its significant impact on the mental health of the Lesbian, Gay, Bisexual, Transgender, Queer, Inter sex, Asexual and others (LGBTQIA++) community. Legal recognition of SSM is crucial for enhancing mental well-being, reducing stigma, and promoting societal acceptance. In contrast, the absence of SSM recognition exacerbates mental health issues due to social stigma and discrimination, leading to depression, anxiety, suicidal ideation, and eating disorders among LGBTQIA++ individuals. The paper emphasises the need for legal reforms aligned with constitutional principles to create inclusive spaces and foster peer networks, supporting LGBTOIA++ individuals. It also advocates for culturally competent mental health services with tailored interventions to address inter sectionality and unique challenges. The study offers valuable insights for policymakers, healthcare professionals, and the public, promoting informed policymaking, legal reforms, and societal acceptance. Addressing these challenges is essential for a more inclusive, supportive, and mentally healthy future for the LGBTQIA++ community in India.

Introduction

As defined by Britannica, marriage is a formally recognised and socially endorsed union involving individuals, governed by legal, customary, and cultural frameworks. These frameworks prescribe the partners' rights and responsibilities and confer status upon their offspring. Laws, customs, and prevailing beliefs and attitudes regulate the institution.^[1]

Similarly, same-sex marriage is characterised as a

legally and ethically sanctioned partnership between two individuals of the same sex ^[2]. The term "legal" underscores the significance of adherence to the laws and regulations prevailing in each jurisdiction, while "ethical" highlights the crucial considerations of societal and religious acceptance.^[1,2]

This conceptualisation acknowledges marriage's legal foundations, cultural nuances, and ethical dimensions. Recognising same-sex marriage reflects contemporary societal norms, emphasising the importance of legal and ethical parameters in accepting diverse unions.

Beyond legal and regulatory considerations, it is imperative to address the non-inclusivity and discrimination faced by homosexuals.^[3] This includes bullying, anxiety, depression, and other mental health disorders encountered by the community.^[3,4]

This narrative review aims to undertake a comprehensive assessment of the existing literature reflecting the contemporary developments in the last decade concerning same-sex marriage, within the context of India. Additionally, it seeks to discuss various challenges faced by the community leading to mental health problems and how the two intersect with each other and pose what kind of difficulties for the community.

Historical context of legal recognition

Section 377, Indian Penal Code (IPC): Victories and setbacks

During British colonial rule in India, homosexuality was criminalised under Section 377 of the Indian Penal Code (IPC) in 1861.^[5,6] This law deemed certain sexual activities as "unnatural offences," making consensual same-sex relations punishable.^[5] Over the years, homosexuals faced challenges, including limited healthcare access and the absence of contraceptive provisions for sexual minorities in the 1990s. This led to the AIDS Bhedbhav Virdohi Andolan, advocating for contraceptive rights for gay couples and transgenders.^[7] Efforts to challenge Section 377 were repeatedly rejected until September 2018, when the Supreme Court of India declared it unconstitutional, recognising that criminalising consensual same-sex relations violated constitutional principles.[6,8,9]

This judicial intervention marked a significant shift, affirming the rights of individuals regardless of sexual orientation and upholding equality and non-discrimination. Building on the 2018 victory, a petition was filed to amend Section 4© of the Special Marriage Act, 1954, to recognise same-sex marriages and extend matrimonial benefits such as adoption, surrogacy, employment, and retirement allowances to same-sex couples. However, the legalisation of same-sex marriage was declined by constitutional authorities in India in October 2023. ^[10,11]

Challenges faced by the community due to legal exclusion (both past and present)

According to the globally recognised Kinsey scale, India has the world's largest Lesbian, Gay, Bisexual, Transgender, Queer, Inter sex, Asexual, and others(LGBTQIA++) community, with an estimated 135 million people, about 10% of the population.^[12] Basic human rights remain a critical issue for the LGBTQIA++ community. Despite significant legal victories, challenges such as the criminalisation of same-sex marriage, limited relationship recognition, and barriers to basic healthcare persist. The lack of legal recognition for same-sex marriage deprives LGBTQIA++ individuals of rights related to medical consent, marriage, adoption, inheritance, pensions, and aspects of family life such as club memberships.^[13] This legal gap exacerbates vulnerability to discrimination, abuse, and hate crimes. A 2011 conference on transgender rights highlighted that law enforcement officers extensively used Section 377 to intimidate and exploit homosexual and transgender individuals.^[8] A conference held in 2011 focusing on transgender rights also highlighted that law enforcement officers extensively utilised Section 377 to intimidate and take advantage of homosexuals and transgender individuals.^[14] Common challenges faced by the community include:

