CHAPTER 1
UNDERSTANDING SEXUAL ORIENTATION AND GENDER IDENTITY ISSUES
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1.1 Meaning and Definition

Sexual orientation refers to an individual’s pattern of physical and emotional arousal toward other persons. People can be categorized into three broad categories, i.e. heterosexuals, homosexuals and bisexuals, on the basis of their sexual orientation. Individuals who are attracted towards the persons belonging to the opposite sex are called as heterosexuals. Human rights concerns related to sexual orientation do not include heterosexual population as the population does not attract discrimination. Individuals who are attracted towards both male and female population are called as bisexuals. Bisexuals have difficulty gaining visibility as bisexuals and therefore most of them also do not attract discrimination or violence based on their sexuality. However, reference to sexual orientation or sexuality in human rights are always about homosexuals. Homosexual individuals are the ones who are attracted towards the persons belonging to the same sex. Homosexual males are often referred to as “gay”, homosexual females are often referred to as “lesbian”.

The ambiguity related to homosexuality is the root cause of all the controversies and human rights abuse in many societies. It is still believed in many cultures that same sex behaviour is some sort of mental illness and is also condemned in the name of religion and moral values. In fact, when the UN was founded, it was widely believed that homosexuality was an illness or a psychological problem that perhaps could be prevented or cured. Medical views of sexual and gender variation changed significantly in the twentieth century. Various studies, the most famous being those of Alfred Kinsey⁴, demonstrated that variations in sexual orientation were common. The studies of Evelyn Hooker showed that psychological tests were unable to determine

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⁴ Alfred Charles Kinsey was an American biologist, professor of entomology and zoology, and sexologist who in 1947 founded the Institute for Sex Research at Indiana University, now known as the Kinsey Institute for Research in Sex, Gender and Reproduction. He is best known for writing Sexual Behaviour in the Human Male (1948) and Sexual Behaviour in the Human Female (1953), also known as the Kinsey Reports, as well as the Kinsey scale.
differences in adjustment between homosexuals and heterosexuals. It was evident from other studies that homosexual activity was common in various animal species. Then, homosexuality was removed from the list of pathological conditions by medical associations in the United States and United Kingdom in 1973, by the World Health Organization (WHO) in 1983, and by medical associations in many countries, including China in 2001 and by the early twenty-first century medical experts generally assumed that sexual orientation is determined either genetically or physiologically. This suggests they are not “chosen” and cannot be altered by treatment.

However, there are others asserting that there could be some other possible reasons for a person to become a homosexual such as sexual abuse at young age and misconception related to sex.

It is often asserted that if a child is sexually abused then such child may develop hatred or fear towards the gender of the abuser and become homosexual. Most of the children are more likely to be abused by a male. In a case where a female child is abused by a male, sexual abuse at an early age seems to be a justified cause for the victim to become homosexual but the same is not true for male children who are also more likely to be abused by a male. It is also believed that unhealthy sexual relationship with adults in childhood is also a cause of homosexuality as it results in perplexed concepts of sex and sexuality. There also some societies alleging that homosexuality is a modern concept. Despite these contentions related to homosexuality, many medical associations including American Association of Pediatrics hold that the sexual orientation is determined either genetically or physiologically.

Gender identity is the knowledge of oneself as being male or female, and gender role is the outward expression of maleness or femaleness. Gender identity and gender role usually conform to anatomic sex in both heterosexual and homosexual individuals. Exceptions to this are transgendered individuals. Transgender individuals feel

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5 Evelyn Hooker was an American Psychologist most notable for her 1957 paper “The Adjustment of the Male Overt Homosexual” in which she administered several psychological tests to groups of self-identified male homosexuals and heterosexuals and asked experts to identify the homosexuals and rate their mental health.

6 See Douglas Sanders, Supra note 1 at 433.
themselves to be of a gender different from their biological sex; their gender identity
does not match their anatomic or chromosomal sex. Transgendered individuals can be
heterosexual, homosexual, or bisexual.7

The terms “sexual orientation” and “gender identity“ are easily confused because of
the predominant belief that a transgendered person who dresses and acts in a manner
associated with the opposite sex must also be a member of a sexual minority, but that
is not true. For example, a male who has long hairs and wears a skirt and blouse
expresses a feminine appearance, but he may still be attracted to other females.
Similarly a female who has a short hair and wears a suit and tie expresses a masculine
identity but may in fact be attracted to males.

References to “sexual orientation” and “gender identity” in human rights discussions
are almost always about homosexuals and transgendered individuals because
heterosexuals and other individuals whose gender identity is similar to their anatomic
sex do not attract discrimination and bisexuals have difficulty gaining visibility as
bisexuals.8

In the present time, there is a considerable number of members of the society who
hold that sexual orientation and gender identity are not immutable and they also
advocate the rights of sexual minorities including transgenders. Previously it was
widely believed that individuals need to have a sexual relations in order to understand
their sexual orientation, but this is contrary to the fact. According to a report of
Family acceptance project conducted by Caitlin Ryan at San Francisco State
University, children become aware of their sexual orientation in their teenage without
resorting to sexual relationship and also some children may realize the same even
before the age of 139. It was also observed that many young people do not associate
themselves with the homosexual community even after being attracted to the
members of the same sex. Furthermore, there is no well-founded technique to
ascertain the sexual orientation of individuals which makes the issue more sensitive.

7 See Barbara L. Frankowski Supra note 3.
8 Id. at 436.
9 Caitlin Ryan, Supportive families, healthy children: Helping families with lesbian, gay, bisexual &
Institute, San Francisco State University, 2009 http://familyproject.sfsu.edu/sites/default/
files/FAP_English%20Booklet_pst.pdf, (Last accessed on 15/03/15).
Similarly, like sexual orientation, gender identity is also established at younger age, usually by 3.\(^\text{10}\)

Children adopt their gender role in accordance with their gender identity and anatomic sex. The exception to this is transgender children whose gender identity and gender role do not conform to their biological sex. Transgender children adopt gender roles according to their gender identity which is in conflict with their anatomic sex and such a behaviour may attract non-acceptance and in some cases even sanction as the society may not approve of the same in the name of culture or moral values.\(^\text{11}\)

Most of the homosexuals and transgendered children conceal their sexual orientation and gender identity because of the stigmatization attached to it and also under the fear of being discriminated and hurt by others, and also to prevent their families from embarrassment and shame attached to homosexuality and transgenderism in the conservative societies.

