



LGBTIQ Freedom Zone in EU

Why in News

Recently, in response to the **backsliding of LGBTIQ rights in some EU countries, notably Poland and Hungary**, the **European Parliament** has declared the [European Union](#) an “LGBTIQ Freedom Zone”

- A majority of countries in the EU (**23/27**) recognise **same-sex unions**, with **16 legally recognising same-sex marriage**.
- **LGBTIQ** stands for **Lesbian, Gay, Bisexual, Transgender, Inter-sex and Queer**.

Key Points

▪ Background:

- Same-sex relationships are **not legally recognised in Poland**, and the country already bans same-sex couples from adopting children together. However, as single people are permitted to adopt, some have managed to get around the ban by applying to adopt as single parents.
 - Now, Poland has come up with the proposal wherein a **person is liable to criminal offence** if he/she is found to be applying for adoption as a **single parent being in a same-sex relationship**.
 - LGBTIQ community in Poland is subject to **increased discrimination and attacks**, notably growing hate speech from **public authorities and elected officials**.
 - Since March 2019, more than 100 Polish regions, counties and municipalities have adopted resolutions declaring themselves to be free from **LGBTIQ “ideology”**.
- Recently, the **Parliament of Hungary** too, adopted constitutional amendments that **restrict the rights of LGBTIQ people**.
- Hungary and Poland have been at **loggerheads** with the **European Commission (executive body of the European Union)** over an **array of issues**, mostly **centering around** abuses to the **rule of law**, the **independence of the judiciary** and the **rights of minorities**.
- The **Hungarian and Poland** authorities have **described LGBTIQ principles** of governance as **“foreign” ideology**.

▪ The EU Resolution:

- The **EU Parliament resolution declared** the entire European Union as an **“LGBTIQ Freedom Zone”**.
- The resolution provides **LGBTIQ** persons everywhere **in the EU** the **freedom to live and publicly show their sexual orientation** and **gender identity without fear of intolerance, discrimination or persecution**.
- **It further urged the authorities** at all levels **of governance** across the **EU to protect and promote equality** and the **fundamental rights of all, including LGBTIQ persons**.

▪ Global Scenario of LGBTIQ Community:

- **Ireland:** Ireland legalized same-sex marriage. The country, which had decriminalized homosexuality in 1993, became the **first country** to allow same-sex marriage at a national level by popular vote.
- **USA:** US Supreme Court ruled that same-sex marriage was legal.
- **Nepal:** Nepal legalized homosexuality in 2007 and the new Constitution of the country gives many rights to the LGBTIQ community.

LGBT Community in India

- Even after section 377 of IPC was removed by the Supreme Court in **Navtej Singh Johar v. Union of India, 2018 case**, there is a wide gap in implementing a policy for the LGBTIQ community and making a better environment for them. Right now, they are facing many issues that are underlined below.
 - **Family:** The problem of sexual orientation and gender identity leads to fighting and family disruption. Lack of communication and misunderstanding between parents and their LGBTIQ children increases family conflict.
 - **Discrimination at Work Place:** LGBTIQ suffers from the socio-economic inequalities in large part due to discrimination in the workplace.
 - **Injustice:** Human rights and fundamental rights are applicable to all people, but the state has failed to create special legislation which protects the rights of LGBTIQ Minority community and to provide real justice to them.
 - **Health Issues:** Criminalisation of homosexuality leads to discrimination and results in LGBTQ people getting poor or inadequate access to services within the health system. It also creates barriers to both the availability and the ability to access HIV prevention, testing and treatment services.
 - **Isolation and Drug Abuse:** They gradually develop low self-esteem and low self-confidence and become isolated from friends and family. These people mostly get addicted to drugs, alcohol, and tobacco to get themselves relieved of stress and rejection and discrimination.

Related Legal Developments

- **Naz Foundation vs. Govt. of NCT of Delhi (2009):**
 - Delhi High Court struck off section 377, legalising consensual homosexual activities between adults.
- **Suresh Kumar Koushal Case (2013):**
 - SC overturned the previous judgment by Delhi High Court (2009) arguing that "plight of sexual minorities" could not be used as an argument for deciding constitutionality of law.
- **Justice K.S. Puttaswamy vs. Union of India (2017):**
 - SC ruled that Fundamental **Right to Privacy** is intrinsic to life and liberty and thus, comes under **Article 21 of the Indian constitution**. It held that **"sexual orientation is an essential attribute of privacy"**.
- **Navtej Singh Johar vs. Union Of India (2018):**
 - Dismissed the position taken by SC in Suresh Kumar Koushal case (2013) and decriminalised homosexuality.
- **Shafin Jahan v. Asokan K.M. and others (2018):** The Supreme Court observed that choice of a partner is a person's **fundamental right**, and it can be a **same-sex partner**.
- **Transgender Persons (Protection of Rights) Bill, 2019:** The Parliament has passed the Transgender Persons (Protection of Rights) Bill, 2019 which has been criticised for its poor **understanding of gender and sexual identity**.
- **Same-sex Marriage:** In February, 2021, the **Central Government opposed same-sex marriage in Delhi High Court** stating that a marriage in India can be recognised only if it is between a "biological man" and a "biological woman" capable of producing children.

Way Forward

- The LGTBQ community needs an **anti-discrimination law** that empowers them to build productive lives and relationships irrespective of gender identity or sexual orientation and place the onus to **change on state and society and not the individual.**
- Government bodies, especially related to Health, and Law and Order need to be sensitised to ensure that the LGTBQ community is not denied public services or harassed for their sexual orientation.

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