1. Discrimination and stigmatisation: Despite their status as one of the most vulnerable groups, discrimination against the community persists. LGBTQIA++ individuals, for example, encounter stigma ranging from violence to biases in key areas such as employment, education, healthcare, and housing.^[4,15,16] This discrimination is more prevalent in Rural parts of India.^[14] Their struggle for acceptance and respect within the Indian workforce is evident, highlighting their challenges in seeking recognition and dignity^[17]. Additionally, the lack of familial and social support often forces transgender individuals to drop out of school, avoid religious institutions, and relocate to isolated areas designated for transgenders.^[18,19]

- 2. Healthcare disparities: The legal framework in India has played a role in creating healthcare imbalances for the LGBTQIA++ community. These individuals frequently encounter obstacles when trying to access healthcare services, as pervasive social stigma and discrimination often discourage them from seeking healthcare due to concerns about potential discrimination or a lack of comprehension from healthcare providers. Health care disparities include refusals of assistance, inadequate treatment, or abuse, particularly for those who are visibly part of the community.^[20] Moreover, Due to a lack of LGBTQIA++-affirmative healthcare, many prefer self-medication and private practitioners over free government services, driven by past negative experiences and concerns about malpractice, including conversion therapies^[21,22]. Even supportive doctors may lack adequate training to provide necessary treatments, highlighting the need to update medical education curricula to address these gaps. [20,23]
- 3. Violence and harassment: Legal exclusion has fueled violence and harassment against the LGBTQIA++ community, perpetuating acts like hate crimes, sexual violence, rapes, molestation, cyberbullying, and honour killings. These often remain unaddressed due to the absence of comprehensive legal protection. Sexual violence is particularly prevalent among males who have sex with males (MSM) and the transgender population.^[24,25] MSM face increased harassment from male sex partners who meet online, and crimes facilitated by gay dating platforms persist due to societal phobias and sex negativity.^[26,27] Rapes of lesbian women are reported as part of corrective therapy in rural areas.^[28] Additionally, Cyberbullying, including verbal aggression and attacks on sexual identity, is common for LGBTQIA++ individuals.^[29] Other issues, such as transphobia, also lead to harassment and discrimination.[14,18,30]
- 4. Invisibility/ No right to legal security: Before 2019, the absence of targeted antidiscrimination legislation left LGBTQIA++ individuals vulnerable to discrimination in areas like employment, education, and public services.^[3,31] The Transgender Persons (Protection of Rights) Act of India, enacted in 2019, was a significant step forward. It explicitly outlines the constitutional rights of non-binary individuals, recognises their gender identity, and includes non-discrimination provisions in various spheres such as family, workplace, education, and healthcare. However, full implementation of these laws remains lacking, leaving the community vulnerable to prejudices and societal discrimination. Challenges persist in securing legal recognition of gender identity, leading to marginalisation and social exclusion. This lack of recognition contributes to issues like unemployment, limited education, homelessness, and restricted access to essential services. Concerns about marriage and adoption are also common due to legal barriers.^[14,18,30] Legal restrictions on adoption, in particular, discourage pursuing conventional life paths, leading some transgender individuals to engage in begging or sex work for survival.[14,32]
- 5. Housing: The absence of recognition of liveability as a basic right has led to widespread homelessness among individuals outside the heteronormative framework.^[16,32] Before 2019, IPC Section 377 criminalised residing with a same-sex partner or engaging in same-sex intercourse, leading to harassment and legal charges based on sexual orientation.^[9] Despite the law being declared unconstitutional, housing disparities persist for LGBTQIA++ individuals, who often struggle to find safe and respectful accommodation.^[32]Many transgender individuals end up homeless due to societal rejection of their non-conforming identities.^[18]
- 6. Employment and educational disparities: LGBTQIA++ individuals often encounter discrimination in education and employment due to the lack of inclusive policies. Educational institutions present challenges based on sexual orientation or gender identity, with some medical textbooks still pathologising nonheteronormative identities.^[20,32] Moreover, the community is frequently subjected to bullying

and exclusion by both teachers and peers in school as well.^[33] A recent study (2023) concluded that LGBTQIA++ usually face workplace discrimination in the form of distancing, exclusion, negative comments and questioning of their dignity. Additionally, due to hostile workplaces, some employees choose not to disclose their identities at the workplace[34]. Apart from facing discrimination against societal norms, individuals in this community also fall victim to sexual harassment in the workplace.^[18]