### 1.2 The Issues and Challenges Unique to Homosexual, Bisexual and Transgender Children

Unlike other children, homosexual, bisexual and transgendered children are exposed to various issues and risks such as family rejection or non-acceptance by the family, homophobic bullying, hate crimes, unique health risks etc. which are discussed below:-

#### 1.2.1 Family rejection

In order to prevent their homosexual or transgendered children from stigmatization, harassment and abuse related to their sexual orientation and gender identity, many parents and guardians try to place their children in the heterosexual population and with the other individuals whose gender identity and gender role conform to their anatomic sex. Such parents often try to change their children’s sexual orientation or gender identity through certain therapies and may also prevent their children from having access to various groups or resources related to homosexuality or

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\(^\text{11}\) Id.
transgenderism, from where such children may learn about homosexuality or transgenderism for a positive development.\textsuperscript{12}

Parents of such children justify their unacceptability towards homosexuality or transgenderism and their resorting to various methods to alter the behaviour of their children in the name of love and care towards their children. On the other hand, such children may feel completely rejected which adversely affects their mental or physical health.\textsuperscript{13}

This further leads to pressurize such children to conceal their sexual orientation or gender identity under the fear of rejection or unacceptability of the society members including parents who believe that homosexuality is against moral values and even against religion. This concealment has serious implications on the development of homosexual or transgender youth as it leads to lowering of self-esteem of such individuals.\textsuperscript{14}

In a study conducted by Family Acceptance project\textsuperscript{15} in San Francisco the cause and effects of non-acceptance and family rejection based on homosexuality and transgenderism were outlined. This study was the first to determine the causal sequence of such homophobic or transphobic rejection. It was also found that the homosexual or transgendered individuals who were rejected by their families suffered from low self-esteem as compared to other individuals who were supported by their families.\textsuperscript{16}

It was also observed that the family rejection based on sexual orientation and gender identity is detrimental to the mental and physical health of such individuals. The homosexual or transgendered youth rejected by their families are more likely to commit suicide and report high levels of depression and not only this such individuals

\begin{footnotes}
\footnotetext{12}{See Caitlin Ryan, \textit{Supra} note 9 at 4.}
\footnotetext{13}{Id.}
\footnotetext{14}{Id.}
\footnotetext{15}{The Family Acceptance Project is a research, intervention, education and policy initiative that works to decrease health and mental health risks for lesbian, gay, bisexual and transgender (LGBT) children and youth, including suicide, homelessness and HIV – in the context of their families.}
\footnotetext{16}{See Caitlin Ryan, \textit{op cit.} at 5.}
\end{footnotes}
are also exposed to higher risk for substance abuse, HIV and other sexually transmitted diseases.  

As compared to the homosexuals and transgendered individuals who were supported by their families, the ones who were rejected by their families had poor health. In fact the rejected ones were more likely to use illegal drugs due to the anguish. And it was further observed that due to the uncertainties they were more likely to not to protect themselves from HIV and other sexually transmitted diseases which further exposes them to higher risk of HIV and other diseases.

Some parents may also inflict corporal punishment when they come to know that their child is homosexual or transgender. They may also prevent their children from having access to various programmes designed for the LGBT community. And this family rejection may also result in social exclusion when the parents prevent their homosexual or transgender children from attending family or other social events out of embarrassment.

Behaviours related to family rejection based on sexual orientation and gender identity include, but are not limited to, infliction of corporal punishment, verbal or physical harassment, exclusion from family or other social events, deterring homosexual or transgendered individual or child from having access to the events and resources related to homosexuality or transgenderism, forcing their children to hide their actual sexual orientation or gender identity, not supporting their children on being discriminated or abused on the basis of their sexual orientation and gender identity, intimidating children to behave in a particular way to look more masculine or feminine, etc.

Furthermore, many homosexual and transgender youth are forced by their parents to undergo reparative therapy, which is a method of psychotherapy and attempts to alter homosexuality by converting them into heterosexuals. As per the report of American Academy of pediatrics the various therapies intended to change sexual

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17 Id.
18 Id. at 8.
19 Id.
orientation can lead to high levels of anxiety and depression with the null probability of changing the sexual orientation.  

1.2.2 Homelessness

Homosexual, bisexual and transgendered youth are overrepresented in the homeless population. Most homosexual, bisexual and transgendered youth become homeless because of family abuse, neglect, or conflict over their identity. Many homeless homosexual, bisexual and transgendered youth are kicked out of their homes while others ran from foster and group homes because of being mistreated or harassed. Homosexual, bisexual and transgendered children while living on the streets are at a greater risk of physical and sexual exploitation at the hands of adults, police and other street children.

Street children who are often subjected to abuse, neglect, exploitation etc. become more vulnerable when labeled as homosexual, bisexual and transgendered. In addition, they are more likely to report being asked by someone on the streets to exchange sex for money, food, drugs, shelter, and clothing than heterosexual homeless youth. Unfortunately, many homosexual, bisexual and transgendered homeless youth resort to trading sex to meet their basic needs.

In fact, trying to sustain oneself with the life on a street in itself is challenging and may result in other health issues. Moreover such homeless homosexual or transgendered youth are more likely to be discriminated and also may face difficulties while accessing other services related to shelter homes as compared to the other homeless population. The homosexual or transgendered homeless population including children are exposed to violence and other forms of exploitation and abuse on the streets and they are also more likely to indulge in other criminal activities in the absence of proper shelter and other development opportunities. Furthermore, their various human rights such as the right to life including the right to live with dignity and the right to the minimum sustenance of life are at stake.

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23 Id.
24 Id.
1.2.3 Bullying in school

The significance of the right to education cannot be overlooked and also it is considered to be an inseparable part of the right to life. It is one of those basic rights which not only helps in acquiring knowledge but also aids in the development of the individuals. Learning environment plays a crucial role in the psychological and physical development of children. However, bullying in school is one of the biggest obstacles that not only prevents the development of children but also violates the right to education.

It is widely believed that bullying in school is a frivolous part of the system. However, according to the report of the United Nations on Violence against children, bullying is a severe threat to the educational systems throughout the world. Bullying in educational institutions can be in various forms such as calling names, physical or verbal assault, social exclusion etc. Disabled children or the children belonging to a particular minority group or specific socio-economic background are more susceptible to bullying in educational institutions. It has been observed that bullying not only adversely affects the health of children but also their learning capacity. In worst cases, it may also result in suicidal tendencies, depression and low self-esteem.

Bullying on the basis of sexual orientation or gender identity exposes children to serious repercussions. It not only violates human rights of such children but also hinders their development. It is a global threat occurring in almost every society. Such type of bullying is a form of discrimination based on sexual orientation and gender identity and it is as unacceptable as the other grounds of discrimination such as race, color, sex, ethnic origin, sex etc. The protection against such bullying can be

29 Id. at 12.
grueling, specifically in the societies where homosexuality or transgenderism is a taboo or against the law.30

Homophobic or transphobic attitude may develop in the early school days when children casually use words such as “gay” or “faggot” for insulting or abusing.31 Bullying on the basis of sexual orientation or gender identity includes various discriminatory practices and acts of violence such as calling names, abusing, defamation, verbal or physical assault, sexual abuse, social exclusion, hate crimes including criminal intimidation.32

Such type of bullying is mostly initiated by the students in the educational institutions but in some cases it is also perpetrated by the teachers and the other staff members. In a research conducted in five universities of Lebanon, it was found that the homosexual or transgendered students were more likely to be bullied by the other students but in some cases also by the staff members including teachers. In few cases it has been reported by the LGBT children that their teacher did not allow them to sit in the class and consequently they were isolated by their class mates too for their sexual orientation and gender identity.33

1.2.3.1 Available evidence on homophobic bullying in schools

Although homophobic or transphobic bullying has been mostly overlooked but still few states have collected the data on such specific kind of bullying. The data collected so far reveals shocking state of Educational institutions indicating towards the alarming existence of this serious issue.34

- In Chile, more than 60% of the LGBT population reported homophobic or transphobic bullying in educational institutions. On the same lines, bullying in the form of physical assault was reported by more than 40% of the homosexual male population of Brazil during their school days.35

30 Id. at 1.
32 Id.
33 See Education Sector Responses to Homophobic Bullying, Supra note 26 at 18.
34 Id.
In South Africa also the majority of the LGBT population reported bullying in various forms such as verbal or physical abuse in school not only from the fellow students but also from the staff including teachers and other administrators. It was further reported that the bullying was not only limited to verbal or physical abuse but was also experienced in various other forms such as sexual abuse, criminal intimidation, calling names, harsh comments, hate speech etc. Bullying can also be indirect through spreading rumors or social exclusion.  

