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Home Office

# **Country Policy and Information Note**

## **India: Sexual orientation and gender identity and/or expression**

**Version 5.0**

**August 2023**

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# Executive summary

Updated on 17 July 2023

India is a designated state under section 94 of the Nationality, Immigration and Asylum Act 2002 meaning that there is in general in that state or part of it no serious risk of persecution of persons entitled to reside in that state or part of it.

In general, persons identifying as LGBTI are not subject to treatment by the state or non-state actors that is sufficiently serious, by its nature or repetition, to amount to persecution or serious harm.

In the Country Guidance (CG) case [MD \(same-sex oriented males: risk\) India CG \[2014\] UKUT 65 \(IAC\)](#), the Upper Tribunal (UT) held that:

‘Some persons who are, or are perceived to be, same-sex oriented males suffer ill treatment, extortion, harassment and discrimination from the police and the general populace; however, the prevalence of such incidents is not such, even when taken cumulatively, that there can be said in general to be a real risk of an openly same-sex oriented male suffering treatment which is persecutory or which would otherwise reach the threshold required for protection under the Refugee Convention, Article 15(b) of the Qualification Directive, or Article 3 ECHR.’

In the CG case [AR and NH \(lesbians\) India CG \[2016\] UKUT 00066 \(IAC\)](#), the UT held that all the country guidance given in [MD](#) applies equally to lesbians.

India has made significant steps in advancing LGBTI rights in recent years, including the legal recognition of a ‘third gender’ for trans and intersex persons, the right to self-perceive gender identity, and the decriminalisation of Section 377 of the India Penal Code (IPC), which outlawed same-sex sexual activity.

Since the decriminalisation of Section 377 of the IPC in 2018, tolerance and acceptance of LGBTI people has improved, particularly in large cities. However, anti-LGBTI attitudes persist and some sources indicate that societal discrimination and violence against LGBTI persons is widespread, particularly in rural areas.

India is a diverse, multi-ethnic, multi-lingual society with a population of approximately 1.4 billion comprising of 36 states and ‘union territories’. India is party to most major international instruments on human rights and its constitution and legislature protect civil, political and economic rights. There are a set of laws, including the penal code, to punish criminal behaviour (see the Country Policy and Information Notes, [India: Actors of Protection](#) and [India: Internal relocation](#)).

In general, the state is both willing and able to offer sufficient protection from non-state actors, including ‘rogue’ state actors. Internal relocation is also likely to be reasonable, particularly to urban areas and large cities.

Where a claim based on a person’s sexual orientation and gender identity and/or expression is refused, it is likely to be certifiable as ‘clearly unfounded’ under section 94 of the Nationality, Immigration and Asylum Act 2002.

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# Assessment

## About the assessment

This section considers the evidence relevant to this note – that is information in the [country information](#), refugee/human rights laws and policies, and applicable caselaw – and provides an assessment of whether, **in general**:

- a person is reasonably likely to face a real risk of persecution/serious harm by state and/or non-state actors because of the person's actual or perceived sexual orientation and/or gender identity or expression
- a person is able to obtain protection from the state (or quasi state bodies)
- a person is reasonably able to relocate within a country or territory
- a claim is likely to justify granting asylum, humanitarian protection or other form of leave, and
- if a claim is refused, it is likely or unlikely to be certifiable as 'clearly unfounded' under [section 94 of the Nationality, Immigration and Asylum Act 2002](#).

Decision makers **must**, however, still consider all claims on an individual basis, taking into account each case's specific facts.

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## 1. Material facts, credibility and other checks/referrals

### 1.1 Credibility

- 1.1.1 For information on assessing credibility, see the instruction on [Assessing Credibility and Refugee Status](#).
- 1.1.2 Decision makers must also check if there has been a previous application for a UK visa or another form of leave. Asylum applications matched to visas should be investigated prior to the asylum interview (see the [Asylum Instruction on Visa Matches, Asylum Claims from UK Visa Applicants](#)).
- 1.1.3 In cases where there are doubts surrounding a person's claimed place of origin, decision makers should also consider language analysis testing, where available (see the [Asylum Instruction on Language Analysis](#)).

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#### **Official – sensitive: Not for disclosure – Start of section**

- 1.1.4 The information in this section has been removed as it is restricted for internal Home Office use only.
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### 1.2 Exclusion

- 1.2.1 Decision makers must consider whether there are serious reasons for considering whether one (or more) of the exclusion clauses is applicable.

Each case must be considered on its individual facts and merits.

- 1.2.2 If the person is excluded from the Refugee Convention, they will also be excluded from a grant of humanitarian protection (which has a wider range of exclusions than refugee status).
- 1.2.3 For guidance on exclusion and restricted leave, see the Asylum Instruction on [Exclusion under Articles 1F and 33\(2\) of the Refugee Convention](#), [Humanitarian Protection](#) and the instruction on [Restricted Leave](#).

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## 2. Convention reason(s)

- 2.1.1 Actual or imputed particular social group (PSG).
- 2.1.2 LGBTI persons form a PSG in India within the meaning of the Refugee Convention because they share an innate characteristic or a common background that cannot be changed, or share a characteristic or belief that is so fundamental to identity or conscience that a person should not be forced to renounce it and have a distinct identity in India because the group is perceived as being different by the surrounding society.
- 2.1.3 Although LGBTI persons form a PSG, establishing such membership is not sufficient to be recognised as a refugee. The question to be addressed is whether the person has a well-founded fear of persecution on account of their actual or imputed convention reason.
- 2.1.4 For further guidance on the 5 Refugee Convention grounds see the Asylum Instruction, [Assessing Credibility and Refugee Status](#).

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## 3. Risk

### 3.1 Risk from the state: overview

- 3.1.1 In general, LGBTI persons are not subject to treatment by the state that is sufficiently serious, by its nature or repetition, to amount to persecution or serious harm. The onus is on the person to demonstrate otherwise.
- 3.1.2 India has made significant steps in advancing LGBTI rights in recent years, including the legal recognition of a ‘third gender’ for trans and intersex persons in 2014, the right to self-perceive gender identity in 2019, and the decriminalisation of Section 377 of the India Penal Code in 2018, which outlawed same-sex sexual activity (see [Legal context](#)). Legal protections for LGBTI persons have continued to strengthen since the promulgation of the country guidance cases of [MD \(same-sex oriented males: risk\) India CG \[2014\] UKUT 65 \(IAC\)](#) and [AR and NH \(lesbians\) India CG \[2016\] UKUT](#)

[00066 \(IAC\)](#) (see [Gay and bisexual men](#) and [Lesbians and bisexual women](#)).

- 3.1.3 In August 2022, the Supreme Court of India widened the definition of ‘family’ to include same-sex couples, expanding the scope for recognising same-sex marriages, civil unions and allowing unmarried couples to adopt or have children through surrogacy. A petition to the Supreme Court demanding equal marriage rights for same-sex couples was heard in April and May 2023. The central government opposed the petition, arguing that it was not comparable with the Indian family unit concept of a husband, a wife, and children. The judgment was pending at the time of publishing this CPIN (see [Legal context](#) and [Statements by government and public officials](#)).
- 3.1.4 Some sources state that LGBTI persons face discrimination, harassment and violence by the police though evidence of the extent of such treatment is limited (see [State treatment](#)).

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## 3.2 Risk from the state to gay and bisexual men

- 3.2.1 In the Country Guidance (CG) case [MD \(same-sex oriented males: risk\) India CG \[2014\] UKUT 65 \(IAC\)](#), heard on 24 February 2012 and 10 October 2013 and promulgated 12 February 2014, the Upper Tribunal (UT) held that ‘Section 377 of the Indian Penal Code 1860 criminalises same-sex sexual activity’ (paragraph 174a), although, ‘Prosecutions for consensual sexual acts between males under section 377 IPC are, and always have been, extremely rare’ (paragraph 174b).
- 3.2.2 In [MD](#) the UT further held that:
- ‘Some persons who are, or are perceived to be, same-sex oriented males suffer ill treatment, extortion, harassment and discrimination from the police...; however, the prevalence of such incidents is not such, even when taken cumulatively, that there can be said in general to be a real risk of an openly same-sex oriented male suffering treatment which is persecutory or which would otherwise reach the threshold required for protection under the Refugee Convention, Article 15(b) of the Qualification Directive, or Article 3 ECHR’ (paragraph 174c).
- 3.2.3 Since the promulgation of [MD](#), legal protections for same-sex couples have improved. On 6 September 2018, the Supreme Court of India ruled that consensual same-sex sexual acts between adults, conducted in private, are no longer an offence under Section 377 IPC (see [Decriminalisation of Section 377 of the Indian Penal Code \(IPC\)](#)).
- 3.2.4 The country evidence available since [MD](#) continues to indicate that in general, gay and bisexual men are not subject to treatment by the state that is sufficiently serious, by its nature or repetition, to amount to persecution or serious harm (see State treatment: [Overview](#) and [Gay and bisexual men](#)). The onus is on the person to demonstrate otherwise.
- 3.2.5 For further guidance on assessing risk, see the Asylum Instructions on [Assessing Credibility and Refugee Status](#), [Sexual identity issues in the asylum claim](#) and [Gender identity issues in the asylum claim](#).

### 3.3 Risk from the state to lesbians and bisexual women

- 3.3.1 In the CG case [AR and NH \(lesbians\) India CG \[2016\] UKUT 00066 \(IAC\)](#), heard on 23 June 2015 and promulgated 1 February 2016, the UT held that all the country guidance given in [MD](#) applies equally to lesbians (para 78(7)).
- 3.3.2 The UT in [AR and NH](#) found that ‘... the evidence does not support a finding of endemic police complicity in harassment or other ill-treatment of lesbian couples or individuals’ (paragraph 76).
- 3.3.3 The evidence available since [AR and NH](#) continues to indicate that in general, lesbians are not subject to treatment by the state that is sufficiently serious, by its nature or repetition, to amount to persecution or serious harm (see State treatment – [Lesbians](#)). The onus is on the person to demonstrate otherwise. Although the UT in [AR and NH](#) did not specifically consider the situation of bisexual women, the same findings are likely to apply.
- 3.3.4 See the Country Policy and Information Note, [India: Women fearing gender-based violence](#) for information on state attitudes towards women in general.
- 3.3.5 For further guidance on assessing risk, see the Asylum Instructions on [Assessing Credibility and Refugee Status](#), [Sexual identity issues in the asylum claim](#) and [Gender identity issues in the asylum claim](#).

### 3.4 Risk from the state to trans and intersex persons

- 3.4.1 In general, trans and intersex persons are not subject to treatment by the state that is sufficiently serious, by its nature or repetition, to amount to persecution or serious harm. The onus is on the person to demonstrate otherwise.
- 3.4.2 In April 2014, the Supreme Court of India directed the central government and all state governments to legally recognise trans persons (including hijras and intersex persons) as a third gender and to implement specific measures to safeguard their Constitutional rights. These included the provision of educational and public employment opportunities, accessible medical care, the extension of social welfare schemes and, notably, a change in the attitudes of public officials towards trans persons and the need for officials to influence public opinion positively. The Court directed that state-issued identity papers – including birth certificates, passports, electoral records and other documents – reflect the person’s self-defined gender identity (see Legal context – [Trans rights](#)).
- 3.4.3 Subsequently, on 5 December 2019, the Transgender Persons (Protection of Rights) Act, 2019 (TPPRA) was passed. The Act creates obligations for welfare, education, social protection and health measures, as well as prevention against employment-based discrimination of trans persons (see Legal context – [Trans rights](#)).
- 3.4.4 For further guidance on assessing risk, see the Asylum Instructions on [Assessing Credibility and Refugee Status](#), [Sexual identity issues in the asylum claim](#) and [Gender identity issues in the asylum claim](#).

### 3.5 Risk from non-state actors: overview

- 3.5.1 In general, LGBTI persons are not subject to treatment by non-state actors that is sufficiently serious, by its nature or repetition, to amount to persecution or serious harm. The onus is on the person to demonstrate otherwise.
- 3.5.2 India is a diverse society which upholds traditional values, including the concept of heterosexual marriage and having children, though the extent to which this applies depends on location, culture and religion. Since the decriminalisation of Section 377 of the IPC in 2018, tolerance and acceptance of LGBTI people has improved, particularly in large cities and among more educated and affluent populations. However, anti-LGBTI attitudes persist and some sources indicate that societal discrimination and violence against LGBTI persons is widespread, particularly in rural areas, although evidence of this is limited (see [Societal attitudes](#) and [Societal treatment](#)). However, the broad definition of LGBTI used in various sources may not refer to all groups covered by this concept, but only to some.
- 3.5.3 For further guidance on assessing risk, see the Asylum Instructions on [Assessing Credibility and Refugee Status](#), [Sexual identity issues in the asylum claim](#) and [Gender identity issues in the asylum claim](#).