Legal recognition of same-sex partnership and mental well-being: The positives

Research shows that married individuals generally experience better mental health compared to their unmarried counterparts.^[35] However, the LGBTQIA++ community has been excluded from these benefits, impacting their mental wellbeing. The recent rejection of the plea for same-sex marriage legalisation under IPC 370 has exacerbated these mental health challenges. Legalising same-sex marriage not only grants couples rights but also endorses antidiscrimination measures, significantly reducing mental health disparities and improving well-being within the community.^[4,30]

- Enhanced well-being: Legalising same-sex marriage has significantly reduced mental health issues among homosexuals^[4,37]. A 2016 study found that sexual minorities in states without legal same-sex marriage experienced higher anxiety and lower well-being compared to those in states where it was legal and heterosexuals.^[38] The benefits of legal same-sex marriage extend beyond direct advantages to fostering societal acceptance, thereby improving overall mental health and well-being within the LGBTQIA++ community.^[4]
- Decreased stigma and improved social acceptance: Enhancing the well-being of the LGBTQIA++ community is linked to reducing stigma and discrimination. In India, societal acceptance of same-sex relationships is often hindered by religious beliefs. Acceptance of these relationships can improve mental health by addressing factors like stigma, anticipated rejection, discrimination, internalised homophobia, and the need to hide one's sexual

identity, which contributes to mental health challenges^[36]. Thus, legalising same-sex marriage fosters social acceptance, validates relationships, and improves self-perception within the LGBTQIA++ community, positively impacting societal attitudes and mental health^[8].

Social stigma, discrimination, and mental health disparities: The downside of no SSML

Many mental health professionals (MHPs) in India still view homosexuality as an abnormality, impacting the healthcare provided to the LGBTQIA++ community. Based on the minority stress hypothesis, individuals in this community experience higher stress levels due to stigma and discrimination, making them more prone to various physical and mental health problems.^[39]

In India, social stigma towards same-sex relationships and LGBTQIA++ individuals extends beyond discrimination to cultural handling. Traditional methods to treat homosexuality and conversion therapy are common, as LGBTQIA++ identities are often considered sins or diseases. This societal resentment leads to higher rates of mental health challenges within the community, driven by the struggle for acceptance.^[40] A Southeast Asian survey found that heterosexuals often refuse to socialise, or share living spaces with homosexuals.^[41] Moreover, Hijra communities or transwomen experience significant psychological distress due to these psycho-socio-cultural strains.^[42]

The stigma is widespread, with many MHPs in India regarding homosexuality as abnormal.^[43,44] Culturally competent mental health services are essential to address the specific stressors faced by homosexual individuals. Stressful social environments lead to mental health issues and societal disharmony, as evidenced by higher rates of criminal offences and discrimination in employment, pay, and housing.^[4,3],45,46]

Family plays a pivotal role in shaping mental health experiences in India, where heterosexually constructed families often struggle to accept LGBTQIA++ members due to religious and social beliefs. This rejection extends to discrimination in employment, housing, healthcare, and education. ^[47,48,49] LGBTQIA++ individuals frequently internalise negative societal attitudes, leading to feelings of shame, self-doubt, and low self-esteem. $^{\scriptscriptstyle [50]}$

Besides, The community faces higher risks of depression, anxiety, and suicide due to societal rejection and internalised stigma.^[51] LGBTQIA++ youth and adults report higher rates of suicidal ideation and behaviour, often resulting from rejection, bullying, and internalised stigma.^[52] Gay and bisexual men, in particular, experience higher rates of eating disorders due to body image issues and societal pressures.^[53] Transgender individuals face higher rates of Post Traumatic Stress Disorder (PTSD) due to violence, discrimination, and hate crimes.^[54]