In Ireland also more than 50% of the LGBT population reported homophobic or transphobic bullying in educational institutions not only by the students but also by the administrators and course instructors. Some of them also reported a physical assault by the peers.

The analysis of a research conducted in the United Kingdom reveals shocking facts. About 90% of the reported homophobic or transphobic bullying in both primary and secondary school. More so, homophobic bullying was also identified as one of the most frequent forms of bullying in the same research. Apart from this, there were many other kinds of research conducted which revealed that LGBT children are more susceptible to the discrimination in the form of bullying. It was also found that such bullying was not only limited to verbal or physical abuse but also included life threats. In another survey it was found that almost all LGBT individuals have been bullied in schools or other educational institutions by name calling and other hate remarks. It was also found that many homosexual and transgendered individuals reported that bullying is at its worst in faith or religion based schools.

In France, Belgium, Hungary, the Netherlands and Spain also more than 40% LGBT children reported bullying in the form of contemptuous caricature, name calling, social isolation and criminal intimidation. Similar findings have also been reported in Israel.

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36 See Education Sector Responses to Homophobic Bullying, Supra note 26 at 18.
37 Id.
38 See Education Sector Responses to Homophobic Bullying, Supra note 26 at 18.
39 Id.
The survey conducted in the United States of America reveals a shocking state of LGBT children in educational institutions. More than 80% of the LGBT youth reported bullying in the form of name calling, verbal or physical assault, and criminal intimidation. It was also found that the derogatory comments for the LGBT children were not only made by the peers but also by the staff members. A considerable part of the LGBT population also confessed that they do not feel safe at school. In other reports of various research conducted in educational institutions, similar facts were observed. It was also found that bullying was very common in schools, especially for the learners belonging to the LGBT community. In Canada also more than 50% of the homosexual children and more than 75% of the transgendered children reported bullying in the form of verbal abuse and derogatory remarks not only from the peers but also from the teachers.40

More than 50% of the homosexual men in India and Bangladesh also reported bullying in various forms including harassment from both peers and teachers in the educational institutions. However, in Japan, the percentage of the homosexual men who reported bullying in the educational institution is quite high. It was found that more than 80% of homosexual men reported bullying in the educational institution. In Hong Kong also more than 40% of the LGBT population had experienced bullying based on sexual orientation and gender identity in the form of both physical and verbal abuse and also in the form of social exclusion. Similar are the findings of Australia and New Zealand. In Australia, more than 60% of the LGBT population reported bullying based on homophobic or transphobic attitude of most of the people in educational institutions. In New Zealand also more than 60% of the homosexual population reported bullying in the form of verbal abuse and hate speech.41

It was found that the individuals who have had experienced homophobic or transphobic bullying at a young age, have usually higher suicidal tendencies as

40 Id.
41 Id.
compared to the others who did not experience such specific type of bullying. And also it may lead to absenteeism in school or other educational institutions.  

It is also evident from the various research conducted in school and other educational institutions that bullying can adversely affect the learning pattern of such individuals and in some cases it may also result in absenteeism, poor academic performance and also early drop out from such educational institution. It was also found that homophobic bullying in the form of assault or criminal intimidation, hate speech etc. are directly responsible for absenteeism. In many cases, LGBT children miss their classes by pretending to be ill or on the account of incomplete school work. Also, a considerable number of LGBT adolescents avoid going to educational institutions because of the fear of getting hurt and safety issues. More so unacceptability of the LGBT youth among peers and other members of the institution also makes such individuals uncomfortable among other peers and also adversely affect their learning interests and in some worst cases may result in ending education early.

Absenteeism in school adversely affects academic performance but ending education early affects future career prospects as the LGBT youth who end up their career early have comparatively lesser educational qualification which adversely affects their future employment prospects. Fear, reduced self-esteem, low confidence level, social isolation are the other factors which make the situation worse for the LGBT population.

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42 See Mark Jennet, Supra note 31 at 8.
43 Id.
44 Id. at 21.
45 Id.
1.2.3.2 Impact of homophobic bullying on mental and psychological health

Bullying based on sexual orientation and gender identity not only affects education and future career prospects of the LGBT youth but also has an adverse effect on their mental and psychological health. It is clearly evident from the studies that homophobic or transphobic bullying is strongly associated with lower self-esteem, depression, anxiety, low level of confidence, disturbed sleep and disturbed pattern of daily routine. The victims of such homophobic or transphobic bullying are more likely to commit suicide as compared to other young people. 46

It is also established through various studies that the individuals who have been a victim of homophobic or transphobic bullying are more likely to use illegal drugs and also they are more likely to engage in such sexual behaviours which may increase the risk of HIV and other sexually transmitted diseases. 47

- In a research conducted in Ireland, it was established that bullying based on sexual orientation and gender identity is strongly associated with high levels of suicidal tendencies. It was also observed that the average age in which children become aware of their sexual orientation, i.e. 12-16 years, was also the average age at which such children were more likely to cogitate suicide. 48

- In another research, it was found that the homosexual men who were the victims of homophobic bullying, were more likely to have been diagnosed with poor mental health and also have been referred to the health counselor for having attempted to commit suicide. In the UK also a research conducted on bullying revealed the similar facts. It was found that more than 50% of the LGBT population were more susceptible to suicidal tendencies. 49

- In another research conducted in the parts of Latin America, it was found that the majority of the LGBT population blame homophobic or transphobic bullying for their distress and struggle in life. Many of the respondents said...
that such type of bullying made them to live under the fear and also there were few who reported suicidal tendencies.  

- In a study conducted in USA it was established that there is a very strong connection between homophobic or transphobic bullying and suicidal tendencies. The victims of such specific bullying were more likely to attempt committing suicide. In another study it was found that more than 30% of the transgendered population had attempted to commit suicide due to discrimination in the form of bullying based on sexual orientation and gender identity.  

- In another study conducted in the Netherlands, it was found that more than 10% of the LGBT youth have attempted to commit suicide at least once. It was also found that more than 50% of the LGBT population reported suicidal tendencies.

