



A study on the impact of media portrayal and judicial intervention in changing social attitudes toward same-sex marriages in India

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ABSTRACT

At the global level, across cultures, the social imagination of sexual identities has undergone a radical change. However, social and legal acceptance of same-sex marriage has remained a contested terrain. While it has obtained legal acceptance in several countries, same-sex marriage continues to be a social taboo in many parts of the globe, including India. Following the legalization of same-sex marriage by nations like the US, Sweden, Belgium, New Zealand and Canada, the sexual minority communities have intensified their campaign demanding the legal recognition of same-sex marriages in India as well. The present study analyzes the impact of media representation and construction of same-sex relations and the role of the judiciary in changing the social attitude towards accepting same-sex marriage. The study employed a survey method to understand how media representation and legal interpretations have impacted people's perception towards same-sex marriages and to find out what roles media portrayal and judicial decisions can play in reducing stigma and social dissociation towards the marital rights of the sexual minority.

Keywords: media construction, media influence, legal protection, same-sex marriage, attitude studies

Introduction

Indian society is witnessing a sea change in social attitudes toward the LGBTQ community. People belonging to these communities have realised that they have to fight for their rights and find increasing support from all sections of the society especially the judiciary, media and the intellectual community. Recently, in the year 2018, India revoked the draconian, colonial-era law that made homosexuality illegal as a result of the Supreme Court's ruling stating that the application of Section 377 to acts of homosexuality between consenting adults was unconstitutional. It has been five years since homosexuality was decriminalized, but the public morality around same-sex relationships in general and same-sex marriages, in particular, remains ambivalent.

Despite social marginalization and denial, the homosexual community has shown an unswerving determination to get legal sanctions, especially a legal status for same-sex marriages. Several petitions for the legalization of same-sex marriages are under consideration in courts across the country. A petition filed by the gay couple Supriya Chakraborty and Abhay Dang in the apex court of India seeks to make the Special Marriage Act, 1954 gender-neutral and legalize same-sex unions (Mohapatra, 2022). As per the recent report by the Human Rights Campaign Commission, 32 countries around the world have legalized same-sex marriages, out of which 22 have legalized through national laws and 10 have legalized through court decisions (HRC Foundation, n.d.). It shows that societal sentiment across the globe is tilting towards an inclusive world concerning personal rights. India is not an exception as the apex court of the country has taken up the matter of giving legal status to same-sex marriages for hearing and had asked the central government to submit its position on the issue. In India, the judiciary is called the third estate of democracy while the media is considered the fourth estate. Both institutions have a tremendous responsibility in steering the democratic nation and guarding constitutional rights. Hence, the stand adopted by both organizations will have a bearing on the collective attitude of the public. And being isolated from society, young people from the sexual minority community may turn to media to form their perspectives on their own identity (Padva, 2008). And to lead a dignified life, members of the sexual minority community will seek legal rights on par with other citizens. Therefore, it becomes pertinent to understand how the Indian media and judiciary have been treating homosexuality.

Media and same-sex relationships

We are living in a world overwhelmed by mass media from print to digital. People interpret the world around them and make sense of social realities using mass media. In the present world, where physical boundaries could not prevent the dissemination of information and ideas across cultures, thanks to digital media's proliferation, minorities, be they, social, religious, economic or sexual, have achieved a long-overdue presence on the media platforms. Especially the clamours of sexual minorities for an accurate media portrayal of their lives and struggles seem to resonate with various kinds of media. No one can deny the fact that homosexual unions are social realities in India.

