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Digital Safe Spaces and Online Activism: Comparing LGBTQ+ Mobilization in Pakistan, India, Sri Lanka, and Nepal

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ABSTRACT

In this review paper, the convoluted nature of legal gender recognition and LGBTQ+ citizenship in four South Asian countries: Pakistan, India, Nepal, and Bangladesh, is discussed. Such countries have developed distinctively different strategies towards sexual and gender minorities even though they share the same historical, cultural, and colonial background. This comparative study demonstrates that, with India placed in the middle between its historic 2018 decriminalization and Nepal having constitutional LGBTQ+ rights, the spectrum of the issue remains between Nepal and countries like Pakistan and Bangladesh, where homosexual rights continue to be criminalized. To demonstrate the relationships between the laws of colonialism, existing gender regimes, and the existing discourse of human rights to produce different effects on sexual and gender minorities. The paper considers the socio-legal contexts, law interventions, cultural environments, and lived experiences in the region that influence gay and lesbian citizenship. This comparative analysis highlights the disparate strategies of Bangladesh, India, Nepal, and Pakistan as it explores the many routes of LGBTQ+ citizenship and legal gender recognition in South Asia. India is in a transitional phase after decriminalizing homosexuality in 2018, whereas Nepal is at the forefront with constitutional safeguards. Bangladesh and Pakistan, on the other hand, continue to criminalize, which is indicative of their ingrained socio-legal conservatism. These variations highlight how colonial legal legacies, modern gender regimes, and human rights discourses combine intricately to produce fragmented LGBTQ+ citizenship. The report identifies several important policy implications to improve LGBTQ+ rights in the region, including legal change, constitutional guarantees, cultural sensitization, intersectional protections, regional discussion, and integration

Keywords: LGBTQ, Nepal, India, Pakistan and Bangladesh.

1. Introduction

The case of South Asian sexual and gender minorities is confusing. The oldest known gender variety tradition in the region is Hijras, Kothis, Aravanis, and other third-genders that have had centuries-old role in society (Reddy, 2005; Nanda, 1999). Nevertheless, as a result of British colonial rule to a large degree, these very cultures still possess some of the most limiting legal systems equivalent to gender identity and sexual orientation. The clash between the repression present in the region and acceptance of LGBTQ+ in the past complicates the comprehension of the rights of LGBTQ+ in the region. The four countries which shall be the focus of the present paper, namely Pakistan, India, Nepal, and Bangladesh, have significant historical connections, including unified legal frameworks, cultural practices, and the British colonial rule. However, over the past several decades, they have shifted gears radically in their course on LGBTQ+ rights. Nepal is now the most liberal nation in the South Asian region, given its constitution, which acknowledges third gender and makes same-sex relationships

decriminalized (Knight, 2015). In 2018, it became a landmark in LGBTQ+ rights as the Supreme Court in India reversed sodomy laws that had been in place during colonial times (Narain & Bhan, 2005; Gupta, 2018). In spite of their recognition of transgender people in the legal systems, Pakistan and Bangladesh criminalize transgender people. This study considers how the political economy, cultural context, judicial activism and legal recognition will come in interactions with one another to determine the effects on LGBTQ+ citizenship in the four countries. There are three primary areas under a comparative framework, they include legal frameworks of gender identity and sexual orientation, courts and constitutional provisions, and LGBTQ+ populations, activism, and lived experiences. Through these considerations, the research demonstrates that the nationalist politics, religious conservatism, colonial legacies and human rights activism result in unequal treatment of the South Asian sexual and gender minorities.

2. Theoretical Framework of LGBTQ+ Citizenship

The concept of LGBTQ+ citizenship, which encompasses social belonging and sexual citizenship in addition to formal legal recognition, is advanced by this study. This study highlights the necessity to investigate legal citizenship (formal rights), social citizenship (cultural recognition), and sexual citizenship (intimate autonomy), drawing on Marshall's (1950) tripartite theory of citizenship. These factors are particularly important in South Asia, where the convergence of post-colonial and colonial gender conventions makes it more difficult for LGBTQ+ rights to be realised. To comprehend how national identity frameworks affect the legal situation of LGBTQ+ people in South Asia, the theoretical lens integrates homonationalism notions (Puar, 20) with postcolonial queer theory (Aldrich, 2008; Rao, 2020).