### 3.6 Risk from non-state actors to gay and bisexual men

- 3.6.1 In the CG case of [MD](#) the UT held that:

‘Some persons who are, or are perceived to be, same-sex oriented males suffer ill treatment, extortion, harassment and discrimination from... the general populace; however, the prevalence of such incidents is not such, even when taken cumulatively, that there can be said in general to be a real risk of an openly same-sex oriented male suffering treatment which is persecutory or which would otherwise reach the threshold required for protection under the Refugee Convention, Article 15(b) of the Qualification Directive, or Article 3 ECHR’ (paragraph 174c).
- 3.6.2 The UT also held that ‘Same-sex orientation is seen socially, and within the close familial context, as being unacceptable in India. Circumstances for same-sex oriented males are improving, but progress is slow’ (para 174d).
- 3.6.3 The country evidence since [MD](#) continues to indicate that in general, gay and bisexual men are not subject to treatment by non-state actors that is sufficiently serious, by its nature or repetition, to amount to persecution or serious harm (see Societal treatment: [Overview](#) and [Gay and bisexual men](#)). The onus is on the person to demonstrate otherwise.
- 3.6.4 For further guidance on assessing risk, see the Asylum Instructions on [Assessing Credibility and Refugee Status](#), [Sexual identity issues in the asylum claim](#) and [Gender identity issues in the asylum claim](#).

### 3.7 Risk from non-state actors to lesbians and bisexual women

- 3.7.1 The UT held that the country guidance in [MD](#) applies equally to lesbians in terms of treatment by the general populace. In [AR and NH](#) the UT looked more closely at familial treatment of lesbians and held that:
- ‘A risk of persecution or serious harm for a lesbian woman in India, where it exists, arises from her family members, and the extent of such risk, and whether it extends beyond the home area, is a question of fact in each case.
- ‘The risk of persecution or serious harm is higher for uneducated lower-class lesbian women in rural areas, who remain under the control of their family members and may not be permitted to leave the home to continue meeting their lesbian partners.
- ‘Where family members are hostile to a lesbian woman’s sexuality, they may reject her completely and sometimes formally renounce her as a member of that family...’ (paragraphs 78(8) to 78(10)).
- 3.7.2 The country evidence since [AR and NH](#) continues to indicate that, in general, lesbians are not subject to treatment by non-state actors that is sufficiently serious, by its nature or repetition, to amount to persecution or serious harm. Although the UT in [AR and NH](#) did not specifically consider the situation of bisexual women, the same findings are likely to apply (see [Societal norms and views](#) and Societal treatment: [Overview](#) and [Lesbians and bisexual women](#)). The onus is on the person to demonstrate otherwise.
- 3.7.3 See the Country Policy and Information Note, [India: Women fearing gender-based violence](#) for information on societal treatment and attitudes towards women in general.
- 3.7.4 For further guidance on assessing risk, see the Asylum Instructions on [Assessing Credibility and Refugee Status](#), [Sexual identity issues in the asylum claim](#) and [Gender identity issues in the asylum claim](#).

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### 3.8 Risk from non-state actors to trans and intersex persons

- 3.8.1 Information on the societal treatment of trans (including hijras) and intersex persons is limited, although stigma, discrimination and ill treatment persists (see Societal treatment – [Hijras and the wider transgender community](#) and [Intersex persons](#)).
- 3.8.2 However, in general, trans and intersex persons are not subject to treatment by non-state actors that is sufficiently serious, by its nature or repetition, to amount to persecution or serious harm. The onus is on the person to demonstrate otherwise.
- 3.8.3 For further guidance on assessing risk, see the Asylum Instructions on [Assessing Credibility and Refugee Status](#), [Sexual identity issues in the asylum claim](#) and [Gender identity issues in the asylum claim](#).

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## 4. Protection

- 4.1.1 In general, persons are not at real risk of persecution from the state, therefore they will not need to seek protection from it.
- 4.1.2 In general, the state is both willing and able to offer sufficient protection from

non-state actors, including ‘rogue’ state actors. The onus is on the person to demonstrate otherwise.

- 4.1.3 In [MD](#), the UT found evidence that ‘some Indian state authorities, with the assistance of NGO’s, have offered the police education and sensitivity training in relation to their dealings with LGBT persons and that incidents of police harassment of LGBT persons are, although still occurring, in decline.’ (paragraph 117). More recent information continued to indicate that, with the help of NGOs, some state police forces have undertaken sensitisation and awareness training although it is reportedly ad hoc and dependent on the willingness of the state police to cooperate. There is no central directive for such training to be delivered, although in Delhi it is reported to be mandatory (see [Police training and protection policies](#)).
- 4.1.4 In February 2022, the state of Tamil Nadu enacted specific legislation banning police harassment of LGBTI people. There have been cases where courts have ordered that the police provide protection to same-sex couples who face threats and harassment from their families (see [Police training and protection policies](#) and State treatment – [Gay men](#) and [Lesbians](#)).
- 4.1.5 Various NGOs advocate for LGBTI rights and, whilst they cannot provide protection to LGBTI individuals in lieu of the state, they may be able to assist the person in availing themselves of the protection of the state by providing support and advice (see [NGOs and support](#)).
- 4.1.6 For general information on state protection and in respect of women, see the Country Policy and Information Notes on [India: Actors of protection](#) and [India: Women fearing gender-based violence](#) respectively.
- 4.1.7 For further guidance on assessing state protection, see the Asylum Instruction on [Assessing Credibility and Refugee Status](#), and the Asylum Instructions on [Sexual identity issues in the asylum claim](#) and [Gender identity issues in the asylum claim](#).

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## 5. Internal relocation

- 5.1.1 In general, persons are not at real risk of persecution from the state, therefore they will not need to internally relocate.
- 5.1.2 Where the person has a well-founded fear of persecution from non-state actors, including ‘rogue’ state actors, internal relocation is likely to be reasonable, particularly to urban areas and large cities such as (but not limited to) Delhi, Mumbai and Chennai, depending on the facts of the case.
- 5.1.3 The UT held in [MD](#) that:

‘It would not, in general, be unreasonable or unduly harsh for an open same-sex oriented male (or a person who is perceived to be such), who is able to demonstrate a real risk in his home area because of his particular circumstances, to relocate internally to a major city within India.

‘India has a large, robust and accessible LGBTI activist and support network, mainly to be found in the large cities’ (paragraphs 174e and 174f).
- 5.1.4 In [AR and NH](#) the UT held that, in cases where a family are hostile to a

lesbian's sexuality, leading them to reject and formally renounce her:

'... whether relocation to a city is unduly harsh will be a question of fact, depending on the ability of such a lesbian woman to survive economically away from her family and social networks.

'If a lesbian woman's family wishes to pursue and harm her in the place of internal relocation, their ability to do so will depend on the reach of the family network, how persistent they are, and how influential. The evidence indicates that there is normally sufficient state protection for women whose families seek to harm them in their place of internal relocation.

'In general, where there is a risk of persecution or serious harm in a lesbian woman's home area, for educated, and therefore "middle class" women, an internal relocation option is available. They are likely to be able to relocate to one of the major cities in India and are likely to be able to find employment and support themselves, albeit with difficulty, and to live together openly, should they choose to do so. In general, such relocation will not be unduly harsh' (paragraphs 78(10) to 78(12)).

- 5.1.5 For guidance on internal relocation for women in general, and on geography and demography, socio-economic indicators, freedom of movement and factors which may be relevant to an individual's particular circumstances, see the Country Policy and Information Notes, [India: Women fearing gender-based violence](#) and [India: Internal relocation](#) respectively.
- 5.1.6 For further guidance on considering internal relocation and factors to be taken into account see the Asylum Instruction on [Assessing Credibility and Refugee Status](#), and the Asylum Instructions on [Sexual identity issues in the asylum claim](#) and [Gender identity issues in the asylum claim](#).

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## **6. Certification**

- 6.1.1 Where a claim is refused, it must be considered for certification under section 94 of the Nationality, Immigration and Asylum Act 2002 as India is listed as a designated state.
- 6.1.2 Where a claim based on a person's sexual orientation and gender identity and/or expression is refused, it is likely to be certifiable as 'clearly unfounded' as, in general, the state is willing and able to provide effective protection and/or internal relocation is likely to be reasonable.
- 6.1.3 For further guidance on certification, see [Certification of Protection and Human Rights claims under section 94 of the Nationality, Immigration and Asylum Act 2002 \(clearly unfounded claims\)](#).

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# Country information

## About the country information

This contains publicly available or disclosable country of origin information (COI) which has been gathered, collated and analysed in line with the [research methodology](#). It provides the evidence base for the assessment.

The structure and content of this section follow a [terms of reference](#) which sets out the general and specific topics relevant to the scope of this note.

Decision makers must use relevant country information as the evidential basis for decisions.

It should be noted that, according to the European Union Agency for Asylum (EUAA) [Research Guide on LGBTIQ](#), dated February 2023, the broad definition of LGBT/LGBTI/LGBTIQ (lesbian, gay, bisexual, trans, intersex and queer persons) used in various sources may not refer to all groups covered in this concept but only to some categories, most often gay men<sup>1</sup>.

For general information on India including history, geography and demography and political context see the Country Background Note: India.

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Section updated: 17 July 2023

## 7. Terminology

### 7.1 Trans people

- 7.1.1 Tiritiya Prakriti (third sex<sup>2</sup>) was used in 'ancient India' to refer to people who were characterised by mixed male/female characteristics and considered neither one nor the other, including gay males and lesbians<sup>3</sup>.
- 7.1.2 Hijras, Aravanis and Alis are terms used to refer to trans people<sup>4</sup>. With specific regard to hijras, they are '... biological males who reject their masculine identity and identify either as women, or "not-men", or "in-between man and woman" or "neither man nor woman"'.<sup>5</sup> Not all trans women identify as hijra. In a survey on conversion therapy by the Asia Pacific Transgender Network (APTAN), of the 15 trans women interviewed, only one identified as hijra<sup>6</sup>.
- 7.1.3 Thirunangai, Kinnar, Shiv-Shakti, Jogappa, Sakhi, Jogta/Jogti, and Aradhi are regional terms used to refer to trans people<sup>7 8</sup>.

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<sup>1</sup> EUAA, '[Country of Origin Information Research Guide on LGBTIQ](#)' (pages 17, 18), February 2023

<sup>2</sup> Galva108, '[Tiritiya-Prakriti: People of the Third Sex](#)', 13 May 2014

<sup>3</sup> Law Insider, '[LGBTQ Rights in India and Acknowledgment](#)', 23 August 2020

<sup>4</sup> EPW Editorial, '[Gender Rights](#)', 15 July 2008

<sup>5</sup> Scroll.In '[Hijra, kothi, aravani: a quick guide to transgender terminology](#)' 17 April 2014

<sup>6</sup> APTN, '[Conversion therapy practices in India](#)' (page 6), 31 March 2021

<sup>7</sup> Development News, '[In India, Nothing About Being a Trans Person Is Easy](#)' no date

<sup>8</sup> Scroll.In '[Hijra, kothi, aravani: a quick guide to transgender terminology](#)' 17 April 2014

## 7.2 Hijras

- 7.2.1 In the culture of the Indian sub-continent, hijras are regarded as a ‘third gender’ and most hijras see themselves as ‘neither man nor woman’<sup>9</sup>. The hijra role has been described as ‘a magnet that attracts people with many different kinds of cross-gender identities, attributes, and behaviours – people whom we in the West would differentiate as eunuchs, homosexuals, transsexuals, hermaphrodites, and transvestites’<sup>10</sup>. Hijras in India identify as a community of its own, with their own set of traditions, occupations and even languages<sup>11</sup>.
- 7.2.2 Although most hijras wear women’s clothing and have adopted female mannerisms, they generally do not attempt to pass as women<sup>12</sup>. Becoming a hijra involves a process of initiation into a hijra ‘family’, or small group, under a guru teacher<sup>13 14</sup>. George Arney wrote, in a BBC News article of 30 November 2000, that Hijras have been part of the South Asian landscape for thousands of years<sup>15</sup>.