Intersectionality of identities

According to Kimberle Crenshaw, intersectionality refers to the overlapping or intersecting forms of discrimination or privilege an individual may face because of one's identity. Factors like gender, caste, or socioeconomic status may pose additional challenges for people identifying as LGBTQIA++, highlighting the interconnectedness of the social structures. For instance, the research concluded (2020) that intersectionality was not considered while making health policies for the community during COVID-19, despite various research concluding the susceptibility of the community tomental health issues, in comparison with heteronormative class, leading to invisibility and sexuality-based discrimination.^[55]

Intersectionality of sexuality and moral values is a significant issue in India, where rich cultural values and religious beliefs often clash with LGBTQIA++ rights. Extremist religious preachers still consider homosexuality a punishment for past sins or a disease. Practices like honour killings and conversion therapies are used to "treat" homosexuality.^[56] Historically, texts like the Mahabharata and Valmiki Ramayana acknowledged homosexuality and trans sexuality without deeming them illegal or immoral. However, colonisation and Islamic modernism introduced homophobic attitudes. Both Christianity and Islam imposed homophobic rules, which persist today.^[57,58,59]

Right care at the right time: Holistic approach to LGBTQIA++ rights and mental health

Mental health is crucial for cognitive functioning, positive relationships, and a fulfilling life. Initiatives for marginalised populations, such as the

LGBTQIA++ community, are vital for global mental health efforts.^[60] However, the LGBTQIA++ community faces significant social and legal challenges.^[61]

According to minority stress theory, this community is at increased risk for mental illness due to unaddressed prejudices, including stigma, fear of rejection, and discrimination.^[62] Such prejudices lead to reluctance to access healthcare services.^[63]

Common issues like physical abuse, cyberbullying, social isolation, and distancing contribute to mental health problems such as anxiety, depression, self-harm, sleep disturbances, impaired social functioning, substance misuse, and suicidal thoughts.^[63-66]

Therefore, mental health care should be tailored considering the sensitivity of these issues and the intersectionality of sexuality with other life aspects. Optimal strategies should include screening for psychiatric disorders, psychological assessments, psychoeducation, and inclusive, specialised clinical care.^[67]

Interventions and positive outcomes

- 1. Based on the outcomes of a specific intervention aimed at fostering positive attitudes among heterosexual individuals towards homosexuals (2018), modest enhancements were observed in the participants' attitudes and empathy levels.^[68] Thus, the incorporation of teachings on empathy and inter sectionality into educational curricula has the potential to cultivate heightened sensitivity among future generations towards the challenges faced by the community.
- The 2016 open pilot study of the affirmative cognitive behavioural coping skills group intervention (AFFIRM) showed significant reductions in depression and perceived stress post-intervention, highlighting its effectiveness in enhancing acceptability and skills development.^[62] These findings underscore the importance of appropriate care for related issues. The AFFIRM approach, which integrates identity affirmation and cognitive behavioural therapy (CBT), offers a promising method for reducing mental health problems. It achieves this by fostering self-awareness,

regulating mood, and identifying strengths and coping mechanisms.^[62,69,70]

- 3. Like the AFFIRM model, an open group therapy model called SAAHAS (2019) was also piloted in India and was found to be effective in improving mental health outcomes in Queer people.^[69]
- 4. Due to the implications of Article 377 IPC, same-sex marriage is yet to be considered legal in India, which creates a marginalisation, as discussed in the previous section.^[71] Strategic interventions such as restructuring social support, which involves reevaluating and enhancing the social networks and relationships within their lives to create a more inclusive and supportive environment, should be adopted. Various approaches can be employed like-
 - Cultivating inclusive spaces such as Oueer/LGBTOIA++ friendly workspaces and penalising discrimination by advocating and implementing antidiscrimination policieshas created a huge impact altogether. After the hearing of the Supreme Court in 2018, it was advocated that according to Article 15, any person must not face any discrimination based on their sexual orientation; it is a violation of the constitution.^[72] However, the scope was limited only to state or government bodies and not private sectors. These policies have helped create environments that are free from prejudice and bias for the LGBTQIA++ community, promoting inclusivity.
 - Peer networks arealso creating a significant impact on the mental health of the community by creating awareness, providing counselling services, and empowering queers. Many NGOs and peer groups the Humsafar Trust, Mumbai (since 1994), Naaz Foundation (India) Trust, Delhi (since 1994), Sappho for Equality (and Lesbian Rights), Kolkata, The Youth Alliance for LGBTQIA++ Rights (Ya All), Mumbai, and The Solidarity Foundation, Bengaluru, are working towards the

betterment of the community and each organisation is offering unique services along with many intersecting services.^[73] Moreover, these networks provide a sense of belonging and understanding, allowing individuals to share experiences, and coping strategies.