Bullying based on sexual orientation and gender identity not only adversely affects the mental and psychological health of the victims of such bullying but also that of the bullies. Those who are involved in such specific form of bullying as perpetrators are more likely to suffer from depression and other psychological problems as compared to the other peers involved in the other delinquent acts. As per the various psychological studies, the children involved in bullying including both the victims and the culprits, are more likely to suffer poor mental health as compared to other peers. Homophobic or transphobic bullying has an adverse effect on everyone involved in such a discriminatory act including other non-participant bystanders.

1.2.4 Homosexual, Bisexual and Transgendered Children in Child Welfare or Juvenile Justice Agencies

In the present scenario, a considerable number of LGBT children is apparent in the various institutions of the society such as families, cultural or religious communities, educational institutions and also child welfare or juvenile justice agencies. Many

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50 Id.
51 Id.
52 Id.
53 Id. at 23.
54 See Best Practice Guidelines: Serving LGBT youth in out-of-home care, Supra note 10.
LGBT adolescents end up in such state agencies due to their delinquency which is directly attributable to the discrimination and non-acceptance based on sexual orientation and gender identity.\textsuperscript{55} Because of being neglected or not accepted by their parents and society at large, LGBT children may engage in certain activities which are not legal. And consequently, such children end up in the state care agencies related to child welfare and juvenile justice system. Social exclusion and marginalization are directly proportional to juvenile delinquency and a higher risk of involvement in such state care agencies. However, the state care agencies entrusted with the care of children fail to address the special needs of LGBT children. Most of these agencies have not developed understanding related to the sexual orientation and gender identity issues of the children and continue to neglect the special needs and care of LGBT children which further amounts to discrimination based on sexual orientation and gender identity.\textsuperscript{56}

Almost, all the state agencies charged with the care and administration of justice related to juveniles have overlooked the special needs of the LGBT children according to their sexual orientation and gender identity. These agencies often try to fit such children in the need of care amongst other adolescents whose needs may be different as compared to them. The ignorance and the lack of guidance related to sexual orientation and gender identity issues of adolescents result in discriminatory practices based on the homophobic or transphobic attitude of the public at large.\textsuperscript{57}

The failure of state agencies, charged with the care of children in the need of care or conflict with the law, in addressing the needs of the LGBT children is clearly evident from certain common practices such as:-

- Many state agencies consider homosexual adolescents unfit for adoption because of their sexual orientation.
- The staff members of the state agencies often blame the homosexual transgendered youth who have been harassed or discriminated for their distress because most of them believe that such homosexual or transgendered youth himself invited such a discriminatory treatment by being open about their sexuality or transgenderism.

\textsuperscript{55} \textit{Id.} at xiii.
\textsuperscript{56} \textit{Id.} at ix.
\textsuperscript{57} \textit{Id.}
• Despite the adverse effects of reparative therapies as explained by various medical associations including the American Association of Pediatrics, many state agencies refer homosexual adolescents to the counselors for administering therapies on them in order to fit them among the heterosexual population. Such therapies may lead to various serious psychological disorders such as depression, low self-esteem, suicidal tendencies etc.
• Many a time, the staff members of the state agencies, charged with the administration of juvenile justice and child welfare, place LGBT adolescents in isolation as a remedy for prevention against discrimination based on sexual orientation and gender identity which consequently violates their basic rights such as the right to education, the right to have access to various networks and groups supporting LGBT population, the right to freedom of speech and expression, the right to life and personal liberty and other ancillary rights.
• Foster parents of the homosexual or transgendered children in the need of care often resort to various ways such as verbal abuse, corporal punishments, and exclusion from the family engagement etc. to fit such children among so-called “normal” population.
• The staff members of the state agencies in charge of children welfare commonly move LGBT adolescents from one place to other to protect them from ongoing rejection and other discriminatory practices. This constant shifting not only adversely affects the stability but also deprive such children of a permanent home or shelter.
• The state agencies for the welfare of children mostly neglect the need of separate washrooms for the transgendered adolescents.

Most of the homosexual or transgendered adolescents in the state care agencies do not disclose their sexual orientation or gender identity due to the stigmatization and also under the fear of non-acceptance and other discriminatory practices associated with sexuality and transgenderism. The nondisclosure of sexual orientation or gender identity makes it impracticable to ascertain the actual number of LGBT adolescents in such state care agencies.

In a research conducted in San Diego, it was found that more than 75% of the LGBT youth hold that they were subjected to violence and other discriminatory practices on
the disclosure of their sexual orientation or gender identity to the service providers of the state care agencies. 58

1.2.4.1 The causes and effect of LGBT Youth entering the State Care Agencies

However, there is no reliable source or statistical data to show the actual number of LGBT adolescents in the state care agencies but the staff members of such agencies and juvenile justice administration have frequently reported the issues related to the LGBT children in the state care agencies and other reformatories. Homosexual or transgendered children may end up in the state care agencies or juvenile justice system for many reasons related directly or indirectly to their sexual orientation or gender identity, such as:-

Many LGBT children enter the foster care agencies because of being abandoned on the disclosure of their homosexuality or transgenderism. Certain LGBT adolescents also enter the state foster care or juvenile justice administration as a prevention from the ongoing abuse or neglect from their parents or the society in which they used to live. A considerable number of LGBT youth enter juvenile justice administration system because of the use of illegal drugs which is directly attributable to the neglect and non-acceptance based on sexual orientation and gender identity.

Most of the individuals who are either neglected, rejected or abused by the other members of the society are more likely to enter the state care agencies. Some of them end up in the juvenile justice system because of being involved in crimes committed for survival and while there are others who are booked under the juvenile system for being wrongly labeled as sex offenders because of their actual or perceived sexual orientation and gender identity. 59

Most of the Homosexual or transgendered population enter the state care agencies or juvenile justice system because of being rejected by their own families or surroundings. In a study related to family acceptance and rejection of homosexual and transgendered adolescents, it was found that more than 50% of the homosexual and transgendered individuals who participated in the study, were either thrown out of their homes or ran away because of the family rejection and unacceptability of their

58 Id. at 1.
59 Id. at 3.
sexual orientation or gender identity. It was also found that more than 30% of the homosexual and transgendered adolescents entered juvenile justice system because of the use of illegal drugs, violence and other behavioural disorders which may be directly or indirectly attributable to the family neglect or abuse based on the sexual orientation and gender identity.

Also, there are many homosexual or transgendered children who enter the state care agencies due to their habitual absenteeism. In a Nationwide study conducted on LGBT youth in the USA, it was found that one-third of the homosexual and transgendered population in high school and middle schools reported being harassed on the basis of their sexual orientation or gender identity. Also more than 80% youth reported verbal abuse and derogatory remarks based on sexual orientation and gender identity from the peers and more than 20% of the homosexual and transgendered adolescents reported verbal abuse including homophobic or transphobic remarks from the staff members of the educational institutions. It was also found that homosexual or transgendered adolescents are more likely to get into the physical fights, and get injured and also likely to be intimidated which makes the surrounding unsafe for them and gradually result in absenteeism.