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## 8. Legal context

### 8.1 Constitution and statutory laws

- 8.1.1 The Indian Constitution does not directly refer to sexual orientation or gender identity in articles defining the rights of citizens. The Constitution provides:
- ‘Article 14: The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.
- ‘Article 15(1): The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth...
- ‘Article 16(1): There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.’<sup>16</sup>
- 8.1.2 ‘Sex’, as defined in Articles 15 and 16 of the Constitution, was interpreted by the Supreme Court in the case of [National Legal Services Authority v. Union of India and others](#) (NALSA), 15 April 2014, to include gender identity<sup>17</sup>.
- 8.1.3 The International Lesbian, Gay, Bisexual Trans and Intersex Association (ILGA) noted in its State-Sponsored Homophobia report for 2020 that ‘The Anti-Discrimination and Equality Bill ([Bill No. 289 of 2016](#)) was introduced in the Indian Parliament in March of 2017. The Bill included sexual orientation as a “protected characteristic” of citizens (Article 3(i)) and included sexual orientation within the defined term “disadvantaged group” (Article 5(vi)). However, the Bill lapsed before it could be voted by the houses of the

<sup>9</sup> Nanda. S., ‘[Neither Man nor Woman...](#)’ (Chapter 2), 1999

<sup>10</sup> Nanda. S., ‘[Neither Man nor Woman...](#)’ (Chapter 2), 1999

<sup>11</sup> Scroll.In ‘[Hijra, kothi, aravani: a quick guide to transgender terminology](#)’ 17 April 2014

<sup>12</sup> Nanda. S., ‘[Neither Man nor Woman...](#)’ (Chapter 2), 1999

<sup>13</sup> Nanda. S., ‘[Neither Man nor Woman...](#)’ (Chapter 2), 1999

<sup>14</sup> BBC News, ‘[Blurring the gender lines in Bangladesh](#)’, 30 November 2000

<sup>15</sup> BBC News, ‘[Blurring the gender lines in Bangladesh](#)’, 30 November 2000

<sup>16</sup> ‘[Constitution of India](#)’, (Part 3: Fundamental Rights), 1950

<sup>17</sup> Supreme Court India, ‘[Writ Petition \(Civil\) no 400 of 2012](#)’, (paragraph 59), 15 April 2014

## 8.2 Trans rights

- 8.2.1 The Centre for Law and Policy Research (CLPR) summarised the Supreme Court of India’s declaration in the April 2014 case of [NALSA](#)<sup>19</sup>, in which the Court:
- ‘... legally recognised “third gender”/transgender persons and recognised that third gender persons were entitled to fundamental rights under the Constitution and under International law. Further, it directed state governments to develop mechanisms to realise the rights of “third gender”/transgender persons. The Court upheld the right of all persons to self-identify their gender. Further, it declared that hijras and eunuchs can legally identify as “third gender”.’<sup>20</sup>
- 8.2.2 With specific regard to hijras, the Supreme Court of India ruled that they would be recognised on official documents under a ‘third gender’ category<sup>21</sup>. It was also ruled that quotas and reservation in education and employment be put in place to ensure hijras had access to jobs and educational establishments where they had previously faced discrimination on the basis of their appearance<sup>22</sup>.
- 8.2.3 On 5 December 2019, the Indian Government passed the [Transgender Persons \(Protection of Rights\) Act, 2019](#) (TPPRA)<sup>23</sup>. The Act created obligations for welfare, education, social protection, and health measures, as well as prevention against employment-based discrimination for trans (including hijras) and intersex persons. It also encouraged the provision of a National Council for Transgender persons, which was established in August 2020. Any offences committed under the Act can attract fines and/or a punishment of between six months and two years’ imprisonment<sup>24</sup>.
- 8.2.4 Under the TPPRA, a trans person may apply for a certificate of identity from the District Magistrate, indicating their gender as ‘transgender’. A revised certificate may be obtained to change their gender to either male or female only if the person undergoes sex reassignment surgery<sup>25 26</sup>.
- 8.2.5 The Government of India stated in its report to the UN Human Rights Commission (UNHRC) on the implementation of the International Covenant on Civil and Political Rights, dated May 2022, that the TPPRA, along with the [Transgender Persons \(Protection of Rights\) Rules 2020](#), allowed ‘... the right to self-perceived gender identity and mandate issuance of the certificate of identity solely on the basis of affidavit submitted by the person “without any medical examination.” To facilitate application for certificate and identity card

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<sup>18</sup> ILGA, ‘[State-Sponsored Homophobia 2020](#)’ (page 205), December 2020

<sup>19</sup> Supreme Court India, ‘[Writ Petition \(Civil\) no 400 of 2012](#)’, (paragraph 129), 15 April 2014

<sup>20</sup> CLPR, ‘[National Legal Services Authority \(NALSA\) vs. Union of India](#)’, 2014

<sup>21</sup> The Kootneeti, ‘[Hijras disposition during British Colonization](#)’ 20 December 2020

<sup>22</sup> The Kootneeti, ‘[Hijras disposition during British Colonization](#)’ 20 December 2020

<sup>23</sup> India Code, ‘[Transgender Persons \(Protection of Rights\) Act, 2019](#)’, 5 December 2019

<sup>24</sup> DFAT, ‘[Country Information Report: India](#)’ (paragraph 3.166, page 48), 10 December 2020

<sup>25</sup> India Code, ‘[Transgender Persons \(Protection of Rights\) Act...](#)’ (section 6 and 7), 5 December 2019

<sup>26</sup> CLPR, ‘[Transgender Persons \(Protection of Rights\) Act, 2019](#)’, 2019

by transgender persons in a digital mode, the National Portal for Transgender Persons was made operational in November 2020, which offers an end-to-end online facility for this purpose.<sup>27</sup>

- 8.2.6 The New Internationalist reported on 8 March 2023 that it can take months to be issued with trans ID, which was ‘Often... due to the office of the District Magistrate, responsible for its issue, not following the procedure laid out in the TPPRA Rules and demanding extra proof of identity.’<sup>28</sup> The report added that, according to the National Portal For Transgender Persons (NPTP), ‘... only 11,159 transgender IDs have been issued as of 7 March 2023 – a tiny percentage of the total trans population which is likely to exceed the 1.9 million estimated in a 2011 survey, and short of the half a million estimated in the 2011 Census.’<sup>29</sup>
- 8.2.7 The TPPRA has been criticised widely by various LGBTI groups including the transgender community, who have argued that self-declared identity alone should form the basis to the rights, benefits and entitlements outlined in the Act, as opposed to it being conditional on a certificate of recognition. In January 2020, human rights activist Swati Bidhan filed a constitutional challenge against the Act in the Supreme Court<sup>30</sup>. The case remained pending as of 26 May 2023<sup>31</sup>.
- 8.2.8 Varta, a charitable trust that ‘promotes dialogue and understanding on gender and sexuality as issues intimate and integral to human development in India’<sup>32</sup>, reported on marriage equality and stated that:
- ‘... in 2019, the Madras High Court in [Arunkumar & Another Vs. Inspector General of Registration & Others](#), while relying on NALSA, ruled that the term “bride” under the Hindu Marriage Act, 1955 (HMA) includes transgender women. Since then, there have been a few instances where transgender persons in states like Tamil Nadu and Karnataka have married under the HMA and the Special Marriage Act, 1954 (SMA). However, even these queer marriages were permissible only because the partners were of opposite genders.’<sup>33</sup>

See also [Same-sex unions, marriage and adoption rights](#).

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### 8.3 Decriminalisation of Section 377 of the Indian Penal Code (IPC)

- 8.3.1 In September 2018, the Supreme Court (SC) of India declared, in [Navtej Singh Johar v. Union of India](#), that Section 377 of the [IPC](#), in so far as it criminalised consensual sexual acts between adults of the same sex, was unconstitutional<sup>34</sup>. The SC held that members of the LGBTI community were entitled to the same constitutional rights, freedoms and protections as all

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<sup>27</sup> UNHRC, ‘[Fourth periodic report submitted by India under article 40...](#)’ (paragraph 29), 31 May 2022

<sup>28</sup> New Internationalist, ‘[Protecting trans rights in India](#)’, 8 March 2023

<sup>29</sup> New Internationalist, ‘[Protecting trans rights in India](#)’, 8 March 2023

<sup>30</sup> Hindustan Times, ‘[Supreme Court notice to Centre on plea against...](#)’, 28 January 2020

<sup>31</sup> Supreme Court of India, ‘[Case Status](#)’, (Writ Petition Civil 51/2020), accessed 26 May 2023

<sup>32</sup> Varta, ‘[About Varta Trust](#)’, no date

<sup>33</sup> Varta, ‘[Marriage equality – petitions, pushback and politics](#)’, 26 April 2023

<sup>34</sup> Supreme Court India, ‘[Writ Petition \(Criminal\) No. 76 of 2016](#)’ (paragraph 156), 6 September 2018

other citizens<sup>35</sup>. Section 377 was thereafter decriminalised, allowing consensual same-sex sexual acts in private settings<sup>36</sup>.

- 8.3.2 The Times of India noted that the SC ruling ‘...does not automatically get extended to the state of Jammu and Kashmir, governed by its own Constitution and criminal law – Ranbir Penal Code (RPC).’<sup>37</sup> In contrast, some jurists and lawyers claimed that the SC ruling did apply to Jammu and Kashmir (JK)<sup>38 39</sup>. Furthermore, on 5 August 2019, Article 370 of the Constitution of India, which gave autonomy to JK, was repealed and the RPC removed. Consequently, the territorial jurisdiction of the IPC extends to the territory of JK and thus the decriminalisation of Section 377 takes precedence<sup>40</sup>.

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## 8.4 Same-sex unions, marriage and adoption rights

- 8.4.1 In August 2022, the Supreme Court widened the definition of ‘family’ to include same-sex couples as well as other unmarried partners and single parents. The Court noted that ‘Such atypical manifestations of the family unit are equally deserving not only of protection under law but also of the benefits available under social welfare legislation...’<sup>41</sup>
- 8.4.2 There is no provision in Indian law for civil partnerships or for the recognition of same-sex marriages<sup>42</sup>. In November 2022, a petition was filed before the Supreme Court of India to allow legal recognition of marriages between same-sex couples under the Special Marriage Act, 1954<sup>43</sup>. The case was heard before a 5-Judge Constitutional Bench at the Supreme Court over 10 days, commencing on 18 April 2023 and concluding on 11 May 2023<sup>44 45</sup>. Judgement was pending at the time of writing (see also [Statements by government and public officials](#)).
- 8.4.3 Same-sex couples are generally not permitted to adopt children, with regulation 5(3) of the [Adoption Regulation Act 2017](#) citing that a couple are only eligible to adopt a child following 2 years of a stable, marital relationship<sup>46</sup>. However, according to Tara Narula, advocate and legal fellow at ‘HAQ: Centre for Child Rights’, “... an LGBTQ person can apply to CARA [Central Adoption Review Authority] to adopt as a single parent under the regime of the Juvenile Justice Act, 2015 and can also enter into an adoption deed under the Hindu Adoption and Maintenance Act,”...’<sup>47</sup>
- 8.4.4 Same-sex couples are not permitted to parent children through surrogacy.

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<sup>35</sup> Supreme Court India, ‘[Writ Petition \(Criminal\) No. 76 of 2016](#)’ (paragraph 156), 6 September 2018

<sup>36</sup> ILGA, ‘[State-Sponsored Homophobia 2020](#)’ (page 101), December 2020

<sup>37</sup> The Times of India, ‘[SC decriminalises gay sex...](#)’, 8 September 2018

<sup>38</sup> Outlook India, ‘[Supreme Court Judgment On Section 377 Applicable To J&K...](#)’, 7 September 2018

<sup>39</sup> Scroll.In, ‘[Jammu and Kashmir: Despite confusion, legal experts believe SC...](#)’, 10 September 2018

<sup>40</sup> IJLSI, ‘[A New Era for Kashmir: The Effects of Repealing the Ranbir...](#)’ (page 257 to 258), 2020

<sup>41</sup> The Tribune, ‘[Supreme Court expands definition of family...](#)’, 29 August 2022

<sup>42</sup> ILGA, ‘[State-Sponsored Homophobia 2020](#)’ (page 327), December 2020

<sup>43</sup> Supreme Court Observer, ‘[Plea for Marriage Equality](#)’, last updated 9 May 2023

<sup>44</sup> Supreme Court Observer, ‘[Plea for Marriage Equality](#)’, last updated 9 May 2023

<sup>45</sup> Supreme Court Observer, ‘[Plea for Marriage Equality: Argument Matrix](#)’, 15 May 2023

<sup>46</sup> WCD, ‘[Adoption Regulations 2017](#)’ (chapter 1, page 103) 4 January 2017

<sup>47</sup> The Economic Times, ‘[LGBTQ: Parliament panel recommendation on adoption...](#)’, 9 August 2022

The [Surrogacy \(Regulation\) Bill 2019](#) outlines that only Indian citizens who have been married for at least 5 years are eligible to parent a child through surrogacy<sup>48</sup>. However, under the Assisted Reproductive Technology (Regulation) Bill, which regulates assisted reproductive technology (ART) clinics, single women are eligible for ART treatment. Both the Surrogacy and ART bills came into effect in January 2022<sup>49</sup>.

