CHAPTER-7
VARIOUS PROBLEMS OF HOMOSEXUALS

7.1 INTRODUCTION

A pamphlet called ‘Queers Read this: I Hate Straights’, was published and distributed in New York reads:

“I hate that in twelve years of public education, I was never taught about queer people. I hate that I grew up thinking that I was the only queer in the world and I hate even more that most queer kids grow up in the same way. I hate that I was tormented by other kids for being a faggot, but more that I was thought to feel ashamed for being the object of their cruelty, taught to feel it was my fault. I hate that the Supreme Court of my country says it’s okay to criminalize me because of how I make love. I hate that so many straight people are so concerned about my god damned sex life... I hate straights.”

The emotion depicted in the above letter is symbolic of feelings; not only held by a US child, but also is an indication of turmoil which is being faced by an Indian homosexual child in present scenario. In terms of legal status of queer men and women, there are significant differences as well some shared struggles. Section 377 is used against queer men and women as a threat. In many cases, police do not want to make arrests but use it as a threat. This is common to queer men and woman although some queer man faces it much more due to their prominence in public spaces as compared to women.

This chapter aims to identify the problems of homosexuals as a class as well as experiences of queer people of different genders to illustrate the complexity of homophobia and discrimination, which cannot always be illustrated by broad brush strokes but are nuanced by a range of factors other than sexual orientation.

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7.2 GENERAL PROBLEMS FACED BY HOMOSEXUALS

There are various personal (Physical, medical & psychological problems), social, legal and occupational problems faced by homosexuals throughout the world. There are numerous instances of struggle and harassment faced by homosexuals in India & world. Some of these are:

- Blackmail and extortion.
- Harassment & torture by police and public authorities.
- Moral counselling & policing of gay men and lesbian women.
- Hate & non acceptance by community at large.
- Fewer job opportunities.
- Discrimination at every sphere of life.
- Homophobic reaction of people.

7.2.1 Blackmail and extortion

Blackmail and extortion are prevailing widely among queer man in India. Sexual blackmail can be defined as an act of blackmailing someone by threatening to disclose 
some ‘discreditable’ information about his sexual orientation, gender identity or sexual behaviour.\textsuperscript{227}

Angus Mc Larme in his seminal book ‘Sexual Blackmail’ argues that ‘laws against sodomy’ invented the crime of sexual blackmail\textsuperscript{228}. Sodomy laws have been infamously known as ‘Blackmailer’s charter’. One of the first documents on queer rights in India titled ‘Less Than Gay’ identified sexual blackmail as one of the pressing issues facing the community, it states:

“In the absence of an option to live open, socially legitimate relationships, a gay men resort to ‘cruising’ in parks, on certain streets, sometimes in public toilets, in search for sexual partners. This may be the search for an ideal partner, more honestly for one among many, or a ‘safer’ option for am man who does not feel able to risk the degree of emotional commitment, or the possibility of social disgrace that may arise from a steady relationship.”\textsuperscript{229}

It is a common experience among queer men in India irrespective of their age, class, monetary status, culture, caste or religion, or their extent of being in or out closeted. The offence of sexual blackmail has two foundation bases. One, it is immensely adaptable to the situation. Therefore, a clever blackmailer is likely to find a monetary opportunity when confronted with a homosexual person in any situation whatsoever. He may not always succeed, but he will most certainly try. Secondly, the blackmailer gains instant impunity through homophobic discourse. Blackmailer pretends as a self appointed agent of morality, taking forward the homophobic terrors agenda of the state into the lives of the queer people.

Peter Alldridge places ‘sexual blackmail’ on the axis of information and power. He explains that ‘the power of a secret rests with its potential revelation. Blackmail,
which threatens guilt with shame by revelation of a secret, provides an axis in the relationship between information and power”. 230 Oliver Phillips places ‘intimacy’ as a point of separation of private from the public, where the axis of information and power gathers a stronghold. 231 This intimate space gains further prominence in India where everything sexual necessarily invites shame and therefore must be kept bound in a secret vault in the private realm. Thus, armed with the information that Xerxres led a parallel homosexual life, and needed to keep this intimate knowledge a secret- and possibly carried a heavy sense of shame with it, gave the blackmailer immense power over Xerxres to blackmail him repeatedly for over 10 years.