However, the Indian media until the landmark judgment by the Delhi High Court, which decriminalized homosexuality had stereotypically projected the marginalized LGBTQ community. Hindi cinema had traditionally adopted an attitude of denial or mockery toward the LGBTQ community (Sabharwal & Sen, June 2012). Print media have been more vocal in covering LGBTQ issues and news related to the marginalized community of homosexuals. Of late, post the decriminalization of Article 377, Indian movies, especially Bollywood, have

started depicting the community in a never-seen-before way prompting a public conversation on human and psychological issues of being a homosexual. Movies such as *Margarita with a Straw* (2014), *Aligarh* (2015), *Kapoor and Sons* (2016), *Ek Ladki ko Dekha to Aisa Laga* (2019), *Badhai Do* (2022) and *Maja Ma* (2022) are a few films that did not fall prey to the stigmatized portrayal of homosexuality. Content on Over the Top (OTT) platforms and social media platforms such as YouTube also features homosexual content and many of them are educative in their approach like *All About Section 377* (2016) and have tried to portray the social struggle of the community as in *Romil and Jugal* (2017), *The 'Other' Love Story* (2016) and *A Married Woman* (2020).

A fair treatment of the issues faced by homosexuals in the popular visual media will augment the process of mainstreaming the community and provide a social and cultural space for the discussions on gender and sexual identity and also construct the concepts of gender identity, gender expression and socialization process. Media is also a dominant force in deconstructing the patriarchal perspective and stigmas associated with homosexuality. Sensible representation by the visual media can also prove beneficial in ending social isolation and disowning by the family.

Most of the previous studies conducted have analyzed the nature of the portrayal of homosexual relationships by the media but very little literature is available on the studies which have tried to analyze the impact of media portrayal in changing the social attitude in India. The present study strives to find the relationship between the changed narrative of sexual identities in the media, especially in films, web series, and social media reels and the societal attitude towards same-sex relationships. It tries to reveal whether Indian society is prepared to fully recognize same-sex marriages or is limited to partial recognition and how progressive judicial interpretations have impacted the social attitude towards the legalization of same-sex marriages in the Indian context.

The Legal status of same-sex marriages in India

Although people warmly accept Bollywood movies made on same-sex marriages and appreciate the concept, such marriages are not legally valid in India. Decriminalization of Section 377 of the Indian Penal Code by the Supreme Court of India does not automatically translate into a fundamental right for a same-sex couple to marry. The Supreme Court's ruling granted same-sex couples the freedom to lead a dignified private life (Moot Court - Same-Sex Marriage - Dr. M.V.V Murthi 2nd National Moot Court Competition Memorial - Studocu, n.d.). It allows them only the basic right to companionship so long as such a relationship is consensual, free from the vice of deceit, force, and coercion and does not result in the violation of fundamental rights of each other. The ruling applied to the personal and private domain of individuals is akin to the right to privacy and it does not include the public right to privacy (Moot Court - Same-Sex Marriage - Dr. M.V.V Murthi 2nd National Moot Court Competition Memorial - Studocu, n.d.). Also, it does not include the public right like recognition of same-sex marriage and thereby legitimating particular human conduct.

Marriage in Indian society is a socially recognized union of two individuals which is governed either by uncodified or statutory laws. There is no acceptance of the institution of marriage between two individuals of the same gender either in personal laws or codified statutory laws.

The judicial construct of same-sex relationships in India

The constitution of India strives to secure equality of status and opportunity for all citizens and directs the state to promote the welfare of the people and create a social order free from injustice and inequality. The state shall in particular strive to minimize the inequalities and endeavour to eliminate all forms of discrimination. It means that the state shall not discriminate against any of the Indian citizens based on their gender, caste, creed, religion or place of birth. If there is one constitutional tenet that can be said to be underlying the theme of the Indian constitution, it is that of 'inclusiveness'. The courts in India also believe that the Indian constitution reflects this value deeply ingrained in Indian society and nurtured over several generations.

On 2nd July 2009, the High Court of Delhi ruled that the provision in Section 377 of the Indian Penal Code that criminalizes private consensual sex between same-sex adults is against the spirit of the Constitution of India and International Human Rights Conventions. The two judges' bench ruled that consensual sex amongst two adults is legal. (*Naz Foundation v. Govt. of NCT Delhi*, WPLC No. 7455/2001, 2nd July 2009. Further, the matter went to the Supreme Court of India. The Supreme Court overturned the High Court judgment, which had declared Section 377 of IPC as unconstitutional criminalizing carnal intercourse against the order of nature.