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## 8.5 The Army Act

- 8.5.1 Despite the 2018 ruling decriminalising Section 377 of the IPC, the Indian Army Chief General, Bipin Rawat, spoke out in January 2019 on how same-sex relations would remain punishable for those serving in the army. In an article published by The Print (Indian based on-line newspaper), it was reported that the General stated: ‘...that while the Army Act, which governs the force, was not above the law of the land, the Indian Army was not “westernised and modernised” and was “conservative” when it came to matters like adultery or homosexuality. He declared that gay sex offenders would be dealt with under relevant sections of the Army Act.’<sup>50</sup>
- 8.5.2 Under Article 46 of The Army Act, 1950, a person ‘guilty of any disgraceful conduct of a cruel, indecent or unnatural kind’ can be imprisoned for up to 7 years<sup>51</sup>. Same-sex sexual acts are not explicitly detailed as falling within this category, but the Australian Government’s Department for Foreign Affairs (DFAT) country report on India, which drew on DFAT’s on-the-ground knowledge and discussions with a range of sources in India, published in December 2020, assessed that ‘the catch-all language of the Act can be interpreted to include such relations.’<sup>52</sup>
- 8.5.3 In response to General Rawat’s comments, in a January 2019 article by The Week, Lieutenant General H.S. Panag, former Northern Army Commander, reportedly stated that:
- “Sex on duty, sex in barracks, sex in family quarters by an outsider, are all subjects, which are kind of taboo anywhere (in all armed forces). So the Army has got its own rules and regulations. While you don’t punish them for homosexuality or for heterosexuality, you can punish them for violating military orders.
- “Since the Supreme Court judgement, nobody has been charged for adultery or homosexuality in the Army. They are going to be charged for “unbecoming conduct or for violation of military rules”.’<sup>53</sup>

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## 9. State attitudes

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<sup>48</sup> MoHFW, ‘[The Surrogacy Regulation Bill](#)’, 2019

<sup>49</sup> India Times, ‘[Explained: India’s New Reproductive Laws And How They Would...](#)’, 9 August 2022

<sup>50</sup> The Print, ‘[Here’s how homosexuals in Indian military can be punished](#)’ 11 January 2019

<sup>51</sup> India Code, ‘[Army Act, 1950](#)’ (Chapter VI, Article 46), 22 July 1950

<sup>52</sup> DFAT, ‘[Country Information Report: India](#)’ (paragraph 3.158, page 47), 10 December 2020

<sup>53</sup> The Week, ‘[Sexual ‘mis’conduct and Army...](#)’, 12 January 2019

## 9.1 Statements by government and public officials

- 9.1.1 In March 2023, The Hindu explained in its 'In Focus' podcast on same-sex marriage in India that the government '... has opposed same sex marriages, stating that marriages in India are holy unions, this would rock societal values and also that, if there is to be a change, it should be through Parliament and not the judiciary.'<sup>54</sup>
- 9.1.2 On 12 March 2023, Reuters reported that, according to a filing submitted to the Supreme Court on same-sex marriage, 'The Ministry of Law believes that while there may be various forms of relationships in society, the legal recognition of marriage is for heterosexual relationships and the state has a legitimate interest in maintaining this...'<sup>55</sup> Reuters cited extracts of the filing, which stated "Living together as partners and having sexual relationship by same sex individuals ... is not comparable with the Indian family unit concept of a husband, a wife and children,"... The court cannot be asked "to change the entire legislative policy of the country deeply embedded in religious and societal norms"...'<sup>56</sup> (see also [Societal attitudes](#)).
- 9.1.3 On 17 April 2023, Reuters noted that the government argued that the petitions for the case for same-sex marriage 'merely reflect urban elitist views.'<sup>57</sup>
- 9.1.4 Reporting on the Supreme Court hearing on same-sex marriage, Time magazine stated on 19 April 2023 that '... the Indian government, led by Modi's Bharatiya Janata Party, has formally opposed the issue of same-sex marriage, even as many lawmakers take a different view. According to [Pink List India](#), the country's first archive of politicians supporting LGBTQ+ rights, 115 of 161 Members of Parliament who have publicly weighed in on the same-sex marriage debate have expressed support, with most of them belonging to the ruling BJP.'<sup>58</sup>
- See also [Same-sex unions, marriage and adoption rights](#)
- 9.1.5 In November 2021, a Supreme Court panel approved a recommendation made by the Delhi High Court in 2017, that openly gay lawyer, Saurabh Kirpal, become a Delhi High Court judge<sup>59 60</sup>. In a statement dated 18 January 2023, the Supreme Court reiterated Kirpal's recommendation and dismissed objections to Kirpal's appointment based on his sexual orientation, which had been received by the Research and Analysis Wing (RAW – India's external intelligence agency<sup>61</sup>) in April 2019 and March 2021, and by the Law Minister in April 2021<sup>62 63</sup>. Kirpal's appointment remained pending at the time of writing.

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<sup>54</sup> The Hindu, '[What legalisation of same sex marriage will mean in India](#)', 16 March 2023

<sup>55</sup> Reuters, '[India government opposes recognising same-sex marriage](#)', 12 March 2023

<sup>56</sup> Reuters, '[India government opposes recognising same-sex marriage](#)', 12 March 2023

<sup>57</sup> Reuters, '[India government calls same-sex marriage appeals "urban elitist views"](#)', 17 April 2023

<sup>58</sup> Time, '[India Is About to Decide the Fate of Same-Sex Marriage](#)', 19 April 2023

<sup>59</sup> Economic Times, '[Saurabh Kirpal may become first gay judge of constitutional...](#)', 20 January 2023

<sup>60</sup> BBC News, '[Saurabh Kirpal: The man who could be India's first openly gay...](#)', 18 November 2021

<sup>61</sup> CFR, '[RAW: India's External Intelligence Agency](#)', 7 November 2008

<sup>62</sup> Supreme Court of India, '[Statement dated 18 January 2023 reg. reiteration...](#)', 18 January 2023

<sup>63</sup> The Indian Express, '[Who is Saurabh Kirpal, whose name as HC judge...](#)', 21 January 2023

## 9.2 Police training and protection policies

- 9.2.1 The Supreme Court judgment of September 2018 requested that ‘... all government officials, including and in particular police officials, and other officers of the Union of India and the States, be given periodic sensitization and awareness training of the plight of such [LGBT] persons in the light of the observations contained in this judgment.’<sup>64</sup> Aditya Batavia from the LGBTQ community and a diversity, equity and inclusion manager, defined sensitisation as ‘... understanding the difference between sexuality and gender, understanding the spectrum of self-identities, familiarising oneself with the right terminologies to use, and recognising some of the myths and facts we carry because of living in a heteronormative culture.’<sup>65</sup>
- 9.2.2 Following the judgement, the LGBT rights group, Naz Foundation, said: “‘They [the judges] have apologised to the gay community and said copies of the judgment will be handed to every police station...’”<sup>66</sup>
- 9.2.3 Reuters reported that a judge at the Madras High Court hearing, which ruled for a lesbian couple in June 2021, also issued broader rulings aimed at prohibiting discrimination against members of the LGBTI community, of which Reuters provided an overview:
- ‘Among his recommendations: police and government officials should be given awareness training to ensure they respect LGBT rights. Medical practitioners who claim to be able to “cure” homosexuality should have their licenses revoked [see [Conversion therapy](#)].
- ‘Schools and colleges should make gender neutral restrooms available, and gender-nonconforming or trans prisoners should be housed separately if needed to protect them from sexual assault.’<sup>67</sup>
- 9.2.4 Reuters added ‘Although the court could not by itself impose such widespread change with a single ruling, government departments could not ignore the order to report back on the steps they plan to take to comply, and the arguments raised by the judge could serve as precedent for future cases.’<sup>68</sup>
- 9.2.5 The organisation Article 14, described as a ‘joint effort between lawyers, journalists, and academics’, to report on ‘issues necessary to safeguard democracy and the rule of law’ in India<sup>69</sup>, reported in June 2022 that 4 years since the SC ruling on Section 377 of the IPC, compliance with the SC’s orders to provide sensitisation and awareness training to police officers was low<sup>70</sup>. Article 14 noted that, according to Jayna Kothari, senior advocate and executive director of the Centre for Law and Policy Research (CLPR), training was ad hoc and depended on whether state police were open and willing to cooperate. Whilst some training, conducted by NGOs, had taken

<sup>64</sup> Supreme Court India, ‘[Writ Petition \(Criminal\) No. 76 of 2016](#)’ paragraph 74(c), September 2018

<sup>65</sup> Times of India, ‘[Sensitisation to queer-inclusive policies...](#)’, 3 July 2021

<sup>66</sup> Independent, ‘[Section 377: How India brought an end to the criminalisation...](#)’, 6 September 2018

<sup>67</sup> Reuters, ‘[Indian court calls for sweeping reforms to respect LGBT rights](#)’, 7 June 2021

<sup>68</sup> Reuters, ‘[Indian court calls for sweeping reforms to respect LGBT rights](#)’, 7 June 2021

<sup>69</sup> Article 14, ‘[About](#)’, no date

<sup>70</sup> Article 14, ‘[4 Years After SC Decriminalised Homosexuality, Police Violence...](#)’, 2 June 2022

place, Article 14 noted that the Indian Government ‘... has not issued any order to the states to sensitise the police towards the LGBTQIA+ community.’<sup>71</sup>

- 9.2.6 In June 2022, Anjali Gopalan, founder and executive director of Naz Foundation, told The New Indian Express that Naz Foundation had been conducting training sessions on LGBTI issues with the Delhi Police, who had made it part of their mandatory training<sup>72</sup>.
- 9.2.7 In February 2022, the Hindustan Times reported that the state of Tamil Nadu became the first state in India to enact a specific legal provision banning police harassment of LGBTI people. The amendment followed an order by the Madras High Court telling the administration to sensitise police on LGBTI issues and stop police harassment. The new legislation states “No police officer shall indulge in any act of harassment of any person belonging to the LGBTQIA + Community and the persons working for the welfare of the said community”.<sup>73</sup>
- 9.2.8 The US Department of State (USSD) human rights report for 2022 (USSD HR Report 2022) noted that:
- ‘With the aid of NGOs, several states offered education and sensitivity training to police. On April 12, the Women Safety Wing of the Telangana Police launched “Pride Place,” an LGBTQI+ persons protections unit with dedicated staff including a transgender coordinator. Experts acknowledged a disconnect between court action and state action to create an enabling environment for queer persons. Experts noted some law enforcement officials tended to side with family interests against the queer community...’<sup>74</sup>

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## 10. State treatment

### 10.1 Overview

- 10.1.1 The 2020 DFAT report stated that according to (anonymous) local sources, ‘... lesbian, gay, bisexual, transgender and/or intersex (LGBTI) persons lack protection...’<sup>75</sup> The DFAT report did not provide any specific examples of lack of protection for LGBTI persons, nor indicate whether it was a widespread problem.
- 10.1.2 According to the organisation Article 14, reporting in June 2022, 4 years after the SC ruling on Section 377 of the IPC, ‘... police continue to harass and attack lesbians, gays, transexuals, and others of varying sexual orientations, and “counsel” them to seek “treatment”.’<sup>76</sup> The same report noted that, according to Chennai-based LGBTQIA+ activist Shiva Kumar, ‘... the police lack a basic understanding of sex, gender, sexuality and identity. “Although they are in law enforcement, they look at these (cases) as a personal issue,”

<sup>71</sup> Article 14, ‘[4 Years After SC Decriminalised Homosexuality, Police Violence...](#)’, 2 June 2022

<sup>72</sup> The New Indian Express, ‘[A vision for A queer-friendly world](#)’, 13 June 2022

<sup>73</sup> Hindustan Times, ‘[Tamil Nadu amends law to punish cops for harassing...](#)’, 18 February 2022

<sup>74</sup> USSD, ‘[Country Report on Human Rights Practices for 2022](#)’ (section 6), 20 March 2023

<sup>75</sup> DFAT, ‘[Country Information Report: India](#)’ (paragraph 3.155, page 46), 10 December 2020

<sup>76</sup> Article 14, ‘[4 Years After SC Decriminalised Homosexuality, Police Violence...](#)’, 2 June 2022

he said. “They operate with their own biases and that of society. The police need to be aware of this issue and confine their work to law enforcement.”<sup>77</sup>

- 10.1.3 According to joint submissions by stakeholders to the Working Group on the Universal Periodic Review on the promotion and protection of human rights, summarised in a UNHRC report of July 2022, ‘... sexual minorities faced discrimination, harassment, and violence in all spheres of life, compounded by intersecting identities such as caste class and religion... [and] trans persons, especially poorer trans women, were vulnerable to police violence.’<sup>78</sup>
- 10.1.4 Without providing further detail, the USSD HR Report 2022 noted that ‘Some police officers committed crimes against LGBTQI+ persons and used the threat of arrest to coerce victims not to report the incidents.’<sup>79</sup> Freedom House gave a general statement in its Freedom in the World 2023 report, covering 2022, noting that discrimination continued ‘sometimes including violence and harassment.’<sup>80</sup> Other major human rights reports, including the Human Rights Watch (HRW) World Report 2023, covering 2022 events<sup>81</sup>, and Amnesty International’s annual report for 2022<sup>82</sup>, did not report any human rights violations against LGBTI persons.
- 10.1.5 An article published in February 2022 in Feminism In India (FII), an award-winning digital intersectional feminist media organisation, discussed the Indian Penal Code’s obscenity laws, noting that ‘The Indian Penal Code makes obscenity a punishable offence. Section 294 imposes up to three months of prison and fine [sic] on those who commit “any” obscene act in any public place, to the “annoyance of others”. The law is clearly overbroad and open to interpretation. What causes “annoyance”, what falls under “obscene act” is not defined anywhere.’<sup>83</sup> According to FII, ‘The law thus gets moulded, tailored and misused to suit moral, social motives.’<sup>84</sup> However, FII did not provide evidence that such misuse had occurred.
- 10.1.6 The FII further noted that, under the penal code, LGBTQI+ couples could still be reported for obscenity or offences against public order, adding (without providing further details) that, ‘Crime record statistics show that this continues to happen.’<sup>85</sup> The source did not quantify nor provide specific examples of LGBTI couples being reported for, charged with, or convicted of, obscenity or offences against public order.
- 10.1.7 For information on legal remedies for police misconduct, see the section on Avenues of redress in the [Country Policy and Information Note on India: Actors of protection](#).