Many myths shroud perceptions of sexual blackmail, such as, sexual blackmail happens only to upper class, closeted gay men who have because of their own lack of self confidence to deal with their homosexuality and refusal to associate with both social and political queer spaces for support and comfort- made themselves vulnerable to blackmail. Secondly, sexual blackmail occurs to not so innocent queer men who consciously, knowing very well the dangers involved, participate in otherwise dangerous/ immoral sexual practices-cruising in public spaces, sex in public loos and an obsessive search for sexual partners over the internet, all of which are bound to give them in trouble, so if this leads to extortion through police entrapment or gang of hoodlums, it is entirely deserved.

There are multiple agents of the society that exercises control on queer people. Unfortunately, queer people are blackmailed under the cover of law. The use of the law or the presentation of blackmail an act of law enforcement is still the most common modus-operandi. It also gives the blackmailer a certain (un) official sanction, that illegal and socially disrespected behaviour is being controlled, discouraged and punished, all at the same time. Often, the formal authority of the police merges with the unofficial one of the society.

230 Ibid.,pp.368.
Karishma, a young transgender identified woman based in Delhi told me the story of her regular harassment by the local cops in her area, prior to decriminalization of homosexuality by Delhi High Court in 2009. She narrated her story by telling that her harassment began when the cops spotted karishma with a local Hijra in 2007. Karishma was living in men’s clothes at that time:

“Once inside the house they were shocked to see that my friend was a Hijra. They linked my effeminate behaviour with her and said, ‘we know you are just like her, you are both the same..’ a few days later the two policeman were standing outside my house and saw me standing next to my parents. They said, he is a ‘chakka, kothi and goes to visit hijras.’ My parents went into shock and did not speak to me for two months.

Another week later I met the same two policemen again, I was returning late from uttam nagar. They stopped me in the park (which I have to cross to get back home). ‘We see you around a lot these days we are becoming very suspicious of you’. I was scared. I said ‘I have not done anything wrong.’ You didn’t have to tell my parents about me, you have created so many problems for me at home’. They said okay, we will close your matter, give us some money. I said ‘what money, I don’t have any’. Then they ask me to buy some alcohol for them. I refused as I couldn’t. They took me in a small police chowky, control room that were in charge of that night. ‘Give us a blow job’, one of them said. I said ‘no, I don’t do these things.’ They got very angry. ‘Slap the bastard, he does not give money, does not buy alcohol, and also does not blow us’.

She told that Delhi high court judgment has given her confidence to come out of closet, she has herself revealed her sexual orientation to her parents and she feels better in space of queer community.

The degree of vulnerability also changes with time and place. A large number of cases of blackmail and extortion involve police officers actively seeking potential

232 Interview at Naz drop in centre, Lajpat Nagar, on 24 November, 2011.
233 Ibid.
homosexual victims. There are different kinds of blackmailing modus-operandi. Most of the blackmailers operate in small groups outside railway stations, where they cruise gay and bisexual men, and take them either to an empty house or a quiet road, where the latter are robbed and mugged. As Alldridge argues, a blackmailer is never concerned with the ultimate resolution of the alleged crime. He is just as interested in keeping the crime a secret.\(^{234}\)

**Black Mail over the Internet**

Over the last few years, the Gay Bombay group has received successive stories of blackmail via entrapment through the internet. Internet is meant to be relatively safe for gay and bi-sexual men to meet and interact with one another. They could look for friends, support, sex, and love without having to reveal their identity. The promising thing about internet is that one has the option of only revealing information that one felt was necessary. However, now blackmailers now use the internet to establish contact with the gay man. They follow up this with a meeting in public place. The victim is generally asked to carry compact discs of gay pornography, which are later used as evidence against them. False arrest is staged by either the policemen involved in the blackmailing process or by those impersonating policemen. Gay men have lost their money in many such cases, as the blackmailers escort them to their ATM and emptied out their accounts by way of extortion. Most of these gay men are terrified of filling any police complaints for fear that section 377 might in some way become applicable to them.