- Mental health care resources are important in India, given the need of the hour. Marginalization has an impact on health-related behaviours, the utilisation of services, and both mental as well as physical health.^[74] Preference to selfmedication and going to private healthcare practitioners instead of opting for free government services is quite common in the community, given the problems they face, such as discrimination, exclusion, stigma of mental illnesses, negative experiences as well as fear of malpractice (promoting conversion therapies)^[63] Thus, access to mental health resources that are LGBTQIA++inclusive should be strongly promoted. This includes patient-centric therapy (e.g. AFFIRM) gender neutral counselling to address the unique mental health concerns of LGBTQIA++ individuals.
- Family support is a crucial strategy for coping with mental health problems in the community. Working towards fostering supportive family environments by providing resources and counselling for families of LGBTQIA++ individuals is necessary to promote a secure and safe environment. This can be achieved by promoting open communication and understanding between the parent and the child.
- Crisis interventions such as helplines for mental health crises (suicidal ideations, self-discovery), psychosocial support, discrimination, violence, reproductive and sexual health issues are offered by various organisations in India. For instance, Dhwani's 24*7 Crisis Hotline provides immediate and timely support to women and queers against violence.^[75]
- Mental health literacy is central to destigmatisation. There is a constant need

to improve knowledge and attitude towards LGBTQIA++-related topics amongst heterosexuals in India. This can be achieved through creating awareness by the teachers. School curricula should include LGBTQIA++ studies to eliminate bullying culture. For same-sex marriage awareness, prospects of LGBT parenting inclusive curricula should also be discussed.^[76]

Future consequences of the intersectionality

The intersectionality of LGBTQIA++ identities and mental health is likely to have several implications for the future. Here are some potential consequences:

• Increased awareness and advocacy

As the understanding of intersectionality grows, there may be heightened awareness of the unique health challenges faced by individuals within the LGBTQIA++ community. This increased awareness may catalyse the formulation or reformulation of inclusive policies and foster the development of more inclusive and resilient mental health strategies. This can be achieved only if there is continuous growth seen in the education levels of the population, intersectionality activism and advocacy. This will contribute to disseminating knowledge regarding the multifaceted oppressions of specific communities.

• Tailored mental health interventions

The adoption of an intersectionality perspective provides a conceptual framework conducive to a nuanced understanding of the health and healthcare needs of patients. This nuanced understanding, in turn, may facilitate more precise and targeted advocacy endeavours to secure mental health resources and support. Failure to systematically consider the entirety of patients' identities could result in an oversight of pertinent health risks and factors contributing to resilience inherent in their unique combinations of multiple identities.^[15] Consequently, prospective mental health interventions stand to be more precisely tailored to address the distinctive requirements of individuals encompassing diverse LGBTQIA++ identities. Cultivating culturally competent and inclusive methodologies holds promise for developing mental health support mechanisms that effectively resonate within this community.

Policy and legal advancements

Over the past decade, there has been substantial growth in the evolution of legal rights and policy adjustments, with developments favouring and opposing the LGBTQIA++ community. Nevertheless, the comprehensive legalisation of same-sex marriage remains incomplete, resulting in the inability to attain legal custody of a child and access various marriage-related benefits^[77]. Acknowledging the principles of intersectionality stands poised to catalyse further progress at the policy level. Systematic endeavours directed at eradicating discrimination, guaranteeing equitable access to mental health services, and safeguarding the rights of LGBTQIA++ individuals may experience heightened impetus as a result.