Citizenship is not merely the legal status of the individual concerned but his or her rights, acknowledgment and capability of engaging in political societies (Marshall, 1950). The three registers that citizenship operates are legal citizenship (formal rights and protections), social citizenship (cultural recognition and social belonging) and sexual citizenship (rights relating to intimate life, bodily autonomy and gender expression), which work on sexual and gender minorities (Richardson, 2000; Bell and Binnie, 2000). According to Weeks, sexual citizenship involves the right to multiple relations, public identities, sociability, knowledges and so on that allow people to enjoy being complete members of the society (Weeks 1998, p. 37). Nevertheless, this paradigm has been criticized as possessing Western-centric assumptions and attention paid to the politics of visibility, which might not be relevant in other culture settings (Kapur, 2005; Massad, 2007). Gender and sexuality theories in South Asia challenge binaural western categories, which require advanced ways of understanding sexual and gender citizenship. The manner in which certain South Asian nations locate themselves in comparison with others is a case of how LGBTQ+ rights can be applied to nationalist and exceptionalist projects as the work by Puar (2007) on so-called homonationalism can illustrate. Meanwhile, the postcolonial queer theory reveals the effects of colonial rule on contemporary Global South sexual control (Aldrich, 2003; Rao, 2020). This is the legacy as evidenced by the fact that sodomy laws that existed during the colonial period still prevail in South Asia today. To carry on with this comparative analysis, citizenship is considered to be a controversial ground, on which various levels of LGBTQ+ identification, protection and

belonging are generated through the interplay of legislation, judicial decisions, cultural practices, and activist mobilization. By breaching this method, it will be possible to look at the official legal condition of the four countries and their substantive existential experiences.

2.1 Methodological Approach and Analytical Framework

Using a comparative case study methodology, this study looks at the political, social, and legal contexts of LGBTQ+ groups in Bangladesh, Pakistan, India, and Nepal. Using a mixed-methods approach, the investigation examines activist movements, case studies of court rulings, and qualitative legal analysis. Legal texts, court decisions, interviews with LGBTQ+ activists, and secondary sources from historical texts and sociological research make up the core data sources.

2.1.1. Legal Frameworks:

The study examines how legislation pertaining to LGBTQ+ rights have changed over time, with particular attention to decriminalization, legal gender recognition, and marriage rights. It contrasts the practical efficacy of legislative reforms, such as Nepal's constitutional acknowledgement of a third gender and India's 2018 decriminalization.

2.1.2. Judicial Activism:

The article assesses the judiciary's role in promoting or impeding LGBTQ+ rights by looking at significant court rulings including *Navtej Singh Johar v. Union of India (2018)*¹ and the *Sunil Babu Pant case in Nepal*².

2.1.3. Social and Cultural Context:

This covers the function of social movements, the prominence of LGBTQ+ groups, and the impact of cultural values, family dynamics, and religion. The study takes into account LGBTQ+ people's varied lived experiences in both rural and urban environments. This empirical approach offers a fresh framework for future comparative research in South Asian LGBTQ+ studies and enables a thorough understanding of the socio-legal factors that define LGBTQ+ rights.

2.1.4. Socio-Legal Developments and Comparative Design

By analysing LGBTQ+ rights in the larger framework of identity politics and post-colonial state construction, this study makes a unique contribution to socio-legal scholarship. The different socio-legal contexts in which LGBTQ+ people function are highlighted by the comparative study of Bangladesh, India, Pakistan, and Nepal. The minimal legal protections in Bangladesh and Pakistan, where same-sex partnerships are still illegal, stand in stark contrast to Nepal's progressive constitutional guarantees.