The Supreme Court, which is known as the guardian of the fundamental rights enshrined in part III of the Constitution disappointed everyone with such a regressive decision.

In 2014, the Supreme Court delivered an important judgment in *National Legal Services Authority V. Union of India* [(NASA) 2014, 5 SCC 438], which construed Articles 15 and 21 of the Indian Constitution as including the right to gender identity and sexual orientation and held that just like men and women transgenders could enjoy all the fundamental rights that other citizens of India could enjoy. Thereafter in *Justice Puttaswami (Retd.) and Another V. Union of India and Ors.* [(2017) 10SCC1], a nine-judge bench of the Supreme Court unanimously declared that there is a fundamental right of privacy which is guaranteed in favour of all persons, the concomitant of which was that the right to make choices that were fundamental to a person's way of living could not be interfered with by the state without compelling necessity and harm caused to other individuals.

Finally, on 6th September 2018, the Constitution Bench of the Supreme Court in *Navtej Singh Johar v. Union of India* partially struck down Section 377 of the Indian Penal Code (IPC), 1860 which made carnal intercourse against the order of nature a criminal offence and punishable under law. While reading down Section 377, the Court excluded from its ambit - consensual sexual intercourse between adults in private. In *Navtej Singh Johar's* case, Justice Malhotra goes so far as to state that "History owes an apology to the members of this community and their families, for the delay in providing redressal for the ignominy and ostracism that they have suffered through the centuries." It makes us think of other important apologies made for causing historic injustice such as the German nation to the Jews. In "*Navtej Singh Johar*" the judges take responsibility for the wrongs committed and seek to atone for it by clearly spelling out how things must become better today and in the future for LGBT persons. The verdict applies in India, but their words have a universal appeal.

Media influence on attitude

In the field of communication research, one can find several studies on the topic of media effects on society and human thoughts. Considered to be the father of persuasive communication,

Aristotle also discussed the skills required to persuade and bring attitudinal change. The Hypodermic Needle Theory proposed that media can have a direct, immediate and strong effect on the users (Littlejohn & Foss, 2009). It assumes that mass media can have a direct and uniform effect on a large audience where media users will accept the message without any resistance. The theory proposed that the media has the power to exert a similar effect on many people and condition the masses as it expected them to behave. However, scholars like Paul Lazarsfeld, Bernard Berelson, and Hazel Gaudet disapproved of this magic bullet effect and suggested limited effects theory (Berelson et al.1968). They asserted that media can exert limited effects on those users who paid continuous and close attention to it and had lesser effects on the audience who had limited exposure to media. This theory which was also called a Two-step flow theory did not rule out the media's effects on the masses.

Herold Lasswell argued that through a well-planned and long-term media campaign, it is possible to create favourable responses (Baran & Davis, 1995). Walter Lippman was also of the opinion that media messages can have effects on public opinion (Lippmann, 1997). While observing the potential of mass media in influencing voting behaviour during the American presidential campaign of 1968 McCombs and Shaw found that mass media exercised a noticeable effect on the decisions of the voters who relied primarily on the mass media for election-related information (McCombs & Shaw, 2006). Their study led to the conclusion that intentionally or unintentionally mass media can shape public opinion and agenda. Based on several studies on how media, which is an independent subsystem of society, constructs our social reality by continuously transmitting information, we can assume that media constructs a model of the world for its audience and influences human perception of the world around us (Chistyakov, 2020).

Research Objectives

Former UN Secretary-General Ban Ki-moon made a statement in the year 2013 that “I respect culture, tradition and religion, but they can never justify the denial of basic rights. My promise to the lesbian, homosexual, bisexual and transgender members of the human family is this: I'm with you” (Dideriksen, 2015). He also declared that religion, culture and tradition can never be a justification for denying them their basic rights. According to Pew Research Centre, the revocation of Section 377 led to an increase in acceptance of homosexuality by 22 points from 15 to 37 (Rising Acceptance of Homosexuality by People in Many Countries Around the World Over the Past Two Decades, 2020). Whereas in India, Justice of the Supreme Court Dhananjay Chandrachud who is one of the members of the bench which decriminalized homosexuality in India says that in addition to law and judiciary what we need is the structural and attitudinal changes in society to let the LGBT community live a life of autonomy and dignity (Anand, 2022).