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<sup>77</sup> Article 14, ‘[4 Years After SC Decriminalised Homosexuality, Police Violence...](#)’, 2 June 2022

<sup>78</sup> UNHRC, ‘[Summary of Stakeholders’ submissions on...](#)’ (paragraphs 161 to 163), 22 July 2022

<sup>79</sup> USSD, ‘[Country Report on Human Rights Practices for 2022](#)’ (section 6), 20 March 2023

<sup>80</sup> Freedom House, ‘[Freedom in the World 2023: India](#)’ (section F4), 10 March 2023

<sup>81</sup> HRW, ‘[World Report 2023: India](#)’, 12 January 2023

<sup>82</sup> Amnesty International, ‘[India 2022](#)’, 27 March 2023

<sup>83</sup> FII, ‘[Public Spaces, Obscenity Laws And The Policing Of Affection](#)’, 16 February 2023

<sup>84</sup> FII, ‘[Public Spaces, Obscenity Laws And The Policing Of Affection](#)’, 16 February 2023

<sup>85</sup> FII, ‘[Public Spaces, Obscenity Laws And The Policing Of Affection](#)’, 16 February 2023

## 10.2 Gay and bisexual men

- 10.2.1 As noted in the 2020 DFAT report, ‘Sources told DFAT attitudes towards gay men have not changed, despite the change in the law. Sources claim police still use many “nuisance laws” to arrest, harass, manipulate and bribe gay men whose families are not aware of their sexual orientation.’<sup>86</sup> Articles 268, 290 and 291 of the IPC refer to ‘public nuisance’ offences<sup>87</sup>.
- 10.2.2 Reuters reported in February 2022 that police in Ahmedabad, the largest city in the state of Gujarat, arrested 3 men accused of beating up and robbing men who had been contacted through the use of gay dating app, Grindr<sup>88</sup>.
- 10.2.3 In December 2021, The Wire reported that the Uttarakhand High Court ordered that a cohabiting gay couple be granted police protection after they received ‘continuous’ threats of ‘dire consequences’ from their parents because of their relationship<sup>89</sup>.

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## 10.3 Lesbians and bisexual women

- 10.3.1 There are reports of courts providing relief to lesbians whose families have threatened them or interfered with their relationships. In March 2021 the Delhi High Court directed the Delhi Police to provide protection to a lesbian who was forced to marry and was threatened by her family to ‘cure’ her sexual orientation<sup>90</sup>.
- 10.3.2 In June 2021 the Madras High Court ruled in favour of a lesbian couple who claimed they were harassed by police after their parents, who opposed their relationship, filed a missing persons case against them after the couple fled to Chennai from their respective houses in Madurai<sup>91</sup>. The presiding judge ruled that police should close missing persons enquiries if they are found to concern consenting LGBTI adults, and not subject them to harassment<sup>92</sup>.
- 10.3.3 In May 2022, the Kerala High Court ordered that a lesbian couple could live together after they were forcibly separated by their families<sup>93 94</sup>.

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## 10.4 Hijras and the wider trans community

- 10.4.1 The 2020 DFAT report noted ‘Sources told DFAT that, despite the TPPRA, transgender persons still function as non-citizens, with no rights to marry, inherit or take care of sick partners.’<sup>95</sup> According to the same report, hijras reported that a lack of police protection resulted in them becoming targets for extortion and sexual violence<sup>96</sup>.

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<sup>86</sup> DFAT, ‘[Country Information Report: India](#)’ (paragraph 3.160, page 47), 10 December 2020

<sup>87</sup> India Code, ‘[Indian Penal Code](#)’ (Chapter XIV, Sections 268, 290, 291), 1860

<sup>88</sup> Reuters, ‘[Indian police arrest three who targeted men on gay dating app](#)’, 15 February 2022

<sup>89</sup> The Wire, ‘[Uttarakhand HC Orders Police Protection to Gay Couple in...](#)’, 20 December 2021

<sup>90</sup> The Wire, ‘[Delhi HC Grants Protection to Lesbian Woman Forcibly Married...](#)’, 11 March 2021

<sup>91</sup> Madras High Court, ‘[Writ Petition No. 7284 of 2021](#)’, 7 June 2021

<sup>92</sup> Madras High Court, ‘[Writ Petition No. 7284 of 2021](#)’ (paragraph 43.A), 7 June 2021

<sup>93</sup> The Print, ‘[“No reason to hold them back” – how courts have become a support...](#)’, 12 June 2022

<sup>94</sup> Hindustan Times, ‘[Kerala lesbian couple, separated by parents, reunited by high...](#)’, 31 May 2022

<sup>95</sup> DFAT, ‘[Country Information Report: India](#)’ (paragraph 3.166, page 48), 10 December 2020

<sup>96</sup> DFAT, ‘[Country Information Report: India](#)’ (paragraph 3.163, page 48), 10 December 2020

10.4.2 In November 2021, the Ministry of Social Justice and Empowerment [MOSJE) announced its scheme supporting transgender persons – [Support for Marginalized Individuals for Livelihood and Enterprise \(SMILE\)](#), which included the sub scheme ‘Comprehensive Rehabilitation for Welfare of Transgender Persons’. Under the scheme, the Ministry

‘... initiated 12 pilot shelter homes namely Garima Greh: for Transgender Persons and provided financial assistance to community based organizations (CBOs) for setting up of these shelter homes. These pilot shelter homes are located in States of Maharashtra, Gujarat, Delhi, West Bengal, Rajasthan, Bihar, Chhattisgarh, Tamil Nadu and Odisha... with the aim of setting up of at least one Garima Greh in each State. One Garima Greh is already functional at Jaipur in the state of Rajasthan.’<sup>97</sup>

10.4.3 Garima Greh’s main objectives were:

- ‘To ensure the shelter home with facilities of lodging and boarding, clothing, recreation, medical and counselling.
- ‘To safeguard the rights of Transgender persons and protect them from atrocities.
- ‘To empower a Transgender person through skill-development, skill-upgradation programmes and facilitate employment.
- ‘To provide a safe and inclusive environment for their holistic development.’<sup>98</sup>

10.4.4 On 7 February 2023, the MOSJE reported that a total of 654 transgender persons had benefitted from the Garima Greh scheme across the 9 states in which they were located<sup>99</sup>.

See also [Housing](#).

10.4.5 In January 2022, NDTV reported that, in the north-west state of Tripura, 4 trans women were arrested by police and forced to strip to prove their gender. According to a complaint filed by one of the women following their release, the group were made to write an undertaking that they would not cross-dress again, or face arrest. A Tripura police official said the matter was being investigated<sup>100</sup>.

10.4.6 In July 2022, The Print reported on allegations that a trans man was forcibly picked up by police from a Garima Greh shelter home in New Delhi to question him after his parents had reported him missing from his home in Uttar Pradesh. According to a trans activist, when the trans man was taken to the police station to make a statement, other trans persons from the shelter who went to ask of his situation were harassed and assaulted by police. The Deputy Commissioner of Police denied the accusations and claimed the group were aggressive and obstructed police personnel on duty<sup>101</sup>.

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<sup>97</sup> MOSJE, ‘[Garima Greh for Transgenders](#)’, 30 November 2021

<sup>98</sup> SMILE, ‘[About](#)’, no date

<sup>99</sup> MOSJE, ‘[Garima Greh Scheme for Benefit of Transgender Persons](#)’, 7 February 2023

<sup>100</sup> NDTV, ‘[Tripura Cops Make Transgenders Strip To Prove Gender, Uproar ...](#)’, 12 January 2022

<sup>101</sup> The Print, ‘[Transperson forcibly picked up from govt-supported shelter, beaten...](#)’, 22 July 2022

- 10.4.7 In another incident in September 2022, according to a press statement by the [Transgender Welfare Equity and Empowerment Trust \(TWEET\)](#), reported by Feminism in India, a police officer, his wife, son and 2 unidentified men forced entry into a shelter home run by TWEET and demanded the whereabouts of their son, a trans man, who had left his home after suffering physical and mental violence. According to the report, the officer and the other men attacked 2 TWEET board members, both of whom identified as trans men, and took them to the police station where they continued the assault. Only after a member of National Council for Transgender Persons intervened were the board members released<sup>102</sup>.

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## 10.5 Intersex persons

- 10.5.1 The TPPRA Act of 2019, which gave transgender persons a right to self-perceived identity, includes intersex persons<sup>103</sup>.

- 10.5.2 HRW's India country profile on sexual orientation and gender identity, updated in May 2022, noted:

'The Delhi Child Rights Commission in 2021 recommended a ban on medically unnecessary "normalizing" surgeries on children born with intersex variations. This follows the southern state of Tamil Nadu banning such operations in 2019 after a court upheld the right to informed consent for intersex children. Notably, the Delhi Medical Council supported the rights of intersex children. The council wrote that it "agrees with the complainants that Differences of Sex Developments/Intersex (DSD) issues are [a] human rights issue as it pertains to bodily integrity and autonomy," and "[s]urgical interventions and gender-related medical interventions for DSD that are not deemed medically necessary should be delayed until the patient can provide meaningful informed consent."<sup>104</sup>

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Section updated: 17 July 2023

## 11. Societal attitudes

### 11.1 Societal norms and views

- 11.1.1 India is a vast, diverse, multicultural country. Communities vary considerably not only in size, but also in their religious, ethnic, economic and political composition – and in the extent of their adherence to traditional social and family values<sup>105</sup>. For more information on the basic country facts of India including demography, geography, political and religious background, see [Country Background Note: India](#) (available on request).
- 11.1.2 Regarding Indian culture and societal tradition, The Guardian noted in March 2019 that India is a 'vast, diverse and conservative country' and that 'Even in its noisy, congested main city of Patna [Bihar state], people still hold fast to traditional values and family honour as pillars in a society where little else

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<sup>102</sup> Feminism in India, '[4 Years After Section 377, The Duality In India's Current..](#)', 9 September 2022

<sup>103</sup> DFAT, '[Country Information Report: India](#)' (paragraph 3.166, page 48), 10 December 2020

<sup>104</sup> HRW, '[Country Profiles: Sexual Orientation and Gender Identity](#)' (India), 26 May 2022

<sup>105</sup> DFAT, '[Country Information Report: India](#)' (paragraph 2.10, page 11), 10 December 2020

can be relied on. “The ideology of marrying a woman and having children here is deeply rooted,” says Shubhankar Mondal, a medical student and one of the few openly gay people at his college in the city.<sup>106</sup>

- 11.1.3 Also speaking to The Guardian in 2019, Ajita Banerjee, a researcher on gender and sexuality rights, stated how expressions of the LGBTI community differ, dependent on location and custom in India “Being queer in India is not a monolithic identity, other than in big cities, where the imitation of western culture defines how we party and how we do pride.”<sup>107</sup>

- 11.1.4 With regard to general societal treatment of LGBTI people since the Section 377 ruling, the 2020 DFAT report noted that:

‘Attitudes towards and experiences of LGBTI individuals can vary based on a range of factors (such as disparities between urban and rural India, language, caste, class and gender)... The removal of section 377 of the IPC, while a victory for same-sex men in particular, does not prevent or reduce widely held anti-gay and anti-LGBTI sentiment. Equally, the TPPRA, while providing a range of measures, has been widely criticised on a number of grounds and does not prevent or reduce anti-transgender public sentiment and treatment.’<sup>108</sup>

- 11.1.5 Reporting on reactions to the 2018 Supreme Court judgement, Foreign Policy reported on 10 September 2018 that religion also has an impact on levels of acceptance:

‘Many religious organizations – Hindu, Christian, and Muslim – are up in arms about the verdict. Imam Umer Ahmed Ilyasi of the All India Organization of Imams of Mosques said that the Supreme Court should have consulted religious heads before making a decision. And Stephen Fernandes, the secretary of the Catholic Bishops’ Conference of India, said in a statement that just because “homosexuality is now not a crime in the IPC does not mean that homosexual acts or behaviour is morally acceptable or justified.” Arun Kumar, who is affiliated with the far-right Hindu organization Rashtriya Swayamsevak Sangh (the ideological parent of the BJP), remarked that “just like the Supreme Court, we also do not consider this criminal. But we do not support homosexuality, as same-sex marriages and relations are not in sync with nature. Traditionally too, Indian society does not accept such relations.”<sup>109</sup>

- 11.1.6 In a study undertaken in 2018 by the Centre for Regional Political Economy (CRPE), a research centre at Azim Premji University, 24,092 respondents from 12 states (Assam, Jammu and Kashmir, Kerala, Mizoram, Nagaland, Tamil Nadu, Tripura, Punjab, Uttar Pradesh, Uttarakhand, West Bengal and Delhi)<sup>110</sup>, were asked for their opinions on same-sex relationships in a questionnaire. One question posed was ‘Sexual relationship[s] between two men or two women should be accepted in society. Do you agree or disagree with this statement?’. The results are summarised in the report:

<sup>106</sup> The Guardian, “[“There are few gay people in India”: stigma lingers...](#)” 13 March 2019

<sup>107</sup> The Guardian, “[“There are few gay people in India”: stigma lingers...](#)” 13 March 2019

<sup>108</sup> DFAT, ‘[Country Information Report: India](#)’ (paragraph 3.155, page 46), 10 December 2020

<sup>109</sup> Foreign Policy, ‘[In India, still unfurling the rainbow flag](#)’, 10 September 2018

<sup>110</sup> Azim Premji University, CRPE, ‘[Politics and society between elections](#)’ (page 225), May 2019

‘Overall, more than a quarter of the male and the female respondents did not express an opinion on the matter. Almost half of all male and female respondents strongly reject the notion of accepting same sex couples and only 20 percent of men and 17 percent of women agree that same-sex couples should be accepted.