The significance of judicial activism in influencing the legal results for LGBTQ+ communities is also highlighted by the analysis. While Indian court decisions have swung between conservative and progressive positions, Nepal's Supreme Court, for example, has been instrumental in recognizing third-gender identities. The paper makes the case that, despite their importance, judicial interventions cannot take the place of substantial legal reforms and the political will to implement them. The study examines the social aspects of LGBTQ+ rights,

¹ <https://globalfreedomofexpression.columbia.edu/cases/navtej-singh-johar-v-union-india/>

² <https://www.icj.org/wp-content/uploads/2012/07/Sunil-Babu-Pant-and-Others-v.-Nepal-Government-and-Others-Supreme-Court-of-Nepal.pdf>

such as the intersectionality of caste, religion, and socioeconomic status, in addition to legal frameworks. The research highlights the experiences of marginalized groups, including Dalit LGBTQ+ people and transgender people, who encounter compounded discrimination based on their gender identity and caste, by recognizing the variety among LGBTQ+ communities.

2.1.5. Novel Contributions to Socio-Legal Scholarship

A new viewpoint on how South Asian nations address LGBTQ+ rights through a mix of legislative changes, cultural politics, and grassroots activity is provided by the study's comparative design. The study offers fresh perspectives on how colonial legacies still influence LGBTQ+ citizenship in the area by fusing socio-legal analysis with postcolonial queer theory. The analysis also casts doubt on the notion that only changing the law results in social acceptability, highlighting the necessity of intersectional frameworks and cultural changes in the struggle for LGBTQ+ rights.

3. Historical Context: Colonial Legacies and Indigenous Gender Systems

3.1 Pre-Colonial Gender Diversity

The third section is entitled Gender Diversity Before Colonialism. Before the British invasion, the South Asian communities recognized the diverse gender identities and expressions that were not encompassed by the male-female dichotomy. Based on ancient texts such as Kama Sutra and Mahabharata, the hijra community were recognized to have ceremonial and social duties (Nanda, 1999; Reddy, 2005). Like this, other regional groups, like the Kothis of North India, the Aravanis of Tamil Nadu and the Khwaja Siras of Pakistan, had their own social roles and cultural practices. They would sing at weddings and birthdays, take up alms, and sometimes even occupy significant roles in royal courts, and that was how they became a part of social and economic life (Hinchy, 2019). Even though the historical forms are not analogous to the contemporary LGBTQ+ identities, they demonstrate that rigid binary gender systems were highly reinforced by colonialism and are not universal and traditional across South Asia.

3.2. Criminalization of Colonialism.

The British colonial rule drastically changed the laws of South Asia on gender and sexuality. Section 377 of the Indian Penal Code, enacted in 1860, criminalized non-procreative sexuality, same sex relationships, which was based on carnal intercourse against nature (Gupta, 2008). This provision permeated across the British colonies, and a global system of sexual criminality was formed, which is currently present in most of the former colonies. Furthermore, colonialists enacted the Criminal Tribes Act (1871), which identified hijras and other gender-variant groups as criminal groups and monitored and persecuted them (Hinchy, 2019). These legal structures attempted to impose the Western gender and sexual norms on the conquered societies by pathologizing native gender systems as abnormal and illegal. The colonial process involved the introduction of Western medical and psychiatric systems that classified gender diversity and same-sex desire as aberrant, criminal or ill, that were not only legal but epistemic (Arondekar, 2009). Although the post-independence developments of these countries have been different, the colonial past manifests in the societal attitudes and the legal systems across South Asia.