The media needs to play a significant role in making decisive changes in the public's perceptions of the LGBT community. Individuals with an overall higher media exposure showed more acceptance towards the issues of homosexuality (Gonta et al., 2017). It is also established that television and blog viewing is associated with a progressive attitude and suggested conducting further research to find how other forms of mass media impact the audience attitude (Lee & Hicks, 2011). The present study strives to find the relationship between the changed narrative of sexual identities in the media, especially in films, web series, and social media reels and the societal attitude towards same-sex relationships. It tries to reveal whether Indian society is prepared to fully recognize same-sex marriages or is limited to partial recognition and how

progressive judicial interpretations have impacted the social attitude towards the legalization of same-sex marriages in the Indian context.

Therefore, the present study has been undertaken to find answers to the following research questions:

1. Whether media portrayals help people to broaden their understanding of the homosexual community.
2. Whether people know the present legal status of same-sex marriages in India
3. What is the current attitude of people towards same-sex marriages?
4. What is the relationship between media portrayal of same-sex relationships and social attitudes towards same-sex marriages?
5. What is the impact of judicial intervention through progressive judgments in cases relating to homosexuality?

Research Methods

The present study is a descriptive research where a survey method was employed to collect the primary data. The study intended to analyze the impact of media construction of same-sex marriages and judicial decisions on the attitude of people towards same-sex marriage. We have adopted a purposive sampling method where the respondents are exposed to media content on same-sex relationships and are also aware of the judgments of the courts relating to homosexuality.

A questionnaire consisting of a total of 38 questions was administered to 136 respondents via Google Forms and also in physical form. Out of 136 questionnaires distributed, 103 responses were received of which 74 respondents submitted their responses through Google Forms and 29 respondents answered through a physical questionnaire. Among them 50 were males and 53 were females. Responses were collected from the respondents of different age groups ranging from 18 years to 61 years and above. With regard to their geographical location, 81 respondents were from urban and 22 respondents were from rural backgrounds.

The questionnaire consisted of 38 questions, the structure of which is as follows: the initial 8 questions were designed to collect the demographic information of the respondents like age, location, educational qualifications, etc., The next 7 questions were framed to ascertain the nature of media consumption and exposure to homosexual content. In the present study, exposure to same-sex relationships in media such as films, web series, short films on social media and social media reels were only taken into consideration. The next 5 questions tested the knowledge of the current legal status of same-sex marriages and the public opinion about the progressive approach of the judiciary towards same-sex relationships in India and the implications of recent judgments on social attitudes towards same-sex relationships.

The remaining 17 questions were derived from the standard psychology scale of 17 items on a 5-point scale developed by Marcia L. Pearl and M. Paz Gulepo of Towson University (Paul & Gulepo, 2008) to assess the Attitude Towards Same-sex Marriages (ATSM scale). These questions measured the overall attitude of acceptance toward same-sex marriages on a 5-point Likert scale. A total score of 17 indicates a highly negative attitude and 85 indicates a highly positive attitude. The 17-item ATSM scale questions measured the attitude toward same-sex marriages on a 5-point Likert scale (Strongly Agree, Agree, Can't Say, Disagree, Strongly Disagree). Among the 17 items, positively framed questions were scored like this: Strongly

Agree=5, Agree=4, Cannot Say=3, Disagree=2 and Strongly Disagree=1. Negatively framed questions had a reverse scoring.

To measure the internal consistency and reliability of the questions framed, the questionnaire was subjected to the Cronbach Alpha test, which yielded a score of .935 for the initial responses gathered from 31 respondents for the pilot study. The Cronbach Alpha score suggested adequate internal consistency and reliability.