‘Mizoram at 87 percent records the highest share of respondents who strongly reject the statement, followed by Nagaland (63 percent), Jammu and Kashmir (63 percent) and Kerala (58 percent)... The greatest support for same-sex couples seems to come from Uttar Pradesh where 36 percent of the respondents agree with the statement. Tamil Nadu (30 percent) and Delhi (30 percent) are the other states with relatively higher acceptance of same-sex relationships. Considering that over 50 percent of the responses across the states either reject the acceptance of same-sex couples or do not offer any opinion, the reluctance of society in general to even consider, much less begin a conversation on, the acceptance of LGBTQ members [is] evident.’<sup>111</sup>

11.1.7 In face-to-face interviews conducted by the Pew Research Centre in 2019, 2,476 Indian national respondents were asked ‘which one of these comes closer to your opinion? Homosexuality should be accepted by society OR Homosexuality should not be accepted by society’. The results showed that since the first time the question was asked of a nationally representative sample in 2014, there was a 22% increase (up from 15% to 37%) in acceptance of LGBTI individuals<sup>112</sup>.

11.1.8 A 2021 Ipsos survey found that 58% of Indians believe that same-sex couples should be allowed to marry or obtain some sort of legal recognition, and 66% believe that same-sex couples should be able to adopt children<sup>113</sup>. The survey sample was of 500 persons in India and Ipsos noted that respondents were ‘... more urban, more educated, and/or more affluent than the general population. The survey results for [India] should be viewed as reflecting the views of the more “connected” segment of their population.’<sup>114</sup>

See also [Same-sex unions, marriage and adoption rights](#).

11.1.9 In April 2023, Deutsche Welle (DW) cited Kanav Sahgal, a writer on LGBTQ issues who works for the think tank Vidhi Center for Legal Policy, who explained that “‘Homosexuality is not perceived very well in large parts of India... Despite the Navtej ruling in 2018 that struck down the sodomy law [Section 377 of the IPC] and even though streaming platforms have been depicting LGBT characters in positive ways, there is still a lack of awareness about homosexuality”.’<sup>115</sup>

11.1.10 The same report noted that:

‘Same-sex couples mainly find acceptance in bigger cities, such as Mumbai, where LGBTQ groups like Gay Bombay and LABIA have been active for decades already [see [NGOs and support](#)].

<sup>111</sup> Azim Premji University, CRPE, ‘[Politics and society between elections](#)’ (page 90), May 2019

<sup>112</sup> PRC, ‘[The Global Divide on Homosexuality Persists](#)’ 25 June 2020

<sup>113</sup> Ipsos, ‘[LGBT+ Pride 2021 Global Survey](#)’ (pages 20 and 25), 9 June 2021

<sup>114</sup> Ipsos, ‘[LGBT+ Pride 2021 Global Survey](#)’ (page 38), 9 June 2021

<sup>115</sup> DW, ‘[How does India perceive homosexuality?](#)’, 18 April 2023

‘Smaller towns and villages rarely discuss queerness and related issues. “It’s difficult for family members to accept their own children when they come out as queer,” explains Sahgal.

“‘The families’ love for their children is conditional to the point that you subscribe to cisgender heterosexual norms. The moment you transgress those norms, there is a problem,” he adds.’<sup>116</sup>

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Section updated: 17 July 2023

## 12. Societal treatment

### 12.1 Overview

12.1.1 In May 2021, Capacity4dev, the European Commission’s online knowledge-sharing platform, reported on an EU-funded project run by [SAATHII](#) – Solidarity and Action Against The HIV Infection in India. The project aimed to reduce violence and discrimination and promote access to justice for LGBTI persons in India<sup>117</sup>. Capacity4dev noted that ‘Lesbian, gay, bisexual, transgender, intersex and queer people in India are often confronted with stigma, discrimination and restrictions in access to health services due to discriminatory laws and negative social attitudes. For many LGBTIQ, the lack of family or community support increases their vulnerability to violence, unemployment, poverty and homelessness.’<sup>118</sup>

12.1.2 Without providing further detail, the USSD HR Report 2022 stated that ‘NGO activists reported discrimination and violence including physical attacks and rape against members of the LGBTQI+ community... LGBTQI+ groups reported they experienced pervasive societal discrimination and violence, particularly in rural areas.’<sup>119</sup>

12.1.3 LGBTI rights organisation, Outright International, noted in an undated country overview of India that, since the 2018 decriminalisation of same-sex relations:

‘Tolerance and acceptance of LGBTIQ people and the visibility and prominence of LGBTIQ events have, as a result, improved, particularly in large cities. Despite these steps forward, same-sex attraction is largely seen as socially unacceptable for both men and women. Furthermore, there are great differences across various states in the country, depending on the cultural and religious contexts... LGBTIQ people face discrimination, violence, and social rejection, particularly in rural areas. Transgender and intersex Indian people have more legal protections than lesbian, gay, or bisexual Indians but still experience discrimination and stigmatization.’<sup>120</sup>

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### 12.2 Gay and bisexual men

12.2.1 Specifically considering the societal treatment of gay men, the 2020 DFAT

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<sup>116</sup> DW, ‘[How does India perceive homosexuality?](#)’, 18 April 2023

<sup>117</sup> Capacity4dev, ‘[Promoting LGBTIQ Rights in India](#)’, 14 May 2021

<sup>118</sup> Capacity4dev, ‘[Promoting LGBTIQ Rights in India](#)’, 14 May 2021

<sup>119</sup> USSD, ‘[Country Report on Human Rights Practices for 2022](#)’ (section 6), 20 March 2023

<sup>120</sup> Outright International, ‘[Country overview: India](#)’, no date

report noted that local sources claimed that whilst there is some evidence of freedoms for gay men, insofar as 'gay nights' in bars, safe spaces remain non-existent for gay men<sup>121</sup>.

- 12.2.2 Some gay and bisexual men, who faced threats of being 'outed' after using gay dating apps or being filmed in sexually compromising positions, were at risk of harassment and extortion<sup>122 123</sup>.

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## 12.3 Lesbians and bisexual women

- 12.3.1 The 2020 DFAT report stated in regard to lesbians that:

'Local sources told DFAT the situation for lesbians is difficult in that they lack safe spaces and, particularly in rural areas, often cannot talk about their sexual orientation. While issues of sexuality are discussed more openly in cities, sources claim the lesbian community still lacks access to services in urban areas. Sources were aware of a number of suicides of lesbians in 2019. Although information on lesbians in India is scarce, DFAT understands lesbians often experience sexual, physical and emotional violence, including lack of control over resources or forcible psychiatric treatment. Lesbians report feeling unsafe and sometimes being forced to marry men. Reports suggest lesbians seeking to end sexual or physical abuse in such relationships would either need to leave the situation (and sever family ties) or deny their sexuality.'<sup>124</sup>

- 12.3.2 In November 2022, Indian news site, News 18, reported on the assault and attempted rape of a lesbian couple in West Bengal. The report added, 'Police said that homosexual relationships are not accepted in rural areas and girls become easy prey to exploitation once they get branded as lesbians. "It may be that there the actual motive was to rape the two innocent girls. In rural areas it becomes easier to exploit them if they are branded lesbians," a police officer [said].'<sup>125</sup>

- 12.3.3 See also the [Country Policy and Information Note, India: Women fearing gender-based violence](#) for information on societal attitudes towards women in general.

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## 12.4 Hijras and the wider trans community

- 12.4.1 With regard to the experience of Hijras, the 2020 DFAT report stated that:

'According to local sources, Hijras are part of Indian tradition and hold a unique space in the community. While Hijras are sometimes called on to bless newborns, marriages and new houses in Indian society, their perceived ability to curse people can engender fear. Sources claim most families do not accept their male child behaving in ways considered feminine, and children who do so risk being subject to verbal or physical

<sup>121</sup> DFAT, '[Country Information Report: India](#)' (paragraph 3.160, page 47), 10 December 2020

<sup>122</sup> Indian Express, '[Mumbai: Man, who allegedly harassed and extorted gay man...](#)', 4 February 2022

<sup>123</sup> Times of India, '[Swipe right for sextortion](#)', 8 December 2022

<sup>124</sup> DFAT, '[Country Information Report: India](#)' (paragraph 3.161, page 47), 10 December 2020

<sup>125</sup> News 18, '[2 Women Beaten, Iron Rods Inserted in Private Parts...](#)', 8 November 2022

violence. Some families disown and evict their Hijra children, while some Hijras or transgender children run away and seek refuge in Hijra communes.<sup>126</sup>

- 12.4.2 In a 2019 article by The Pioneer, transgender individuals talked about the obstacles they continued to face, and how the journey to equality had only just begun. They highlighted the need for more to be done to change public perception of LGBTI individuals, as they described being rejected for jobs and facing societal and family pressures<sup>127</sup>.
- 12.4.3 A report in the New Internationalist, dated 8 March 2023, noted that ‘the public perception of the “trans gender” is almost always focused on trans women who identify within the traditional Hijra construct.’ The report added that, according to L Ramakrishnan, LGBTQI+ activist and vice president of the public health NGO, Solidarity And Action Against HIV Infection in India (SAATHII), “Trans men are often rendered invisible, and many have a hard time getting government officials and medical providers to understand they are transgender too...”<sup>128</sup>
- 12.4.4 National media reported attacks on trans persons and activists: In December 2021, 3 trans siblings were attacked on a night out in the state of Kerala. Police arrested 2 men in connection with the attack<sup>129</sup>. In October 2022, a trans woman and her partner were attacked at their home in Delhi by the trans woman’s former partner. Police arrest the assailant<sup>130</sup>. A member of the Telangana Transgender Welfare Board was attacked at her home in Hyderabad by 7 people in April 2023. Police were investigating<sup>131</sup>. Also in April 2023, a street vendor abused and attacked a 23-year-old trans woman as she asked him for alms in a suburb of Mumbai<sup>132</sup>.
- 12.4.5 Sappho for Equality, a group advocating for the rights of lesbian, bisexual women and trans men, published a report on the findings from a closed door public hearing held on 1 April 2023, which focussed on familial violence on queer trans people<sup>133</sup>. The hearing, organised by the People’s Union for Civil Liberties (PUCL) and the National Network of LBI (Lesbian, Bisexual, Intersex) Women and Trans Persons was held before a panel of judges, lawyers, academics and activists, with testimonies from 31 queer and trans persons – 16 trans men, 1 trans woman, 10 cis women, 3 non-binary and 1 gender fluid (assigned female at birth) – aged between 19 and 61, from across the country<sup>134</sup>. Most testifiers said they faced physical violence and/or psychological abuse from family members for what was deemed as ‘unacceptable’ behaviour. Furthermore, the report cited testimonies of forced marriage and sexual violence, including rape<sup>135</sup>.