4. Comparative Legal Structures.

4.1 Nepal: Reform and Constitutional Recognition.

Nepal is the country in South Asia that has the most developed LGBTQ+ legal system. A decade later, Nepal adopted a new constitution in 2015 that clearly prohibits discrimination based on gender identity and sexual orientation following a civil war that lasted ten years and the establishment of a republic in the country (Knight, 2015; Bochenek and Knight, 2012). Whereas Article 18 protects the right to identification of sexual and gender minorities, Article 12 protects the equality before the law. The historic case of Sunil Babu Pant v. in 2007 by the Supreme Court. The change started with Nepal Government, which recognized the third gender identification, obliged government to create a committee and study same-sex marriage, and demanded changes in legislation to protect the rights of LGBTQ+ (Knight, 2015). By working on the constitutional foundations of equality and dignity and depending on international human rights law, the court set a precedent of future reforms. In Nepal, the legislative system is already designed to include the third gender categories, the possibility of changing the gender markers on the identity documents without medical treatment, and the discrimination in the state services, jobs, and education. Despite the fact that its application is still uneven, the 2015 constitution adheres to proportional representation, and in this case, it has mechanisms of LGBTQ+ inclusiveness (Knight and Wilson, 2016). Yet still there are gaps so big. Sex marriages have not yet been recognized despite the order of the court, and this denies the same sex couples these legal safeguards on adoption, will, and other family benefits. Moreover, LGBTQ+ individuals still experience stigmatization and family rejection in the society, as well as economic marginalization, which means that a marked disparity exists between constitutional provisions and reality (Knight, 2015).

4.2 Decriminalization of Criminals in India

India has experienced significant judicial interventions and reversals in a development process to LGBTQ+ rights. However, Section 377 of the Indian Penal Code was not repealed and the fight continued well into the 21st century, being still active as of 2018. In the 1990s, the LGBTQ+ movement gained momentum due to the efforts of such organizations as the Naz Foundation, which challenged the legitimacy of Section 377 (Narain and Bhan, 2005). This later changed with the decision of the Delhi High court on Naz Foundation v. Govt. made in 2009 when the court struck down the Section 377 because of the relationship between consenting adults of the same sex (Narain, 2011). The court argued that the clause had violated the right to privacy, equality, and dignity as enshrined in the constitution. This victory did not last long, however, as the Supreme Court reversed the decision of 2013 in Suresh Kumar Koushal v. Naz Foundation, which is reintroducing criminality and attracting a lot of criticism (Gupta, 2018). The Supreme Court of 2018 in the case of Navtej Singh Johar vs. The five judges of the Union of India, in one opinion, all decided that Section 377 infringed on the constitutional rights, and eventually, categorically decriminalized same-sex relationships that were consensual (Gupta, 2018). The ruling in which Justice Chandrachud employed harsh words to support the equality and dignity of the LGBTQ+ community declared that LGBT people should be able to lead a life free of the stigma of being caught as apprehended felons. The same time with these developments, India has had significant development in acknowledging the rights of trans genders. In the 2014 ruling in NALSA. The Supreme Court

ruled in favor of the basic rights of transgender people and recognized that they are a third gender, and compelled states to employ affirmative action (Dutta and Roy, 2014). The Transgender Persons (Protection of Rights) Act, 2019, codified these rights, but the elements of the document that require the approval of a family or court to change gender are under critique by campaigners (Ghosh, 2020).

4.3 Pakistan: Legalization of Transgender

Criminalization of Transgender Rights is Still in Effect. The rights of transgender and the unlawfulness of same sex relationships both exist in Pakistan in a paradoxical situation. A significant law which recognizes the existence of transgender identity, prohibits any type of discrimination, and gives people an opportunity to determine gender is the Transgender Persons (Protection of Rights) Act, 2018 (Khan, 2019). This legislation can be viewed as a step in the right direction of gender legal recognition because it allows individuals to determine their gender on the official documentation without requiring medical help. Under the contemporary human rights models, the identity of khwaja sira (transgender) is rooted in historical and cultural history in Pakistan (Khan, 2016). In several progressive decisions, the Supreme Court has acknowledged transsexual rights to political participation, right to inheritance, and right against harassment. In 2009, the Court directed the National Database and Registration Authority to use hijras as a separate gender grouping. However, this system of transgender rights is complemented by Section 377 of the Pakistan Penal Code that punishes carnal intercourse against order of nature with a life sentence (Iqbal, 2018). The provision inculcates a culture of fear and allows police harassment, extortion, and violence on sexual minorities, although it may not often be enforced by the official prosecution (Human Rights Watch, 2016). Same-sex versus transsexual recognition is a gap created by complex arguments between the Islamic criminal law system, cultural norm, religious conservatism, and human rights campaigning. Although same-sex desire remains condemned as Western immorality, transgender individuals are already recognized partially because of the appeal to Islamic jurisprudence and indigenous custom that respects the khunsa (intersex) individuals (Khan, 2019).