Being victimized at an early age not only affects the health of the homosexual or transgendered individuals but also adversely affects their future career prospects and their prospects of development as an adult. Being more open about sexual orientation or gender identity is directly proportional to the chances of being victimized. Most of the homosexual and transgendered youth prefer to live on the streets as compared to their homes or living in groups because of the rejection, neglect, and harassment based on the homophobic or transphobic attitude of the other members of the society. Most of the adults responsible for the care of such homosexual or transgendered youth continue to ignore and tolerate their victimization which further aggravates their

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61 See Best Practice Guidelines: Serving LGBT youth in out-of-home care, Supra note 10 at 4.
living conditions and as a result, most of them end up on streets. In a research conducted in New York related to the child welfare system, it was found that more than 50% of the youth admitted that they preferred living on streets as compared to the child welfare agencies or foster homes because they felt safer staying on the streets instead of being rejected or neglected by the other adults in the state care agencies and foster home.\textsuperscript{64} It was also found that more than 35% of the homosexual or transgendered youth in San Diego reported being thrown out of their homes and other state care agencies because of their sexual orientation or gender identity.\textsuperscript{65}

However, life on street exposes youth to numerous issues including the risk of being victimized in various offences such as rape, assault, robbery etc. and also homelessness may lead to involvement in various criminal acts as a survival strategy such as prostitution, the sale of illegal drugs, theft etc. Homeless homosexual or transgendered youth often resort to sex work for their survival which further exposes them to the risk of HIV, STDs and other infections. As compared to the other homeless population, homosexual or transgendered adolescents are more likely to be victimized, abused and are also at a higher risk of other health complications.\textsuperscript{66}

Some of the homosexual or transgendered youth also enter juvenile justice system and enter juvenile justice system and reformatories for being engaged in same sex sexual activities which otherwise would not attract arrest or prosecution if the consenting partners to such sex activity were of opposite sex. It has also been seen that many a time the complaints are lodged against homosexual adolescents by the parents of the other consenting homosexual adolescent and such an action is taken by the parents to wipe off the stigma which otherwise would have been labeled on their child. Another reason for such a conduct of the parents is their feudal thinking which generates hatred towards homosexuality. In some other cases, the complaints related to same sex sexual activities are also registered by the staff members of educational institutions and state care agencies who consider it as their responsibility to report the same in order to prevent such acts in future. The label of a sex offender is not only

\textsuperscript{65} Id.
detrimental to the mental health of such adolescents but also adversely affects their future employment prospects.\footnote{See Best Practice Guidelines: Serving LGBT youth in out-of-home care, Supra note 10 at 5.}

Non-acceptance, rejection, bullying in educational institutions, homelessness, criminalization etc. are the issues which reflect the homophobic or transphobic attitude of the public at large. These forms of discrimination based on sexual orientation and gender identity are the consequences of stigmatization related to homosexuality and transgenderism and also could be the reason of bringing such adolescent to the state care agencies or juvenile justice system. All these inter-related discriminatory factors are the reason behind the presence of a considerable number of homosexual or transgender adolescents in state care agencies and juvenile justice system.\footnote{Id.}

\subsection*{1.2.4.2 Mistreatment of homosexual, bisexual and transgendered adolescents in the State care agencies and Juvenile justice system}

Homosexual and transgendered youth continue to be exposed to various forms of discriminatory practices and violent acts even in the state care agencies and juvenile justice system. These adolescents are also deprived of stability and permanent home or shelter because of frequent shifting forced by the rejection and discrimination in various forms including physical or sexual abuse and other violent acts. In a study, it was found that more than 75\% of the homosexual and transgender population in the state care agencies were either relocated or ran away due to the non-acceptance of their sexual orientation or gender identity. A considerable number of homosexual and transgendered adolescents, who were subjected to various discriminatory practices and violent acts including sexual abuse, criminal intimidation, assault etc. were also prompted to abscond from their placements due to the rejection and ongoing discriminatory treatment based on their sexual orientation and gender identity.\footnote{Id. at 6.}

Majority of the homosexual and transgendered youth in the state care agencies and juvenile justice system also report sexual assault by the other adolescents and the staff members. The adolescents who end up in such state agencies and juvenile justice
systems because of the rejection, neglect and discrimination based on sexual orientation and gender identity, continue to go through much worse in such agencies. Generally, homosexual and transgendered adolescents who are not convicted or guilty of a sex offence are also placed with others convicted of a sex offence. These adolescents are often wrongly labeled as sexual offenders and also they are seen as the ones having trouble with ‘sexuality’ or having some ‘sexual problem’, by most of the members of juvenile justice system and reformatories who have limited understanding of sexual orientation and gender identity. These discriminatory practices and labelling are detrimental to the interests of such adolescents. Being labeled as sexual offenders not only adversely affects the future career prospects and development opportunities but also may cause lethal damage to the psychology of such adolescents.

Most of the staff members and other inmates of the state care agencies and juvenile justice system lack the basic understanding of sexual orientation and gender identity issues and in fact, the staff members are not even trained to provide appropriate service to homosexual and transgendered youth. Therefore most of the homosexual and transgendered youth, who report their grievances to the adults relating to the protection against discrimination based on sexual orientation and gender identity, are often ignored and blamed for their being victimized.

Moreover, the staff members and other adults of such agencies also frequently relocate or even try to isolate such adolescents as a response to the abuse, harassment or other discriminatory practice based on sexual orientation and gender identity. Instead of addressing and protecting adolescents from various discriminatory and violent acts, most of the adults find placing the victim in isolation as an easier solution to protect further victimization of such homosexual or transgendered adolescent. The whole act of placing the victim in isolation and away from the other inmates is a punishment to the victim instead of the abuser and further causes mental trauma to the victim.

70 Id.
71 For example, in R.G v. Koller (2006), the Hawaii Youth Correctional Facility (HYCF) admitted that staff used isolation as a means of protecting wards who were known or perceived to be homosexual, bisexual or transgender. The Court found this practice to be both harmful and punitive, explaining, “Consistently placing juvenile wards in isolation… simply to separate homosexual, bisexual and transgender wards from their abusers, cannot be viewed in any reasonable light as advancing a legitimate non-punitive governmental objective. HYCF has attempted to remedy one harm with an indefensible and unconstitutional solution.”
In some cases, the homosexual or transgendered adolescents are often placed in isolation by the staff members under the misconception that such homosexual or transgendered youth will try to make sexual contacts with other inmates because of being labeled as sexual offenders or sexually abnormal. In an interview with a lesbian adolescent it was found that she was not allowed to cohabit with other female adolescents or spend time with them without any supervision. This act of keeping her away from other female adolescents made her feel that there was something abnormal about her. More so she also explained that her sexual orientation should not be the cause of keeping her in isolation with minimum interaction with other female adolescents. In another interview with a gay adolescent it was found that he was forced to live in isolation and also being watched by the staff members of the state care agency. He also asserted that no one trusted him around the other male adolescents because of his sexual orientation. It was also found that, many a times, the staff members of the state care agencies for children and juvenile justice system also prevented homosexual and transgendered children from having an access to various programmes intended to support homosexual and transgendered youth or LGBT centers or other social activists group because most of the staff members failed to understand the unique issues related to the sexual minorities and transgenders and also because most of the staff members and other people associated with such agencies believed that it is morally wrong to support sexual orientation and gender identity of such adolescents.\footnote{See Best Practice Guidelines: Serving LGBT youth in out-of-home care, \textit{Supra} note 10 at 7.}