**Thus,** The blackmailer is strengthened by the vulnerability of the homosexual and conservative social norms which have no place for any kind of sexual autonomy. Any sexual interaction outside a conjugal heterosexual framework is frowned upon both by law and society. Thus, for example, sexual blackmail also flourishes in case of extra-marital sex.\(^{235}\) But the high level of stigma against homosexuals per se, provides multiple opportunities for a blackmailer. In most cases, a mere threat of disclosure of

\(^{234}\) See note.3.
one’s deep dark desire is sufficient to cause the calculated impact of fear. Further, this threat has both legal and social sanction.

Thus, the increasing adaptability of the offence of blackmail from the society, to the depths of public looses and the virtual world of internet, gives it a life, that parallels the legal and social proscription against homosexuality.

7.2.2 Harassment & torture by police and public authorities

Various incidents were reported in PUCL-K which illustrated how violence is carried out against LGBT people by the state officials\textsuperscript{236}. Such incidents bring into sharp focus the local state functions with a brutality and callousness which only speaks of a deep rooted structural discrimination, which cannot be explained away as the aberrant behaviour of few individuals. In fact, the so-called aberrant behaviour becomes not only thinkable but also do-able only because of a wider reservoir of social feeling which regards those who deviate from the heterosexual norm as less than human.

Many of the gays have encountered police teasing and harassment. Police also address them as ‘chekka\textsuperscript{237}, and questions like- ‘why are you like this? Why can’t you change? Don’t your parents say anything to you? Thus all this forms a part of regular interrogation.

Instances of sexual and physical violence are commonly reported and have been the context for protests and agitation in different parts of India. The violence of the police lay in the ridicule, the refusal to take the complaint seriously, and the inaction in the face of aggressive theft and physical violence. It was the failure of the police to act in protection of ‘citizen’ men that was being experienced and spoken of as harassment. The police are the primary perpetrators of physical and sexual violence and this is the

\textsuperscript{236} “in the police station, she was pushed into a room with her husband. Around 15-20 policeman stripped her in the presence of a senior police officer who was in the police station at that time...all the policeman stood around her, sexually abusing her by touching upon all her naked body.” People’s Union for Civil Liberties (PUCL) Karnataka.2003, Human Rights Violation against the Transgender Community: A case study of Hijras and Kothis in Bangalore. Bangalore: PUCL-K, p.29.

\textsuperscript{237} The term ‘chakka’ is used as a derogatory term to taunt effeminate males. It is the most widely used in most parts of India. It translates to ‘sixer’, and is the same as the cricketing term for when the ball is hit ‘over the boundary’.
main argument against removal of anti-sodomy law. The police in India have been blamed to harass homosexuals, especially gays in cruising areas like parks. The allegation put by gays against them is that first they tease/make sexual advances against them and if they do not respond, exert power against them. The exercise their undue power and privilege against gays, bully them and pull rank against them.

It is only in recent years that the police have begun to actually use this law as a threat and as a means to demand sexual favours and money. ‘police ka to paisa khane ka dhanda ho gaya hai’, it has become a business for the police to make money, says Ruhana\textsuperscript{238}. He/She further says, ‘jab ye log (referring to police people) uniform mein nahi hote tab hamare saath khoob maza lete hein’. (when they are not in their uniforms, these very same men have sex with us).

Now if we analyze the scenario of policeman having pleasure out of sex with such people, then why should they use the same law against these poor felons? If this is shown to people who have written this law, their heads will be lowered in shame.