4.4 Bangladesh: Continuous Criminalization and Low Acceptance of Transgender people

In South Asia, Bangladesh still maintains one of the most rigid laws which refer to LGBTQ+ people. Having passed on as part of British colonial law, Section 377 of the Penal Code criminalizes carnal intercourse non gratia natum, and a life sentence behind bars is a potential sentence (Khaled, 2019). The clause allows social persecution, extortion, and police abuse, and it is at times practiced. Little has been achieved in 2013 when the government recognized hijra as a third gender in national identity card and voter registration (Hossain, 2017). This awareness enhances the accessibility to certain government services and reduces harassment during the identification check by allowing hijras to receive documents with a third gender indicator. However, this administrative identification does not give an absolute legal defense against discrimination in housing, healthcare, education and employment. The politics in Bangladesh cripples the process of LGBTQ+ advocacy. The increased religious conservatism and violent extremism now create a problematic environment to the sexual minorities. This lethal condition was revealed when in 2016 Islamist extremists cruelly killed LGBTQ+ activists Xulhaz Mannan and Mahbub Rabbi Tonoy (Ahmed, 2018). LGBTQ+ movement has largely

gone in the shadows since these murders, with the groups operating sensitively to avoid fatal retaliation. The government has been opposed to the idea of decriminalizing same-sex relationships because of the way it depicts the demands as a result of western cultural imperialism that conflicts with the traditions and beliefs of the Bangladeshi people (Khaled, 2019). This nationalist-religious system makes advocacy strategies mentioning international human rights standards more complicated because they relate the opposition to LGBTQ+ rights to more inclusive anti-colonial and anti-Western rhetoric.

5. Constitutional Interpretation and Activism of the Judiciary

Courts in South Asia have become significant platforms in disputes of LGBTQ+ rights. Even in the face of legislative apathy or antagonism, the expansion of judicial interpretation of constitutional equality assurances and dignity has resulted in increased awareness in Nepal and India. Gay and lesbian rights represent the power of constitutional systems and the failure of majoritarian political systems to protect the rights of minorities because they are judicialized (Hirschl, 2004). The Supreme Court of Nepal has been highly liberal as they have framed the rights of LGBTQ+ on the international human rights laws, the constitution and transformed social attitudes. Though all court orders are not implemented yet, it has been a revolutionizing move by the Court to be able to determine government policy and recognition of justiciable rights to sexual and gender minorities (Bochenek and Knight, 2012). The Supreme Court of India has alternated conservative and progressive position, which is characteristic of changing social attitudes and the composition of the court. An example of a constitutional interpretation that relies on the primary interpretation of the term liberty, equality, dignity, and privacy used by the justices as a tool to invalidate the laws of the colonial period is the Navtej Singh Johar 2018 ruling (Gupta, 2018). The deference to majorities in the legislature expressed in the 2013 Koushal decision is the opposite of the high rhetoric of transformational justice and constitutional morality. Although the case has not touched on this even more provocative issue of same sex relationships, the highest court of justice in Pakistan has shown enlightened attitudes towards transgender rights. This selective progressivism is a maneuver among political constraints and religious conservatism (Khan, 2019). Transgender rights have been accommodated in the courts without any direct challenge of the religious authority by making it a part of Pakistani cultural heritage and Islamic jurisprudence. Bangladesh has not been a significant site of the development of LGBTQ+ rights because of the institutional restrictions and the political environment. This is due to the fact that courts have not provided revolutionary interventions as in other parts of the region since they do not have a firm history of activist adjudication within the region and they are experiencing significant political and religious pressure.