Results and discussion

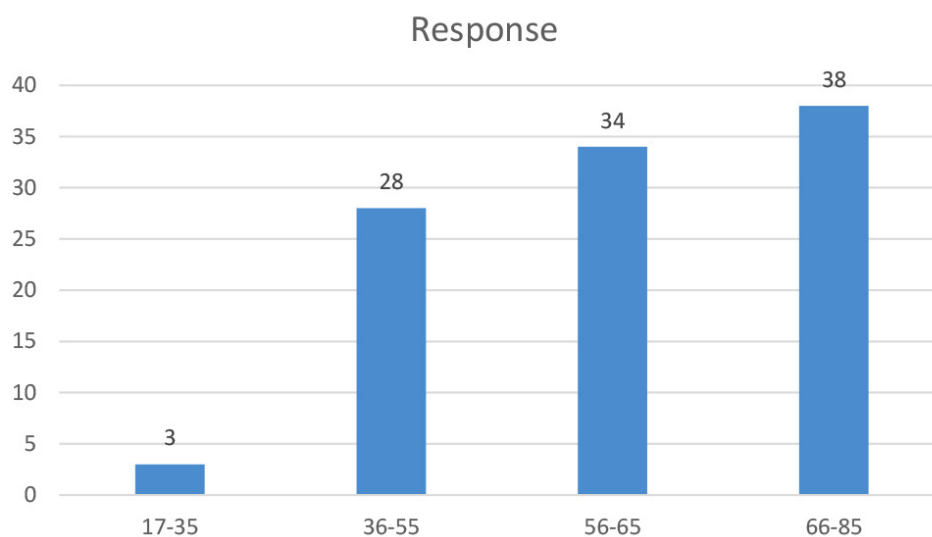
Data analysis of the responses indicated that there is a reasonable positive shift in the social attitude toward same-sex marriages in India.

Research Question 1. Among the 103 respondents, 27 replied that they strongly agree that media portrayal helps them to understand the issues of homosexuals, 56 of them agreed, 15 had marked can't say, 5 disagreed and none of them strongly disagreed. The total score of the question amounts to 515 and the total response score was 414. The average response score was 80.38%, which suggested a high percentage of agreeableness among the respondents towards the usefulness of media portrayal in understanding the issues related to same-sex relationships.

Research Question 2. Out of 103 respondents, 74 respondents replied that they are aware that even though consensual homosexuality has been decriminalized there is no legal validity for same-sex marriages in India. 71% of the respondents knew the present legal status of same-sex marriages.

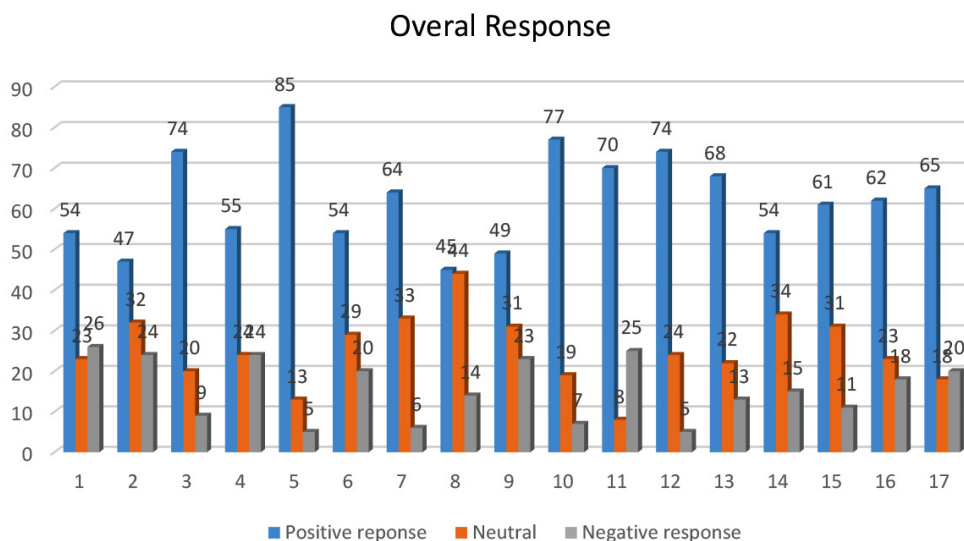
Research Question 3. As disclosed earlier, the attitude of the respondents towards same-sex marriages was measured using the ATSM scale of 17 items. The highest score on the scale would be 85 and the lowest would be 17. The median value of this range is 51. Our study yielded the highest score of 85 and the lowest score of 19 with a median score of 52 which shows a slightly positive attitude among the respondents. The score range of 17 to 85 has been divided into 4 categories of 17-35, 36-55, 56-65, and 66-85. The result shows that 38 respondents have highly positive attitudes toward same-sex marriages and 34 respondents have a positive attitude (Figure 1). And the graph of the individual score of attitudes toward same-sex marriages is displayed in Figure 2.