\textit{7.2.3 Moral Counseling & policing of Gay Men and lesbian women}

The moral counseling of gay men is well contested by me because of personal testimony. Way back in 2010, when I chose to research on this topic and was working as a lecturer, one of my student was a gay, who has been counselled many times by my fellow colleagues. ‘It is bad to be gay, you are a nice student from a good background and should not involve yourself in such things’, was a part of regular counseling to him. In this case, the teachers, professors involved in counseling was posing as an agent of morality and were acting as a social reformist. In such cases, the counselor sits on a higher moral ground dismissing homosexuality as ‘un-natural’ and appoint himself or herself as a protective agent of cultural change. This all is owing to cultural widespread homophobia and legal proscriptions against homosexuals.

Males in any form be they even hijras or kothis, are visible entities who the police are aware of and know what to call. They may suffer abuse and ridicule, but at the end of

\textsuperscript{238}Ruhana is biologically a male, but a cross-dresser/ transgender, frequently seen near palika bazaar, Connaught place. Delhi, & was interviewed on 10 September, 2011.
it, a man is less subjected to moral policing by a cop and society. When two girls run away, the police don’t know what to do, or what to call it, the girls get all sorts of lectures from the police about their roles as a woman in society and how they should get married and have children. The police also say that men is free to leave their house or city, but it’s never the same for the woman. If the woman leaves, the police will definitely look for her, and when they find her, they will ask her why she won’t get married, or is she does not want to have children. Moreover, once this counseling has happened (as it is believed that lesbianism can be cured with right counseling) you can’t take a man back to his house, because of issues of social pressure and family prestige. But you can take back a woman, even if she is FTM (Female turned male) because all you need to do is let her hair grow back and make sure she dresses like a woman. It’s a matter of cutting the penis versus cutting the hairs; the latter can always grow back.

### 7.2.4 Hate & non acceptance by community at large

“In India, far too many LGBT people live in shame and lead a life of secrecy. Those who reveal their sexual identities or deviate from their gender norms face social rejection, economic marginalization and violence.” Said Laxmi Narayan Tripathi on an event in Delhi organized to mark protest against Apex Court Judgment recriminalizing homosexuality.

### 7.2.5 Fewer job opportunities

Gays face a great deal of harassment and discrimination in matters such as housing and employment. Gay man and lesbian woman live a very distressed life. Gay man can be seen primarily in beauty parlours serving woman, painting mehandi on hands, and as a pedicurist. Thus far it seemed the problems they were addressing themselves to were about the sense of isolation, depression and confusion of young teenage queer males, the constant teasing and taunting in schools or colleges, the pattern of dropping out as a result, and ultimately not being able to find a job.

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239 “LGBT Community protest abuse after Apex Court upheld section 377”, HT Correspondent, Hindustan Times, New Delhi, Friday, December 12, 2014.
While Australian male model Andrej Pejic had struck million dollar deals shooting for women’s clothing, the India’s own transgender models loose a fair chance all thanks to homophobia. Not only the clients, even the modeling agencies and advertising industry is also un acceptive of transgender models, because of which transgender models back in India cry harassment and fewer job opportunities

Therefore, until and unless the Equal opportunities Commission (EOC) Bill gets implemented, there is no way to curb such discrimination by private bodies and the struggle for better employability continues with LGBT community.

7.2.6 Discrimination at every sphere of life:

Homosexuals face discrimination at every sphere of life, be it India or abroad, though the cries against discrimination goes unheard most of the time. Many times, it is the educated upper class people who hold the prejudice against the transgender people.

One such incidence of harassment was in National news in Delhi. Ashwin, aka Maria Mehra, 38, a transgender (biologically a man but psychologically a woman) has faced constant humiliation by the Delhi Gymkhana’s elite board to give up dressing like a woman. Not only verbally, she reported that she has been pushed around and insulted before members of the club. It’s an absurdity that a foreign educated green card holding, linguist woman who speaks 11 foreign languages and dresses up in a dignified way be discriminated in such a way. Not only that she is insulted, her mother Zenobia Khan said: “club members says to me that my son looks like a prostitute when dressed like a woman & I should force him to stop dressing like a woman.” when the reporter interviewed the club secretary and members few refused to answer, few expressed ignorance about LGBT issues and one said, ‘what do you mean, we should allow Hijras in our coffee shop now?’ even the club president then, in 2011 Prakash Chandra replied when asked how Gay friendly the club is, he said: “we are not LGBT friendly, we do not encourage such things as our members are very

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conservative. This is not one incidence, in the past the famous LGBT Activist Laxmi Narayan Tripathi was asked to leave the Mumbai gymkhana club by its president.