6. Cultural Context Social Attitudes

The cultural situation also plays a great role in the way legal frameworks are applied and their efficiency. Homosexuals in South Asia have to navigate complex social environments where the legal standards are in conflict with community norms, gender roles, religious values, and family respect. Family continues to be the primary social unit in South Asia, and LGBTQ+ individuals often have a strong pressure to get married and abide by the gender norms (Dave, 2012). The potential outcomes of coming out are family rejection, violence, forced marriage or corrective therapy. LGBTQ+ individuals are still lurky in family and community

environments and open their identities in some urban environments, even in legally liberal contexts, such as Nepal and post-decriminalization India. Although religious discourse differs in views, they are significant. Using biblical restrictions, the conservative religious leaders of the Hindu, Muslim, Sikh, or Christian faith often condemn LGBTQ+ identities as evil or deviant (Kugle, 2010; Vanita and Kidwai, 2000). Progressive religious scholars and activists on the other hand have developed alternative interpretations that focus on inclusive spirituality, human dignity and divine love. They are the theological discussions that affect political positioning and societal views. The LGBTQ+ is highly discriminated by the urban-rural differences. Although the rural territories often have a greater number of strict traditional norms, LGBTQ+ practices, groups, and cultural spaces are manifested in urban cities such as Kathmandu, Delhi, Mumbai, Karachi, and Dhaka (Boyce & Coyle, 2013). This dichotomy, nevertheless, conceives complex reality; there are rural conditions that do not lose third-gender roles and have social integration, and cities may be inhospitable. The LGBTQ+ is heavily mediated by the classes and economic status. Although lower-income and poor LGBTQ aspects face even greater marginalization, gay and lesbian workers are able to receive sympathetic care, empathetic communities, and even relative anonymity in cosmopolitan environments due to the more affluent and educated members (Dutta, 2013). In particular communities of Hijra and transgender people often live in complete poverty, surviving on sex work, begging or ritual performances and have no opportunity to work in official positions, receive medical care or education.

7. Community Organizing and Activism

The LGBTQ+ movements in South Asia have developed diverse strategies that consider different priorities of the community, cultural factors and political opportunities. Indian activism has been particularly visible with such organizations as the Naz Foundation, Humsafar Trust and Sangama in the forefront of taking legal action, mobilizing communities and raising social awareness (Narain & Bhan, 2005). The movement has employed cultural activism such as pride marches, film festivals and media activism, along with lawsuits of rights nature. A movement in Nepal has been led by the Blue Diamond Society and other organizations which have been successful in their integration of international human rights involvement, legislative lobbying and litigation (Bochenek and Knight, 2012). Alliances with the post-conflict democracy groups, strategic litigation, and the ability to frame the LGBTQ+ rights through a broader discourse of equality are all ingredients in the success of the movement to gain constitutional acknowledgment. Pakistani activism operates in a less expansive environment with an organization, such as Naz Male Health Alliance, focusing primarily on the health and human rights of transgender individuals and men who have sex with men (MSM) (Khan, 2016). Since the movement is a less politically controversial point of entry to work with sexual and gender minorities, the movement has actively emphasized the health aspect, particularly HIV prevention. Transgender campaigners have achieved a lot of success through advocacy that incorporates human rights frameworks, the use of Islamic discourse, and incorporation of cultural heritage. There is a huge challenge to the LGBTQ+ movement in Bangladesh after the 2016 activist killings. Other organizations such as Boys of Bangladesh and Roopbaan were operating before the murders but they have since been forced to go underground (Ahmed, 2018). The movement currently relies largely on internet

networks and prudent offline organizing, and the activists are never afraid of their security. Conflicts between global LGBTQ+ identities and native gender categories (hijra, khwaja sira), are handled by movements around the region. Whereas other activists lay more stress on pan-identity LGBTQ+ unity, there are those who choose the traditional third gender recognition. The argument is an echo of bigger debates around globalization, cultural authenticity, and identity politics (Boyce & Coyle, 2013).