### 1.2.5 Unique health risks to which homosexual and transgendered children are exposed

As compared to other children, homosexual and transgender children often face difficulties in having an access to healthcare centers due to stigmatization and homophobic or transphobic attitude prevalent in the society. Such children are more likely to be ignored or treated in improper ways as children are already dependent on others, not only financially but also socially. More so a considerable number of health
care professionals are also not properly trained to deal with unique health issues related to homosexual and transgender population.\textsuperscript{73}

i. **Mental health and other issues**

In various studies, it has been found that homosexual and transgendered youth are more likely to have a poor mental health as compared to other children. Their mental health issues include but are not limited to anhedonia, depression, suicidal tendencies, and self-injury. Homosexuality or transgenderism is not in itself a cause of such health issue but it makes youth vulnerable to various psychological hazards.\textsuperscript{74}

Homosexual and transgendered adolescents often face discrimination, harassment, denial of their basic rights in their day to day life. Mostly, the affliction caused by such discriminatory practices, stigma and inequality exposes homosexual and transgendered population to the risk of various psychological problems. This is popularly called as ‘minority stress’. Minority stress refers to anxiety or mental pressure caused by social exclusion, discrimination, stigmatization, and other forms of violent acts against a minority group.\textsuperscript{75}

Such type of behaviour may result in the following:

- Gender dysphoria and also such homosexual or transgendered youth may face difficulty in accepting who they are.
- Concealment of the sexual orientation or gender identity from everyone, which further forces such individuals to live a dual life by pretending to be someone else.
- Family disintegration and broken family bond due to the lack of support from family and friends.
- Segregation and solitude.

\textsuperscript{73} The health and wellbeing of LGBTQI youth, IGLYO (2013), 7, http://www.iglyo.com/wp-content/uploads/2012/04/Health-and-Wellbeing-of-LGBTQI-Youth.pdf (Last accessed on 25/10/15). (IGLYO is the International Lesbian, Gay, Bisexual, Transgender, Queer Youth and Student Organization. IGLYO is a network gathering LGBTQ youth and student organizations in Europe and beyond. It is run for and by young people. In 2014, IGLYO celebrates 30 years of LGBTQ activism, capacity building and advocacy.).

\textsuperscript{74} Id. at 8.

\textsuperscript{75} Id.
• Depression and other forms of psychological disorders as a long term effect of discrimination and other acts of violence on the basis of sexual orientation and gender identity.
• Deflated self-esteem and self-doubt.

Discrimination on the basis of sexual orientation and gender identity is one of the most serious issue which further results in disintegration of families and break down of other relationships in the society. Homophobic or transphobic attitude prevalent in the society also results in lack of emotional or other support. These issues further aggravate when homosexual and transgendered adolescents are denied proper health care or have negative experiences in having an access to proper mental health care service. Such denial or discrimination in having an access to proper mental health care is due to homophobic or transphobic attitude of people in charge of mental health care service and also because of misconceptions and lack of awareness and other knowledge related to LGBT specific issues in the mental health care centers.

Poor mental health due to the discrimination and other violent acts against homosexual and transgendered adolescents also adversely effects the overall health of such individual. Homosexual or transgender adolescents may often face difficulties in making rights decisions related to health care due to an adverse effect on his or her self-efficacy.

ii. Substance abuse
In general perception, substance abuse is commonly associated with LGBT youth. However, the frequency of substance abuse among LGBT adolescents cannot be ascertained with certainty because of the following reasons:-

i. Most of the LGBT patients of substance abuse tend to conceal their sexual orientation and gender identity from the health care service providers.

ii. And also, many staff members, due to their homophobic or transphobic attitude, find it difficult to inquire about the sexual orientation or gender identity of the patients related to substance abuse.
However, it was found in a research that substance abuse including drugs and alcohol was higher among the homosexual and transgendered population.\textsuperscript{76}

Homosexual and transgendered youth tend to reach for drugs, alcohol or other forms of substance abuse, in order to feel good or escape from the ongoing psychological disorders or poor mental health including depression, anxiety and other forms of stress directly attributable to their sexual orientation or gender identity. In various studies, it has been established that the usage of drugs among homosexual and transgender population is higher as compared to heterosexual population. It was also found that popular drugs used among LGBT adolescents are cocaine, MDMA (Methylenedioxymethamphetamine), ecstasy, GHB (Gamma-hydroxybutyrate) and methamphetamine. \textsuperscript{77}

Apart from the other health issues directly related to substance abuse, such as various kinds of cancer, cardiovascular problems, it was also found that LGBT adolescents are at higher risk of unprotected sex. In a study conducted in US, it was found that substance abuse including drugs and alcohol misuse, and unprotected sex are associated with each other, especially among the young LGBT population\textsuperscript{78}.

It was also found in a research that LGBT youth are more likely to smoke as compared to the heterosexual population. Among LGBT population, smoking and alcohol consumption is more prevalent among gay, lesbian and bisexual adolescents. Smoking may further lead to lethal diseases such as lung cancer, cervical cancer in women, and also it increases the chances of occurrence of AIDS among people with HIV.\textsuperscript{79}

\textsuperscript{76} Id. at 9.
\textsuperscript{77} Id.
\textsuperscript{78} Id.
\textsuperscript{79} Id.
iii. Sexual and Reproductive Health

For the overall health of an individual, sexual health also plays an important role. Sexual health is not only restricted to the state of physical well-being but also includes mental, emotional and social well-being. Sexual orientation and gender identity are not the direct causes of health risks related to sexual health, but it is the behaviour specific to homosexuals and transgendered individuals which exposes them to a higher risk of contracting sexually transmitted disease (hereinafter referred to as STD). Usually, adolescents and other individuals have curiosity and solicitude towards their sexual health and safe sex practices. But for homosexual and transgendered youth, there is not much information available related to their sexual health and more so there is also lack of expert advice on this sensitive issue which further adds to their indulgence in unsafe sexual behaviours. In fact, due to the lack of awareness related to safe sexual practice and sexual health, LGBT youth often avoid regular health check-ups, which is further detrimental to their overall health.\(^{80}\)

Effective healthcare of LGBT youth requires not only the disclosure of their sexual orientation or gender identity but also an open dialogue session between health care experts and patients regarding their sexual behaviours. As a general practice, most of the homosexual and transgender youth do not disclose their sexual habits with the health care professionals because of the common notion that the medical health care services remain largely inclined towards heterosexual population and do not meet the needs of homosexual and transgendered youth.\(^{81}\)