Not only this, Laxmi Narayan Tripathi stirs debate on discrimination by viewers when she said after eviction from Big Boss season 5, (a reality TV Show on Colors channel), that she was voted out because she is a transgender.

The discrimination and lack of awareness regarding LGBT Rights is petite even in Delhi. The Delhi University, which boast of one of the best student’s union has also not taken cognizance of LGBT rights and is not gay friendly. Delhi university falls short when it comes to looking after LGBT Students. There is no separate student’s committee to look after LGBT students. Even the student’s union then was not interested to take up this cause, as the DUSU president then Jitendra Chaudhary said: “We support Indian culture and are against all this talk about gay rights”.

Theses incident depicts the widespread transphobia and homophobia in our society. Such people who are prejudiced towards homosexuals must undergo a training session for LGBT awareness. Awareness about LGBT rights, advocacy by and for them can only open the doors which are shut on them.

Ashraf, Shara., ‘NO ENTRY FOR TRANSGENDERS...says the Delhi Gymkhana Club, threatens members to change or leave’, Front Page, HT City, Hindustan Times, New Delhi (27th August, 2011)
Ibid.
Sinha, Namya., ‘DU NOT GAY FRIENDLY’, Front Pg, HT City, Hindustan Times, New Delhi, dt. 04th August 2011.
Jenna talackova, world’s first transgender model, that won a legal battle against organizers of miss universe contest. She has participated as Canadian entry to miss universe contest 2012. Jenna Talackova was born and raised in Vancouver British Columbia on October 15, 1988. She experienced gender dysphoria beginning in early childhood and began her gender transition at age 14. She underwent sex reassignment surgery at 19, & begins modeling. In 2012, she stood to contest for miss universe pageant, but was disallowed entry by organizers of miss universe contest on the ground that each contestant must be a naturally born female. The incident has lead to an uproar worldwide by LGBT & Human rights community. The organizers had to tweak the rules after consultation with the gay and lesbian alliance defamation (GLAAD), an organization that promotes the image of LGBT. Now transgender women will be allowed to contest for the title. (Ashraf, Shara., ‘A VIOLATION OF HUMAN RIGHTS’, Front Pg, HT City, Hindustan Times, New Delhi, dt. 28th march 2012 & Shara, Ashraf., ‘PAEGANT LAWS GET LIBERAL’, Front pg, HT City, Hindustan Times, New Delhi, dt. 13th April 2012).
7.2.7 Homophobic Reactions of People:

Homophobic reactions of people is personally seen and felt by me a couple of times. Throughout my four years journey of research work on this subject, people have been questioning, suspecting my own sexuality and values system. Except my family and friends, few people with whom I have interacted also sounded harsh and insensitive towards LGBT issue. One such incident happened way back in June 2013 when I had gone to Indian Law Institute, New Delhi for research purpose. Unable to find much literature on the subject, I stated to one of the library staff that there are fewer books available on my subject of research. He asked “Madam, what is the subject you are looking for? May be I can help!” when I mentioned that I am looking for books on homosexuality in India, he replied with a weird look ‘Nahi madam is subject par to kuch nahi hai, ab aap jaise log aayenge aur is topic par research karengi” bowing his head down in low voice he murmur, ‘hey bhagwan! Kya hoga mere desh ka!’. Thus, our Indian society is severely homophobic not only against homosexuals but also against people who even talk about it.

7.3 PROBLEMS FACED BY LESBIANS

In India, with regard to woman, the awareness of one’s body or of sexual pleasure and even pain is often not allowed. For men there exist a culture of sexual talk and exposure. However limited, factually wrong and sometimes offensive (to some) that this exposure might be, it is seen as a ‘part of growing up’ for boys. Women are not attributed any knowledge of or freedom to explore their own bodies, leave alone those of others. It is for this reason that, same sex sexual activity among women is often a huge threat and is seen as a significant ‘aberration’ from accepted notions of woman’s sexuality.