• Community-driven support networks and resource expansion

Numerous community-driven support groups, including well-known organisations such as Sappho for Equality, Nazariya, Naz Foundation, Harmless Hugs, and The Humsafar Trust, play a significant role in aiding the LGBTQIA++ community in India.178 Despite the existence of these support networks, a noticeable gap persists, and community members continue to face challenges linked to marginalisation and prejudice. As a result, future efforts are likely to prioritising creating and expanding community-driven support networks and resources. Anticipated developments include an increased emphasis on peer support, the establishment of community organisations, and the provision of accessible mental health services tailored to meet the unique needs of the LGBTQIA++ community.

• Programs focused on education and awareness

Over the past decade, India has witnessed a transformative shift in its societal perspective towards the LGBTQIA++ community, notably following the landmark verdict on

Article 377 of the Indian Penal Code in 2018.^[79] Despite this progress, the absence of legal recognition for same-sex marriage and parenting perpetuates societal stigma, leading to a sense of alienation within the LGBTQIA++ community. Addressing this issue requires educational initiatives that specifically focus on mental health awareness, acceptance, and destigmatisation within the community. Findings from several pilot studies suggest that strategies like incorporating LGBTQIA++ topics into educational curricula could effectively enhance understanding and foster greater empathy.^[68]

Addressing systemic difficulties

Amidst the COVID-19 pandemic, the government and state authorities neglected the needs of transgender and intersex individuals, resulting in the community's struggle for essential welfare services like food, medicines, and healthcare. This highlights the necessity for the Indian constitutional framework to acknowledge the complex intersections between queer identities and those associated with caste, disability, and class. Such acknowledgement is crucial for integrating considerations of welfare into examining LGBTQIA++ rights.^[80] Thus, recognising this intersectionality may drive initiatives to tackle systemic challenges that contribute to mental health disparities, including discrimination, healthcare exclusivity, and social stigma.

• Promotion of positive mental health

According to findings from a systematic review conducted in 2020, a healthy school environment plays a crucial role in fostering positive mental health among LGBTQIA++ adolescents.^[81,82] This underscores the necessity for a shift in perspective from exclusively addressing mental health challenges to actively promoting positive mental health within the LGBTQIA++ community. Consequently, strategies that emphasise resilience, selfempowerment, and overall well-being may need to be either given more prominence or expanded upon. An example of such an approach is AFFIRM, which centres on identity affirmation and incorporates cognitive and behavioural growth. This approach encompasses elements like self-awareness, risk identification, mood regulation, and the recognition of strengths and coping mechanisms.^[62]

• Fostering LGBTQIA++ inclusive environments

Despite several victories, the LGBTQIA++ community encounters unfriendly atmospheres in educational institutions and workplaces, enduring persistent discrimination rooted in the heteronormative cultures prevalent in these environments.^[83,84] Additionally, many individuals hesitate to avail themselves of medical health services.^[63]This underscores the imperative to intensify efforts in fostering inclusive environments across diverse sectors, encompassing workplaces, educational institutions, and healthcare settings.

Conclusion

This paper examines same-sex marriage in India, emphasising its legal, societal, and emotional aspects for the LGBTQIA++ community. Legal recognition of same-sex marriage positively influences mental well-being, correlating with enhanced overall health, decreased stigma, and improved societal acceptance. It also discusses how lack of recognition exacerbates mental health challenges due to social stigma and discrimination. The paper also discusses the significance of culturally competent mental health services and how adopting a holistic approach to LGBTQIA++ rights with interventions like educational initiatives showing positive outcomes can address intersectionality. Furthermore, it reflects on the cruciality of legal frameworks aligning with constitutional principles, creating inclusive spaces, fostering peer networks, and implementing crisis interventions as essential strategies. The legal recognition of same-sex marriage in India could substantially enhance mental health outcomes for the LGBTQIA++ community by reducing stigma, promoting acceptance, and fostering resilience, as highlighted in recent literature addressing mental health and LGBTQIA++ rights in India.^{[85}

In conclusion, the findings of this review will be beneficial to society as it provides insights for informed policymaking, legal reforms, and societal acceptance. The emphasis on culturally competent mental health services highlights the need for tailored approaches, potentially improving healthcare practices. Recommendations, such as creating inclusive spaces and fostering peer networks, offer actionable strategies for enhancing mental well-being. By recognising and addressing unique challenges, the paper contributes to building a more inclusive, supportive, and mentally healthy future for the LGBTQIA++ community in India, making it a valuable resource for policymakers, healthcare professionals, and the public.

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