Women who have sex with other women also belong to the sexual minority with contrast sexual behaviour and practices. In a recent study, it was found that women who have sex with other women and also bisexual women who have sex with both male and female partners are at a higher risk of contracting STDs and HIV due to certain unsafe sexual behaviours and practices. Women belonging to the sexual minority, including lesbian and bisexual women, may also face discrimination in having an access to the treatment related to fertility because the archetype of majority

\(^{80}\) Id. at 10.
\(^{81}\) Id.
health service providers are inclined towards heterosexual population and are also discriminatory towards the sexual minority. \(^{82}\)

Men who have sex with other men, as a part of the sexual minority are also exposed to various sexual health risks. Gay and bisexual men are at a higher risk of being diagnosed with STDs, HIV, hepatitis and other related diseases. It was found in a study, that the rate of HIV diagnosis among men who have sex with other men or both male and female partners, is more than 45 times than that of other men. It was also found that such men are also more likely to be diagnosed with primary and secondary syphilis as compared to the male heterosexual population. There are many factors responsible for the higher risk of contracting HIV and STDs among gay or bisexual men as compared to the heterosexual population of men. HIV, STDs and other health issues are prevalent among men who have sex with other men, which further increases the risk of aggravating the sexual health of other men belonging to the sexual minority and indulged in such unsafe sexual behaviours. Complacencies related to HIV and other STDs is also very common among LGBT youth. Lack of proper sex education among the sexual minority including young individuals is directly contributable to their complacencies and unsafe sexual behaviours. \(^{83}\)

iv. **Obesity, Diabetes and other disorders**

Various studies show that women belonging to the sexual minority are prone to obesity and therefore also susceptible to adult onset diabetes mellitus, which is a type 2 diabetes that affects young individuals because of obesity. In another study, it was found that a considerable number of homosexual women were also diagnosed with polycystic ovary syndrome (PCOS). A research conducted in the UK in the year 2004, revealed that more than 30% of lesbian participants were diagnosed with PCOS unlike the other 15% female participants. PCOS is one of the major causes of infertility and may also lead to various metabolic disorders. \(^{84}\)

In these studies, it was also found that obesity, diabetes, and other disorders among LGBT youth is directly attributable to the minority stress, anxiety, depression and other disorders associated with homophobia, which is also serious impediments in

\(^{82}\) Id.

\(^{83}\) Id.

\(^{84}\) Id. at 11.
changing the unhealthy behaviour of such youth. Eating disorders are also very common among LGBT youth. Due to minority stress, it becomes difficult to develop healthy lifestyle including healthy attitude towards diet and exercise. Due to the lack of awareness, most of the young LGBT population remain unaware of these health risks and continue with their unhealthy behaviours. More so, if such unhealthy behaviours are not recognized at the young age, LGBT youth may continue such behaviour in their adulthood.85

v. Cardiovascular diseases and cancer
At present, cardiovascular diseases remain the major cause of death all over the world. However, various research-based studies suggest that homosexual and transgendered individuals are more susceptible to cardiovascular diseases as compared to the other population. As already mentioned, higher prevalence of substance abuse also including smoking and alcohol abuse, minority stress, anxiety, depression, lack of awareness and various other disorders expose homosexual and transgendered youth to the other unsafe and unhealthy behaviours which can lead to cardiovascular issues.86

Women belonging to the sexual minority are at a higher risk of developing breast cancer and other gynecological cancers as compared to other women. Regular gynecological checkups and examinations are indispensable for women’s health. However, due to the homophobic and transphobic attitude prevalent in the society and also due to the feeling of uncomfortableness, such women tend to avoid medical and gynecological checkups. Similarly, gay and bisexual men are also at higher risk for prostate, testicular and colon cancers, as compared to other male individuals.87

Due to the lack of awareness, homophobic and transphobic attitude prevalent even among medical professionals, homosexual and transgendered youth are at a higher health risk as compared to other population. These health risks may even exist in the adulthood of such homosexual and transgendered youth.88

85 Id.
86 Id. at 12.
87 Id.
88 Id.
vi. Transgender youth and health issues

Young transgendered individuals have unique health issues. For transgendered individuals, their gender identity does not conform to their anatomic sex and therefore proper medical care under the supervision of such health care experts who have experience and expertise in health issues related to the transgendered individuals is of utmost importance. And it is also required that such medical intervention should be unbiased and not discriminatory. However, a majority of health care professionals do not have experience or expertise on the subject of unique health issues of transgenders and therefore may act discriminatorily towards them. Due to the ongoing discrimination on the basis of gender identity, most of the transgenders avoid their regular health checkups and do not visit medical practitioners under the fear of discriminatory or inappropriate behaviour.  

Transgender adolescents usually do not have an access to the medical assistance and also they do not get support from the other social groups. Such young people are also mostly unaware about the social gender system. There is a common misconception about gender system among transgender youth. Most of them do not know that the social gender system is not binary. In fact, this misconception and lack of awareness regarding social gender system were also very common among medical practitioners until recently. That is why when young transgendered individuals disclose their feelings to a medical healthcare service provider, the only option given to them is of complete conversion to the ‘opposite sex’. 

The term ‘transsexual’ refers to the individuals whose gender identity is opposite to their anatomic sex and such people also desire to convert the same through medical intervention. In such complete transition into the opposite sex, medical care is required in all phases of such conversion such as treatment of hormones and its monitoring, surgical removal of breasts (mastectomy), plastic surgery performed to construct penis (phalloplasty), surgery performed to create vagina (vaginoplasty) etc. Even after such surgeries, medical support is pivotal. All the transsexual individuals

89 Id. at 13.
90 Id.
do not take hormones or undergo such surgeries. Such individuals may or may not opt for sex reassignment based on hormones and surgeries.  

In most of the European countries, transgendered individuals who are willing to undergo medical transition into opposite sex are also required to go through a surgery for their sterilization. In such surgeries, all the reproductive organs of the transgendered individuals are obliterated, which not only violates their reproductive rights but is also detrimental to their overall health. Such pre-requisites of medical transition are dehumanizing and also lead to social stigmatization. The whole medical process of transition can lead to traumatic experience for the transgendered individuals involved in such transition. The traumatic experience of such transgendered individuals is directly attributable to the lack of awareness regarding unique health risks on the part of medical healthcare service providers. Nonetheless, the procedure of such transition is very bureaucratic which demands certain pre-requisites and specific responses.  

In fact, there is lack of knowledge and research on the part of medical professional organizations for supporting and helping transgendered adolescents. And also these organizations are not unanimous regarding sex reassignment surgeries. There are certain medical professionals who assert that sex reassignment surgery should be performed before puberty in order to reduce the psychological trauma. Whereas, there are others who argue that the present knowledge, regarding long-term effects of hormonal therapy, is not sufficient and also not fully updated. Due to the uncertainty among medical professionals and lack of experience and expertise regarding the unique health issues of transgendered individuals, most of the transgendered adolescents are often deprived of the proper health care. And also there is lack of clear guidance from medical practitioners for the transgendered youth.  