8. Marginalization and Intersectionality

The LGBTQ+ communities in South Asia are not homogenous; instead, they identify with several oppositional identities. In the sexual and gender minority groups, caste, class, religion, ethnicity, and geographic location influence the diversity of experiences and priorities (Dutta, 2013). The LGBTQ+ individuals of Dalti and lower caste are subjected to compounded stigma, consisting of both sexual and gender marginalization and caste-based discrimination. Most members belonging to major hijra groups belong to the lower caste and this explains how gender nonconformity interacts with the existing social set ups (Reddy, 2005). As the leadership of movements and agenda-setting is dominated by upper-caste homosexual men, activism has sometimes helped to maintain caste supremacy. Muslim LGBTQ+ individuals are experiencing special challenges considering the political exploitation of Islam to derail the LGBTQ+ rights. Although the Muslim sexual minorities in India are faced by religious conservatism and Islamophobic stereotyping, homosexuality is depicted as Western immorality in conservative Islamic rhetoric in Bangladesh and Pakistan (Kugle, 2010). The progressive Muslim scholars and activists are struggling to make some inclusive Islamic interpretations though they remain in the minority. Transgender and hijra communities have distinct challenges in comparison to LGB communities. Transgender individuals are often extremely poor, are assaulted, and ostracized by society, even though certain legal systems recognize identification as third gender (Dutta & Roy, 2014). Most of them are dependent on sex work or begging to survive as they cope with abuses of clients, police harassment, and health risks. It is indeed exploitative and trafficking at times, but the customary guru-chela (mentor-student) system of the hijra community provides social support of some sort. The control and invisibility are also quite different in more and less equal ways, with lesbian women and bisexual women experiencing disproportionate numbers of control and invisibility. Lesbian affairs can be dismissed as passing phases before getting into a heterosexual marriage, and women are specifically prone to the stress of family and matrimony (Dave, 2012). These problems are added to the limited mobility of women and economic dependence whereby women find it more difficult to assert their identities and gain access to communities.

9. Comparative Assessment with Various Approaches

Upon conducting a comparison between these four countries, one can easily see how similar initial conditions have led to so many differences based on differences in judicial activism, constitutional structures, political opportunity structure, and social movements. Many factors can be attributed to the progressive course in Nepal, among them being the constitutional transition in the country that followed the civil war that left room to increase the rights, the judicial activism that has worked successfully on the base of international human rights laws, strategic movement advocacy, and minimal resistance to it by religious conservatives. Being

a part of a larger liberalization, the small size of the population and the relatively homogenous political culture of the country could have contributed to the easy process of finding a compromise on LGBTQ+ rights. India has experienced slow growth indicating that despite the legislative inertia, rights may be promoted through litigation and judicial interpretation. The fact that the Supreme Court changed its conservative Koushal 2013 decision to the progressive Navtej Singh Johar 2018 case is a sign of the changing social opinion, the activist placement, and the judicial makeup. In spite of enduring social conservatism, the cosmopolitan urban culture and the large and diversified LGBTQ+ community in India has avenues of visibility and organization. The discriminatory nature of the Pakistani recognition, which involves the same-sex criminalization with progressive transgender rights, evidences a masterful approach to cultural and religious limitations. Courts and activists identified a reason behind small progress of transgender recognition by posing their notion of transgender as an Islamic jurisprudence and indigenous culture instead of Western human rights discourse. It means that the cultural framing is significant on the political possibilities level, though, it also reinforces the notion that some forms of expression are acceptable (conventional third gender) and others are not (same-sex desire). The factors that contribute to the repression that has been continuing in Bangladesh include religious conservatism, political autocracy, violent extremism and absence of judicial action. The lack of strong tradition of constitutional rights, the availability of supportive judges, and violent aggression by Islamist groups severely restricts the LGBTQ + movement. The fact that the government describes LGBTQ+ rights as Western imperialism makes the advocacy even more challenging because it echoes the nationalist and anti-colonial rhetoric.

10. Obstacles and Prospects

The LGBTQ+ persons in South Asia still face challenges even though some countries have legalized the process. Legalization is not necessarily material or socially recognized. Nevertheless, in Nepal and India, the LGBTQ+ community experiences violence, housing insecurity, workplace discrimination, and family rejection (Knight, 2015; Gupta, 2018). Nevertheless, there are flaws in the implementation of even sophisticated legal systems. Nepal has a lack of implementing laws and enforcement mechanisms to the provisions of the constitution. Self-determination assumption of the NALSA decision contradicts the transgender rights law in India that has been criticized to make the transgender family or court approval prior to gender recognition (Ghosh, 2020). These loopholes demonstrate that the official legal recognition requires the strong implementation infrastructure and political intentions. There is still high marginalization of certain economically, particularly of the hijra and transgender groups. Most of them have no access to formal employment and education and are poor. Economic justice is essential because legal recognition is of little practical value without it. Movements are also making increased demands based on socioeconomic rights along with civil and political rights, including welfare, educational rights, and job reservation. Still, security and violence are great problems. The violence is perpetrated against LGBTQ+ members by the family members, law enforcement, religious zealots, and in general the people. The murder of activists in Bangladesh are extreme instances but normal violence at the region includes extortion, sexual assault, and beatings. Police often engage in violence and not protect it, and there is little or no legal protection of hate crimes and violence.