Figure 1. No of responses in each score range



17-35 – Negative , 36-55- Slightly positive, 56-65 – positive , 66-85 – Highly positive

Figure 2. Individual scores of ATSM scale



The above graph indicates the overall attitude of the respondents towards same-sex relations in which the positive attitude is on the higher side in comparison with a negative and neutral attitude.

Research Question 4

One of the research questions was to ascertain the relationship between media portrayal and attitudes toward same-sex marriages. The correlation between those who were exposed to media content and had said media helped them to understand the issues of homosexuality and those who said they support the legalization of same-sex marriages stood at 0.349 indicating a slightly positive correlation. The covariance score between the same two variables was 0.221587664 suggesting a slightly positive relationship between the variables under examination.

Research Question 5

When the respondents were asked whether they welcome the judgment of the Supreme Court which decriminalized same-sex relationships, 22 respondents strongly welcomed the move by giving their responses as strongly agree, 60 respondents agreed, whereas 11 respondents answered can't say, 8 respondents disagreed and only 2 respondents strongly disagreed. 68.93% of respondents welcomed the judgment. The correlation between those who welcomed the judgment and those who said they would support the legalization of same-sex marriages was 0.533374483 and the covariance was 0.389110984. This indicates that there is a slightly positive correlation between the two variables.

One of the objectives of the study was to find out whether Indian society is prepared to fully recognize same-sex marriages or is limited to partial recognition. As per the data obtained, out of 103 respondents, 65 have opined that there is a need for the legalization of same-sex marriages in India. This is analogous to the opinions of people in many other countries. However, when it comes to parenting by same-sex couples, respondents are not fully convinced that same-sex couples can provide the same kind of parenting as that of heterosexual couples.

With more than 80% of the respondents agreeing that media portrayal helps them to better understand the homosexual community, it becomes explicit that there is a positive shift in the media portrayal of same-sex relationships. Hence, the study established a slight positive

shift in the attitude towards same-sex relationships among people who were exposed to the sensitive portrayal of same-sex relationships by the media and progressive judicial interventions.

Limitations of the study

The present study has a few limitations. The study collected responses from 103 respondents, and the sample size could have been larger. It has taken films, web series and social media reels or posts into consideration. However, exposure to other types of media is not measured. Apart from media and judiciary, many other factors may influence the attitude of people towards homosexuality, which are not taken into consideration in the present study. There is a scope for undertaking a study on the above-mentioned aspects.

Conclusion

Based on the present study and after the thorough examination of the data it can be concluded that there is a slightly positive shift in the attitude of people towards same-sex relationships including same-sex marriage. The study has established that media portrayal has broadened the understanding of people on the issues relating to same-sex marriages. Judicial inclination in favour of the homosexual community through judicial pronouncements and interpretations in favour of the LGBT community has to some extent influenced the attitude of people toward homosexual behaviour. In order to lead a dignified and harmonious life, both legal protection and social acceptance are indispensable for the homosexual community. In this regard, progressive judiciary and proactive media which positively highlight and are empathetic about the issues of sexual minorities can play a vital role as the study established a positive relationship among them.

Declaration of Interest

The authors of this paper declare that there is no known conflict of interest associated with this study and no fund of any kind from the funding agencies in the public, commercial or not-for-profit sectors was received for the present study that could have influenced its outcome.

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