1.2.6 Hate crimes against homosexual and transgendered children

Hate Crimes are basically those acts which are punishable under the penal laws of the State and committed on the grounds of personal traits. Such type of a crime can be stimulated by religion, caste, ethnic origin, nationality, sex and also sexual orientation

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91 Id.
92 Id.
93 Id.
and gender identity. Therefore, if a person kills or assaults a victim on the grounds of being a homosexual or a transgender, then such type of a crime would fall in the category of hate crimes.

Hate crimes against homosexual and transgendered youth include bullying, physical or sexual abuse, assault, murder, rape etc. Such crimes are committed on the ground of non-acceptance of sexual orientation and gender identity which are seen transgressing the norms of the society. Such Homophobic and Transphobic violence has been witnessed in all regions.

**Killings**

- On Oct. 4, 2002, Gwen Araujo was brutally murdered by a group of men in Newark, which is the largest city in the US state of New Jersey. After the murder, her body was buried in a temporary grave in Sierra. The transgendered youth was killed by the group of men when they came to know that she was a transsexual and biologically male. Gwen Araujo or Eddie Araujo was a transsexual teenager who was born as a boy but lived as a girl since the age of 14. After two years of her death, her name was legally changed to Gwen Amber Rose Araujo.  

![Gwen Araujo](image)

**Figure 1 Gwen Araujo**

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• On May 11, 2003, Sakia Gunn was brutally murdered in a hate crime in Newark. She was a 15-year-old African American lesbian. While returning from a night out in Greenwich Village, Manhattan, she along with her friends were approached by two African American men for sexual advances. When Sakia and her friends rejected the advances by disclosing their sexual orientation, the two men attacked them. However, Sakia resisted and fought back but one of the men stabbed her in the chest. She succumbed to her injuries when she was taken to the nearby University Hospital.96

Figure 2 Sakia Gunn

• On Feb. 12, 2008, a 15-year-old student named Lawrence King was shot twice by a 14-year-old class mate. Lawrence was a gay student at E.O. Green Junior High School in Oxnard, California, United States. Lawrence was kept on Ventilator but he died two days after he was shot.97

In the year 2013, Dwayne Jones who was a transgender teen was killed by a mob in Jamaica. Dwayne Jones was constantly bullied and teased in High school for being feminine and later on he dropped out from the school. At the age of 14, he was not only thrown out of the house by his own father but was also ridiculed by the family and neighbors and subsequently he was forced to leave the Jamaican slum where he grew up. At the age of 16, the transgendered teen was brutally killed by a mob on being dressed as a woman in a street party. He was not only beaten up but also stabbed and shot before being run over by a car. His only mistake was revealing his secret to a friend that he was attending a party for ‘straight’ people as a girl for the first time. His father did not want to talk about his son’s life or death. In fact, according to Dwayne’s friends, his family would not even claim the body. In a US based research with Human Rights Watch in the year 2006, it was observed that Jamaica is one of the most unsafe places for the LGBT group.98

In Jan. 2014, a 16-year-old gay teen was brutally killed by a mob in Sao Paulo. Sao Paulo is the largest city in Brazil, where the gay teen was repeatedly beaten and assaulted after attending a party in a gay night club. The gay teen named Kaique Batista Dos Santos, was tortured before being assaulted and battered to death. He has all his teeth pulled out with plier before he succumbed to his injuries. 

Also, homosexual, bisexual and transgendered children are often sexually abused. Family rejection and stigmatization often lead to homelessness and many homeless homosexual, bisexual and transgendered children end up on streets where they are

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sexually abused by adults. Whenever such children try to seek the help of parents or other adults they are often themselves held responsible for being a victim. These instances clearly show that hate crimes against homosexual, bisexual and transgendered children are rampant all over the world.

1.3 The other Problems Faced by Homosexual, Bisexual and Transgender Adults

1.3.1 Marginalization and Social Exclusion
Homosexual and transgendered individuals belong to the marginalized section of the society. Such population face marginalization in multiple forms including racism, sexism, poverty etc. The stigma attached to homosexuals and transgendered individuals of all the ages pushes them to the margins of society because they are seen as transgressing the norms related to heterosexuals and non-transgendered individuals. Due to marginalization, LGBTs are often excluded from various aspects of the society. Such individuals may face exclusion from various support groups and structures including family; they may also face exclusion or discrimination in having an access to various inevitable services such as medical care, education, and legal aid. Marginalization along with the homophobic and transphobic attitude of the general public also may prevent such homosexual and transgendered individuals from having an access to basic public services such as healthcare and housing. Exclusion and being unable to access basic services is further detrimental to the overall health of such individuals. Due to the exclusion from the family and society and marginalization, homosexual and transgendered individuals are often forced to indulge into criminal activities such as trafficking, sex work, drug peddling etc., which further deteriorates their living conditions.

Impact of Exclusion and Discrimination:
The exclusion and discrimination based on sexual orientation and gender identity adversely affect the lives of homosexual and transgendered individuals. Such exclusion may further result in the following -

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101 Id. at 319.
• Homosexual or transgendered individual being forced to leave family and society.
• Exclusion may also act as an impediment in finding a suitable job.
• Being marginalized may also result in being ignored and isolated from the society.
• Exclusion and marginalization may also result in lack of support from the society. Such exclusion may also act as an impediment in having an access to various basic public services.
• Due to exclusion and discrimination, homosexual and transgendered individuals often migrate to other countries for seeking acceptance and safety.
• Homosexual and transgendered individuals are often rejected by the religious or cultural groups.
• Exclusion and marginalization in the society may also result in aggravating suicidal tendencies.
• Due to the ongoing exclusion and discrimination in the society, homosexual or transgendered individual often marry other people who are not suitable according to their sexual orientation and gender identity. Such marriages are performed due to family pressure but often end up in divorce.

1.3.2 Criminalization
Still, in many countries including India homosexuality is illegal and punishable by fines, imprisonment, life imprisonment and even the death penalty as a result of which most of the homosexual and transgendered individuals hide their sexual orientation and gender identity from the society which is further detrimental to their mental as well as physical health. Moreover, homosexual couples do not have same rights as heterosexual couples.

1.3.3 Legal injustice
Homosexual and transgendered individuals also face discrimination in having an access to justice. Nonetheless, LGBTs are often exposed to violence and discrimination at the hands of law enforcement officials. There is a significant number of documented instances of police brutality and violence directed towards homosexual and transgendered individuals in almost all the parts of the world. There is lack of
sensitivity and proper training and expertise among the officials of police departments. More so, such excluded homosexual and transgendered individuals have to struggle for justice. Police departments continue to be ignorant and insensitive towards violence and discrimination based on sexual orientation and gender identity. In fact, such homosexual and transgendered victims of violence are often blamed for being a victim due to their own personal characteristics. \textsuperscript{102} In police custody, homosexual and transgendered individuals are at a greater risk of being abused or ill-treated by police officials. In prisons also, homosexual and transgendered individuals remain a soft target of abuse. They continue to be abused and treated more inhumanly, when behind the bars.

Other issues related to homosexual and transgendered individuals also include but are not limited to discrimination at the workplace, poor economic condition, name calling etc.

\textsuperscript{102} \textit{Id. at 326.}