Given this background, queer woman, like many heterosexual woman who choose their own partners (irrespective of caste, class, religion, race, ability, and region) and / or choose to engage in sexual activity before or outside wedlock and so on, challenge patriarchal structure in significant ways.
The experiences of ‘queer women’ with Indian law and their problems position in the campaign of LGBT rights is also struggling. Politically the word ‘queer’ is often used among some activists in India to mean any person who questions dominant norms of gender and sexuality. ‘Queer woman’ here means the individuals with vagina who are only/ also attracted to people of the same gender as their own.

The sexual act is still tolerated if committed in silence, in the private sphere, and in a way that does not hinder the normative processes in a woman’s life such as marriage, child birth etc.

*The queer women in India have challenged the set norms of society in following ways:*

- Firstly, they shake the very basic of hetronormativity, which is the need for a man in an intimate, interdependent or sometimes just compulsorily dependant relationship.
- Secondly, the structure of family is challenged significantly, as these women engage in sexual activity which does not and cannot result in procreation.
- Thirdly and most significantly, queer women engage in activities that give them sexual pleasure, ‘sexual pleasure’ a luxury not allowed to Indian woman. An argument that can be made based on case law is that queer women have to first face the repercussions of being woman, legally and socially. The very fact that a woman wishes to and sometimes demands that she live outside the natal home and not in custody of another man, namely the husband and / or his family, is in itself a significant threat. The idea that she might want to live with another woman then adds fuel to the fire.

The use of illegal status as a threat within the private sphere is vastly different between a queer man and a woman. There are various other laws, however, that are often either as a threat or most often for filing cases against queer woman by their own families and friends.

Apart from section 377, there are a number of laws in the Indian Penal Code which have had a direct impact on the lives of queer woman. These laws
include: section 340- wrongful confinement\textsuperscript{246}, section 361- kidnapping\textsuperscript{247}, and section 362- abduction\textsuperscript{248}, section 366- compelling a woman to marry\textsuperscript{249}, section 368- wrongful concealment of an already kidnapped person\textsuperscript{250}, and haebus corpus writ among others.

In many ‘runaway’ lesbian cases, adult woman have found themselves charged with offence of kidnapping and abduction.

7.4 CONCLUSION

While the law is supposed to be separate from morality, what the research has found is that, how law, morality, and ‘proper’ gender roles interact with and feed off one another. The HIV/AIDS counseling and awareness was something that takes a lower priority than addressing the difficult social, economic and psychological conditions of young queer folk.

Thus, the problems faced by homosexuals are multifaceted, complex and numerous. All the problems have deep roots in our cultural rigidity, social prejudices and legal organism. Until and unless, we don’t imbibe our self with liberal human values and

\textsuperscript{246} Sec. 340: Wrongful confinement- whoever wrongfully restraints any person in any manner as to prevent that person from proceeding beyond certain circumscribing limits, is said ‘wrongfully to confine’ that person.

\textsuperscript{247} Sec. 361: kidnapping from lawful guardianship- whoever takes or entices any minor under (I) sixteen years of age if a male, or under eighteen years of age, if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to kidnap such minor or person of lawful guardianship.

\textsuperscript{248} Sec. 362: Abduction- whoever by force compels, or by any deceitful means induces any person to go from any place, is said to abduct that person.

\textsuperscript{249} Sec.366: kidnapping, abducting or inducing woman to compel her marriage, etc- whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it likely that she will be compelled, to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

\textsuperscript{250} Sec. 368: wrongful concealing or keeping in confinement, kidnapped or abducted person: whoever, knowing that any person has been kidnapped or has been abducted, wrongfully conceals or confines such person, shall be punished in the same manner as if he had kidnapped or abducted such person.
constitutional spirit, homosexuals in India will continue to struggle for the most basic human rights and self dignity guaranteed by our constitution.