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<sup>126</sup> DFAT, ‘[Country Information Report: India](#)’ (paragraph 3.162, page 47), 10 December 2020

<sup>127</sup> The Pioneer, ‘[Gender sensitisation is key for equality: LGBT activists](#)’, 29 July 2019

<sup>128</sup> New Internationalist, ‘[Protecting trans rights in India](#)’, 8 March 2023

<sup>129</sup> Times of India, ‘[Two held for attack on transgender siblings](#)’, 28 December 2021

<sup>130</sup> India Today, ‘[UP man arrested for stabbing transgender, her partner in Delhi](#)’, 16 October 2022

<sup>131</sup> Times of India, ‘[Telangana Transgender Welfare Board member attacked...](#)’, 29 April 2023

<sup>132</sup> Mid-day, ‘[Transgender battling for life after attack by roadside vendor in Kandivali...](#)’, 13 April 2023

<sup>133</sup> Sappho, ‘[“Apnon ka Bahut Lagta Hai” \(Our Own Hurt Us...\)](#)’, 17 April 2023

<sup>134</sup> Sappho, ‘[“Apnon ka Bahut Lagta Hai” \(Our Own Hurt Us...\)](#)’ (pages 16, 23 to 24), 17 April 2023

<sup>135</sup> Sappho, ‘[“Apnon ka Bahut Lagta Hai” \(Our Own Hurt Us...\)](#)’ (pages 32 to 72), 17 April 2023

## 12.5 Intersex persons

- 12.5.1 The Joint NGO submission by Srishti Madurai and the NNID Foundation to the UN Committee on the Rights of Persons with Disabilities, dated 2019, reported that ‘Intersex people in the Republic of India are often faced with discrimination, stigmatisation and bullying and through this may struggle with access to education, employment, identity documents and marriage.’<sup>136</sup> Moreover it highlighted that ‘intersex children are at risk of being subjected to non-necessary medical interventions without their prior, free and fully informed consent at an age that they are not sufficiently mature to provide consent.’<sup>137</sup>
- 12.5.2 In a 2019 Reuters article on intersex people in India, it was reported that ‘Although the country’s top court officially recognized intersex and transgender people as a third gender with equal rights under the law in 2014, they are often stigmatized and shunned and many survive through begging or sex work.’<sup>138</sup> The article continued by highlighting how intersex persons in India are among the most ‘invisible’ in Indian society, with little awareness surrounding them even within the LGBTI community<sup>139</sup>. Infanticide, abandonment and mutilation of intersex babies was also reported within the article, as well as forced ‘corrective’ medical procedures<sup>140</sup>.

## 12.6 Conversion therapy

- 12.6.1 Despite the Indian Psychiatric Society (IPS) releasing a statement in 2018 stating that homosexuality was not a mental health disorder<sup>141</sup>, a 2020 Hindustan Times article quoted Deepa Vasudevan, co-founder of LGBT organisation ‘Sahayatrika’ who said that ‘Parents of queer or trans people often send them to psychiatrists or psychologists to “cure” them of their sexual orientation or gender identity, to make them “normal.” We have seen this practice in many of our crisis interventions.’<sup>142</sup> Dr Ashkay Khanna, who provided evidence in the CG case of [MD](#), which was relied upon by the Upper Tribunal, clarified that aversion therapy as a ‘cure’ ‘... was not forcibly given to anyone.’<sup>143</sup>
- 12.6.2 There is no law against conversion therapy, but the practice is banned by the National Medical Commission, as reported by The Hindu in September 2022: ‘The National Medical Commission (NMC), the apex regulatory body of medical professionals in India, has written to all State Medical Councils, banning conversion therapy and calling it a “professional misconduct”. In a letter dated August 25 [2022], it also empowered the State bodies to take disciplinary action against medical professionals who breach the guideline.

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<sup>136</sup> Srishti Madurai/NNID Foundation, [‘The Rights of Intersex People in India, ...’](#), 26 July 2019

<sup>137</sup> Srishti Madurai/NNID Foundation, [‘The Rights of Intersex People in India, ...’](#), 26 July 2019

<sup>138</sup> Reuters, [‘Job snubs to forced surgery: India’s ‘invisible’ intersex people’](#), 16 August 2019

<sup>139</sup> Reuters, [‘Job snubs to forced surgery: India’s ‘invisible’ intersex people’](#), 16 August 2019

<sup>140</sup> Reuters, [‘Job snubs to forced surgery: India’s ‘invisible’ intersex people’](#), 16 August 2019

<sup>141</sup> IPS, [Position statement of Indian Psychiatric Society regarding LGBTQ](#), 11 June 2020

<sup>142</sup> Hindustan Times, [‘Kerala student’s suicide puts focus on dubious “conversion...”](#), 18 May 2020

<sup>143</sup> IAC, [‘MD \(same-sex oriented males: risk\)\(CG\)’](#) (paragraph 165), 12 February 2014

The letter said the NMC was following a Madras High Court directive to issue an official notification listing conversion therapy as a wrong, under the Indian Medical Council (Professional Conduct, Etiquettes and Ethics) Regulations, 2002.<sup>144</sup>

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## 13. Access to services

### 13.1 Healthcare

- 13.1.1 With regards to LGBTI persons' access to healthcare generally, the September 2018 India Supreme Court ruling, held that '...the Indian constitution guarantees all Indians, including LGBTQ people, "the right to emergency medical care and the right to the maintenance and improvement of public health".<sup>145</sup> In the CG case of [MD](#), the Upper Tribunal concluded that there was not sufficient evidence that gay men were denied access to health care altogether or given differential treatment to the general populace<sup>146</sup>.
- 13.1.2 In April 2023, Deutsche Welle (DW) reported on the disparities between straight and gay couples and stated that, according to Kanav Sahgal, '... a writer on LGBTQ issues who works for the think tank Vidhi Center for Legal Policy... hospitals usually require a patient undergoing a procedure to fill in the name of their spouse, mother, father or another person. Currently, he says, gay persons can only fill in their partner's names under "other".<sup>147</sup>
- 13.1.3 Regarding the experience of transgender individuals accessing healthcare, the 2020 DFAT report noted that 'Hijras reported discriminative practices such as deliberate use of male pronouns, admission into male wards, harassment by hospital staff and patients, and, in some cases, denial of medical services.'<sup>148</sup>
- 13.1.4 The USSD HR Report 2022 stated that:
- 'Activists reported transgender persons continued to face difficulty obtaining medical treatment. To combat this, in February the Telangana High Court ordered the Telangana state government to establish facilities in all the 33 districts for COVID-19 vaccination of members of LGBTQI+ community. On August 2, the Mahatma Gandhi Memorial Hospital in Telangana opened a dedicated clinic for the LGBTQI+ community. The state opened two exclusive clinics in Hyderabad in 2021. On August 11, Andhra Pradesh AIDS Control Society started a one-stop medical facility for transgender persons in Tirupathi.'<sup>149</sup>
- 13.1.5 The TPPRA of 2019 allows for transgender persons to undergo sex reassignment surgery (SRS) and stipulates the care transgender persons

<sup>144</sup> The Hindu, '[Explained | The ban on conversion therapy for the LGBTQIA+...](#)', 6 September 2022

<sup>145</sup> Supreme Court India, '[Writ Petition \(Criminal\) No. 76 of 2016](#)' (paragraph 171), September 2018

<sup>146</sup> IAC, '[MD \(same-sex oriented males: risk\)\(CG\)](#)' (paragraph 164), 12 February 2014

<sup>147</sup> DW, '[How does India perceive homosexuality?](#)', 18 April 2023

<sup>148</sup> DFAT, '[Country Information Report: India](#)' (paragraph 3.163, page 47 to 48), 10 December 2020

<sup>149</sup> USSD, '[Country Report on Human Rights Practices for 2022](#)' (section 6), 20 March 2023

should receive during the process<sup>150</sup>. A number of hospitals in India have facilities for SRS<sup>151</sup>, though according Dr Bhaskar Das, a psychiatrist at NRS Medical College and Hospital, who identifies as a queer and non-binary person, cited in an article in Outlook India, dated January 2023, “Very few public hospitals provide gender-affirmative surgeries in India. It is a delicate procedure, and not many plastic surgeons learn how to perform these surgeries. Alternatively, you can go private, but a vaginoplasty or phalloplasty costs at least Rs 3-4 lakhs [approximately £3,000 to £4,000<sup>152</sup>].”<sup>153</sup>

- 13.1.6 On 24 August 2022, a Memorandum of Understanding (MoU) was signed between the National Health Authority and the Ministry of Social Justice and Empowerment to provide an inclusive and composite health package of up to Rs 5 lakh (around £5,000<sup>154</sup>) per annum for trans persons (holding a transgender certificate issued by the National Portal for transgender persons) under the Ayushman Bharat-PMJAY (AB-PMJAY) health insurance scheme. Trans persons will be eligible to seek treatment in any of the AB-PMJAY enlisted hospitals across the country, where specific packages are available. The scheme would cover all transgender persons not receiving such benefits from other centre/state sponsored schemes<sup>155</sup>.
- 13.1.7 Regarding intersex persons’ ability to access healthcare, a 2019 Reuters article reported “There is a range of distinct issues that intersex persons face ranging from forced ‘corrective’ operations on intersex infants to continuing health issues which the medical system is ... unequipped to handle and is inaccessible to (many).”<sup>156</sup>
- 13.1.8 For general information on healthcare, see the [Country Information Note: India: Medical and healthcare provision](#).

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## 13.2 Housing

- 13.2.1 A June 2019 report by the International Commission of Jurists (ICJ), based on 65 qualitative interviews conducted with various LGBTI individuals (the majority of whom identified as trans) across 6 states in India, supported by secondary research including media reports, legal treatises and research studies, found that ‘LGBTQ persons often face extensive rights violations within the domain of housing and the home. This includes discrimination in the rental market; denial of housing; segregation into poorly resourced neighbourhoods; violence and harassment (from landlords, neighbours, family and police); and homelessness.’<sup>157</sup>
- 13.2.2 The report went on to state:
 

‘As a result of systemic discrimination by landlords, transgender persons are

<sup>150</sup> India Code, ‘[Transgender Persons \(Protection of Rights\) Act, 2019](#)’, 5 December 2019

<sup>151</sup> The New Indian Express, ‘[Battle for right body...](#)’ 24 February 2020

<sup>152</sup> Xe.com, ‘[Xe Currency Converter](#)’, as at 17 May 2023

<sup>153</sup> Outlook India, ‘[Healthcare Comes At A Price For LGBTQ+ Community](#)’, 22 January 2023

<sup>154</sup> Xe.com, ‘[Xe Currency Converter](#)’, as at 17 May 2023

<sup>155</sup> MoHFW, ‘[Press Release](#)’, 24 August 2022

<sup>156</sup> Reuters, ‘[Job snubs to forced surgery: India’s ‘invisible’ intersex people](#)’, 16 August 2019

<sup>157</sup> ICJ, ‘[Living with Dignity...](#)’ (page 8), June 2019

often effectively segregated into localities that lack basic amenities, even when they have the economic capacity to afford better housing. These locations can be distant from public transport, sanitation, running water, healthcare, and employment opportunities. Landlords who do agree to rent to LGBTQ persons often discriminate against them by charging higher rentals than other tenants.

‘...Property owners and landlords often discriminate against LGBTQ persons, particularly transgender persons, by assuming that they are involved in illegal activities – such as sex work. Prejudice against LGBTQ persons frequently results in denial of rental accommodation, and targeted harassment and abuse resulting in voluntary or forced eviction from their homes and accommodation.

‘... LGBTQ persons are vulnerable to homelessness as they are often forced to leave their family homes due to conflict within the family, violence or threats of violence, or are pushed out due to abuse. The precarious economic and physical conditions that often affect homeless persons may also lead LGBTQ individuals to choose sex work and begging, despite the risk of criminal prosecution, as a means to meet their basic needs. This further exposes them to hostility and abuse from police and municipal authorities and makes it difficult to access government services.’<sup>158</sup>

- 13.2.3 On 7 February 2023, the MOSJE reported that a total of 654 trans persons had benefitted from the Garima Greh pilot shelter scheme, a housing initiative for trans persons, across the 9 states in which they were located<sup>159</sup>. (For more, see State treatment: [Hijra and the wider trans community](#)).
- 13.2.4 Gay Housing Assistance Resource (G.H.A.R) is an all-India location-based, accommodation resource bulletin board on Facebook for LGBTQ people and allies<sup>160 161</sup>.

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### 13.3 Employment

- 13.3.1 Whilst the TPPRA prohibits against discrimination in employment for trans persons<sup>162</sup>, ILGA noted in its 2020 report that:

‘There is no legislation prohibiting employment discrimination on the basis of sexual orientation. Nonetheless, commentators have suggested that case law has extended some protection to employment in the public sector in this regard. Article 16(1) of the [Constitution of India](#) states that there “shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.” In [Navtej Singh Johar v. Union of India](#) (2018), the Supreme Court held that this applies “to LGBTQ persons who have a right to non-discrimination in access and enjoyment of the right to work”.’<sup>163</sup>

<sup>158</sup> ICJ, ‘[Living with Dignity...](#)’ (pages 8 and 9), June 2019

<sup>159</sup> MOSJE, ‘[Garima Greh Scheme for Benefit of Transgender Persons](#)’, 7 February 2023

<sup>160</sup> LGBTQ India Resource ‘[Significant Initiatives](#)’ (GHAR), no date

<sup>161</sup> Homegrown, ‘[G.H.A.R. Has Been Helping India’s LGBTQ Community Find...](#)’, 8 June 2021

<sup>162</sup> India Code, ‘[Transgender Persons \(Protection of Rights\) Act, 2019](#)’, 5 December 2019

<sup>163</sup> ILGA, ‘[State-Sponsored Homophobia 2020](#)’ (page 227), December 2020

- 13.3.2 The 2020 DFAT report stated that a large number of Hijras were not formally educated, thereby making it more difficult to access employment<sup>164</sup>.
- 13.3.3 Pride Circle described itself as 'India's Premier Diversity & Inclusion Advisory Consultancy with a mission of Social Equity by affirmative action for LGBT+ community in India. We partner with 350 companies across India to provide Executive Leadership Development, comprehensive Diversity & Inclusion Training, Sensitization, Consultation, Industry Roundtables, Research & Publications, Job Placements and professional networking opportunities that build safe, inclusive, and welcoming work environments.'<sup>165</sup> Since 2019, Pride Circle has organised the RISE (Reimagining Inclusion for Social Equity) Job Fair, which has facilitated over 600 job offers in BFSI, IT/ITes, FMCG, Consulting, Manufacturing, Automobile, and other sectors<sup>166</sup>.
- 13.3.4 In March 2023, TWEET Foundation, in collaboration with the National Institute of Social Defence and Ministry of Social Justice and Empowerment, organised a recruitment fair for transgender persons<sup>167 168</sup>.