Healthcare has a lot of barriers. LGBTQ+ individuals are often the targets of medical practitioners, face non-culturally competent care, and cannot access the necessary therapies such as hormone therapy or sex affirming surgery. Although the research on the needs of the population in the field of public health reveals them, the provision of HIV and sexual health care to MSM populations remains inadequate (Khan, 2016). When we gaze through the future, several important areas can be identified. The four countries need detailed anti-discrimination laws that encompass the government services, labor, housing and education. The Civil unions or marriage equality that recognizes same sex union would provide essential protection in immigration, inheritance and family building. The implementation of current progressive policies requires resources, political commitment as well as training. Still, it is paramount to remodel culture with the help of the general discourse, media images, and schooling. Minor change in the laws without social acceptance does not improve much in lived experiences. The perception can also be transformed gradually through public educational campaigns, media coverage, and the integration of LGBTQ+ individuals into the school curriculum to alter the views of younger generations. It is imperative to understand intersectionality and internal diversity in order to build a movement. Movement rhetoric tends to marginalize lesbians, bisexuals, transgender people, rural populations, and lower-caste backgrounds, and is often infused with the upper-class, urban, cisgendered gay men experiences (Dutta, 2013). This requires a greater degree of democracy and inclusivity in movement systems that are more concerned with the interests and opinions of the marginal. Regional collaboration and campaigning on the international level can reinforce the movements as respecting the national settings. Although homogenization should be avoided, one can learn through the achievements and the setbacks of South Asia and come up with more effective strategies. Nevertheless, to avoid nationalistic interpretations of the LGBTQ+ rights as Western imperialism, movements have to walk the global human rights line.

11. Conclusion

The diversity in the opinions of South Asian countries towards LGBTQ+ rights indicates that culture and shared colonial experiences are not the determinants of outcomes. These four nations have developed strikingly diverse legal parameters and social contexts of sexual and gender minorities via numerous formations of judicial activism, constitutional amendment, political organization, and cultural bargaining. The varying degrees of a spectrum of recognition to repression may be observed in the current repression in Bangladesh, the selective rights of transgender in Pakistan, decriminalization in India, and constitutional recognition in Nepal. Nonetheless, this range does simplify complex facts, including the fact that progressive laws have existed along with social stigma, formal recognition and lack of implementation, and continued political debate over legal progress. The comparison investigation brings out several significant findings. To begin with, although judicial progressivism is insecure and can be undone, a court could be a fruitful place of carrying out the promotion of rights in case legislators cannot or cannot act. Second, the political possibility is highly shaped by cultural framing. In as much as this strategy threatens to reinforce essentialist distinctions, rights arguments regarding local values and customary practices of indigenous people could prove more politically viable than those perceived to be western imports. Third, economic justice, legal recognition, and cultural change cannot be

implemented without the infrastructure. It will be harder to achieve substantive citizenship of the LGBTQ+ people in the future full access to the economic, social, political and cultural life free of fear and stigmatization, than achieving formal legal equality. This requires continuing effort in legal change, judicial advocacy, movement building, cultural change and economic fairness. The LGBTQ+ communities and activities have been amazingly resilient as they have battled through the most severe discrimination, cruelty and oppression. The sexual and gender minorities are still making spaces to survive, enjoy dignity, and thrive all over South Asia through day-to-day defiance, strategic litigation, hijra groups, organizing underground, and court victories. However, it is also important to understand their various experiences and problems to pursue social justice, democracy, and human rights at the local and international levels.

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