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## 13.4 Education

- 13.4.1 The Right of Children to Free and Compulsory Education Act 2009 provides for free elementary education of satisfactory and equitable quality in an educational institution<sup>169</sup>.
- 13.4.2 Information gathered through interviews conducted by the ICJ in 2018 across 6 Indian states indicated that LGBTI students were bullied, excluded and punished by peers as well as teachers. The report stated:  
 'School uniforms, dress code and appearance, participation in sports, access to toilets, and sometimes even seating arrangements are frequently determined by dividing male and female students to the exclusion or discomfort of transgender and gender non-binary persons. These conditions make it difficult for students with gender expression or identity, at variance with the sex assigned at birth to realize their right to education.'<sup>170</sup>
- 13.4.3 According to a Reuters article published in 2019:  
 'In a survey of almost 400 LGBT+ youth in Tamil Nadu by the United Nations' cultural agency, UNESCO, more than half skipped classes to avoid bullying, while a third dropped out of school altogether.  
 'Abuse included threats of rape, groping, hitting and kicking, being locked in a room, having their belongings stolen and having nasty rumors spread about them.'<sup>171</sup>
- 13.4.4 The same report highlighted that some jurisdictions were attempting to tackle

<sup>164</sup> DFAT, '[Country Information Report: India](#)' (paragraph 3.163, page 47), 10 December 2020

<sup>165</sup> Pride Circle, '[Home | Pride Circle](#)', no date

<sup>166</sup> Pride Circle, '[Home | Pride Circle](#)', no date

<sup>167</sup> TWEET, '[Trans Employment Mela](#)', no date

<sup>168</sup> UNAIDS, '[Beyond transgender visibility: India works toward employment equity](#)', 31 March 2023

<sup>169</sup> India Code, '[Right of Children to Free and Compulsory Education Act, 2009](#)', 26 August 2009

<sup>170</sup> ICJ, '[Living with Dignity...](#)' (page 9), June 2019

<sup>171</sup> Reuters, '[Bullied by peers, India's LGBT+ children drop out of schools](#)' 18 July 2019

reported discrimination:

‘The Tamil Nadu state education department said it already has a general hotline for students which offers counseling, while it plans to strengthen its anti-bullying policy to include sexual and gender diversity.

“We have measures in place like a 24-7 helpline and periodically conduct gender sensitization workshops for our teachers and counselors,” said Pradeep Yadav, head of the school education department.’<sup>172</sup>

- 13.4.5 However, Reuters reported that UNESCO found that school authorities often told students to ignore bullies or change their mannerisms in order to avoid being targeted<sup>173</sup>.
- 13.4.6 According to the 2020 DFAT report, many Hijras face discrimination when seeking access to education<sup>174</sup>.
- 13.4.7 According to joint submissions by stakeholders to the Working Group on the Universal Periodic Review on the promotion and protection of human rights, summarised in a UNHRC report of July 2022, ‘... there was a lack of sensitisation and respect of, and education on gender non-conforming/non-binary and non-heterosexual identities, which had caused bullying and violence in schools...’<sup>175</sup>

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Section updated: 17 July 2023

## 14. LGBTI community

### 14.1 NGOs and support

- 14.1.1 The Naz Foundation, an organisation at the forefront of the campaign to decriminalise Section 377, offered the following at their centre in New Delhi:

‘Naz is committed to provide counseling, care and support services to the LGBTQIA+ community. It supports individuals to access their rights such as medical services, face-to-face and telephonic counselling and referral services. They can access the helpline to seek support on understanding their sexuality, coming out with their identity, relationship issues, safe sex practices, testing for HIV and addressing issues of discrimination. Naz also offers counselling support and home-based care to the families of the community members.’<sup>176</sup>

- 14.1.2 The DFAT report noted groups ‘... focused on support and advocacy for LGBTI women in Bangalore (ASQ), Mumbai (Labia), Kolkata (Sappho for Equality) and Chennai (Sahodaran) and trans-specific groups including Sampoorana, Tweet Foundation and Telangana Hijra Trans Intersex Samiti.’<sup>177</sup>

- 14.1.3 LGBTI organisations which support individuals and advocate for LGBTI

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<sup>172</sup> Reuters, ‘[Bullied by peers, India’s LGBT+ children drop out of schools](#)’ 18 July 2019

<sup>173</sup> Reuters, ‘[Bullied by peers, India’s LGBT+ children drop out of schools](#)’ 18 July 2019

<sup>174</sup> DFAT, ‘[Country Information Report: India](#)’ (paragraph 3.163, page 47), 10 December 2020

<sup>175</sup> UNHRC, ‘[Summary of Stakeholders’ submissions on...](#)’ (paragraph 162), 22 July 2022

<sup>176</sup> Naz Foundation, ‘[LGBTQIA+ Initiative](#)’, no date

<sup>177</sup> DFAT, ‘[Country Information Report: India](#)’ (paragraph 3.156, page 46), 10 December 2020

rights include:

- [Bi Collective Delhi](#)
- [GoodasYou](#)
- [Humsafar Trust](#)
- [Harmless Hugs](#)
- [India Aces](#)
- [Pride Circle](#),
- [Queerythm](#)
- [Saathi](#)
- [SAATHII](#)
- [Sangama](#)
- [Sappho for Equality](#)
- [Srishti Madurai](#)
- [Tweet Foundation](#)
- [Varta Trust](#)

14.1.4 See also [NGOs and Groups – LGBTQ India Resource](#) for support groups across India.

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## 14.2 LGBTI spaces

- 14.2.1 The 2020 DFAT report noted that ‘In urban areas, there are reportedly venues for the LGBTI community to meet and socialise, although not openly. In 2016, an online dating platform for the LGBTI community, “Amour Queer Dating”, was launched...’<sup>178</sup>
- 14.2.2 Freedom House reported in its Freedom on the Net 2022, which covered the period June 2021 to May 2022 and cited various sources, that ‘Online spaces for the LGBT+ community are growing, and there is some representation of LGBT+ people in mainstream digital advertisements, television, and media. Nevertheless, civil society groups noted that LGBT+ people and experiences are still not proportionately covered online, particularly during the pandemic.’<sup>179</sup>
- 14.2.3 The USSD HR Report 2022 noted that ‘There were no reports of restrictions on speaking out regarding LGBTQI+ issues or on the ability to legally register or convene related events.’<sup>180</sup>

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## 14.3 Pride

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<sup>178</sup> DFAT, ‘[Country Information Report: India](#)’ (paragraph 3.156, page 46), 10 December 2020

<sup>179</sup> Freedom House, ‘[Freedom on the Net 2022: India](#)’ (section B7), 18 October 2022

<sup>180</sup> USSD, ‘[Country Report on Human Rights Practices for 2022](#)’ (section 6), 20 March 2023

14.3.1 The first Pride was held informally in Kolkata in 1997<sup>181</sup>. In 2017, New Delhi held its tenth pride parade, attended by hundreds of people<sup>182</sup>. Chennai has held pride parades since 2009<sup>183</sup>, while Goa held its first pride parade in October 2017<sup>184</sup>.

14.3.2 ILGA noted in 2019 that:

‘Since the decriminalization, there has been a surge of pro-LGBT events and campaigns across India. Most of the major cities saw the Pride events taking place in a larger scale and with wider participation. More than 15,000 people—the highest so far— participated in the Queer Azaadi Mumbai Pride Parade. Kolkata was the first city to have a Pride walk after the Supreme Court verdict soon followed by Delhi and Bengaluru. Decriminalisation also encouraged pride events for the first time in smaller cities such as Shillong.’<sup>185</sup>

14.3.3 Pride events continued to occur in cities across the country in 2022 and 2023<sup>186 187 188 189</sup>.

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<sup>181</sup> Feminism in India, ‘[The History of Pride Parades in India](#)’ 24 June 2019

<sup>182</sup> NBC News, ‘[Hundreds Join Pride March in India...](#)’ 12 November 2017

<sup>183</sup> Times of India, ‘[A decade of Pride in Chennai](#)’ 2 June 2018

<sup>184</sup> Times of India ‘[A walk to remember for the LGBT community](#)’ 29 October 2017

<sup>185</sup> ILGA, ‘[State-Sponsored Homophobia 2019](#)’ (page 136), March 2019

<sup>186</sup> India Today, ‘[From Kolkata to Chennai, pride parades bring colours of love...](#)’, 29 June 2022

<sup>187</sup> Sakshi Post, ‘[Here’s What India Did For This Year’s Pride Month](#)’, 28 June 2022

<sup>188</sup> Lifestyle Asia, ‘[Iconic Pride parades in India that celebrate love](#)’, 23 June 2022

<sup>189</sup> The Week, ‘[Pride Month 2023: Events to watch out for in Indian cities](#)’, 2 June 2023

# Research methodology

The country of origin information (COI) in this note has been carefully selected in accordance with the general principles of COI research as set out in the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#), April 2008, and the Austrian Centre for Country of Origin and Asylum Research and Documentation's (ACCORD), [Researching Country Origin Information – Training Manual](#), 2013. Namely, taking into account the COI's relevance, reliability, accuracy, balance, currency, transparency and traceability.

All the COI included in the note was published or made publicly available on or before the 'cut-off' date(s). Any event taking place or report/article published after these date(s) is not included.

Sources and the information they provide are carefully considered before inclusion. Factors relevant to the assessment of the reliability of sources and information include:

- the motivation, purpose, knowledge and experience of the source
- how the information was obtained, including specific methodologies used
- the currency and detail of information
- whether the COI is consistent with and/or corroborated by other sources

Wherever possible, multiple sourcing is used and the COI compared and contrasted to ensure that it is accurate and balanced, and it provides a comprehensive and up-to-date picture of the issues relevant to this note at the time of publication.

The inclusion of a source is not, however, an endorsement of it or any view(s) expressed.

Each piece of information is referenced in a footnote.

Full details of all sources cited and consulted in compiling the note are listed alphabetically in the [bibliography](#).

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# Terms of Reference

A 'Terms of Reference' (ToR) is a broad outline of the issues relevant to the scope of this note and forms the basis for the [country information](#).

The Home Office uses some standardised ToR, depending on the subject, and these are then adapted depending on the country concerned.

For this particular CPIN, the following topics were identified prior to drafting as relevant and on which research was undertaken:

- Terminology
- Legal context
  - general anti-discrimination provisions (and inclusion or absence of reference to LGBTI persons)
  - same-sex sexual behaviour
  - same-sex couples, including civil union and marriage
  - gender reassignment/transition, and recognition of gender identity of trans persons
  - relevant significant court cases and caselaw
- State attitudes and treatment
  - statements made by government figures and public officials
  - government policies/programmes that assist or discriminate against LGBTI persons
  - restrictions/enforcement of law against LGBTI organisations
  - other state treatment, such as harassment, blackmail, bribery, corrective therapy
  - access to public services
- Societal attitudes and treatment
  - public opinion/views/surveys, including anti-LGBTI movements and public demonstrations
  - prevailing cultural and family attitudes to male/female relationships, family and non-conforming behaviour
  - religious group attitudes, statements and actions
  - media representation, language and discourse
  - treatment by the public, including family members
- LGBTI people and their lives
  - LGBTIQ organisations (including possibility to operate openly)
  - Meeting places and events for LGBTIQ persons.

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# Version control and feedback

## Clearance

Below is information on when this note was cleared:

- version **5.0**
- valid from **10 August 2023**

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### Official – sensitive: Not for disclosure – Start of section

The information in this section has been removed as it is restricted for internal Home Office use only.

### Official – sensitive: Not for disclosure – End of section

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## Changes from last version of this note

Updated country information and assessment

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## Feedback to the Home Office

Our goal is to provide accurate, reliable and up-to-date COI and clear guidance. We welcome feedback on how to improve our products. If you would like to comment on this note, please email the Country Policy and Information Team.

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## Independent Advisory Group on Country Information

The [Independent Advisory Group on Country Information](#) (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to support him in reviewing the efficiency, effectiveness and consistency of approach of COI produced by the Home Office.

The IAGCI welcomes feedback on the Home Office's COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy. The IAGCI may be contacted at:

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Information about the IAGCI's work and a list of the documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector's pages of the [gov.uk website](#).

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