

# INTERNATIONAL JOURNAL OF LEGAL SCIENCE AND INNOVATION

[ISSN 2581-9453]

---

Volume 2 | Issue 1

2020

---

© 2020 *International Journal of Legal Science and Innovation*

Follow this and additional works at: <https://www.ijlsi.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com>)

---

This Article is brought to you for “free” and “open access” by the International Journal of Legal Science and Innovation at VidhiAagaz. It has been accepted for inclusion in International Journal of Legal Science and Innovation after due review.

In case of **any suggestion or complaint**, please contact [Gyan@vidhiaagaz.com](mailto:Gyan@vidhiaagaz.com).

---

**To submit your Manuscript** for Publication at **International Journal of Legal Science and Innovation**, kindly email your Manuscript at [editor.ijlsi@gmail.com](mailto:editor.ijlsi@gmail.com).

---

# Hate Crime against LGBTQ

---

SAKSHI MAHROTRA<sup>1</sup>

## ABSTRACT

*We are living in a 21st century and had done progress in many areas over the last decade but still people in the world discriminate each other on the basis of race, caste and gender. People are not in the position to accept lesbian, gay, bisexual, transgender persons as a part of the community and not letting them to enjoy their fundamental rights. They always have a risk of becoming victim of hate crime and many do not receive protection when they are attacked in the street by the fellow citizen. The criminal justice system has made many laws and policies which deal with the definition of hate crime and also had explained why the crimes against LGBT people are different from other crimes. In United States violence against LGBT people has increased drastically and it became a societal issue there. LGBT people found it more difficult to determine than the white gay men whether the violence is based on their sexuality or due to their color. The project is viewed about how LGBT people are being harassed and become victim of hate crime. There is no specific law yet given by the legislature which deals with the sanctions for harassing LGBT people. Though victim group has defined hate crime as a crime in which LGBT people are the common target of harmful behaviour against them. This article, the author aims to introduce the psychology of the transgender people how they face level of threat and anxiety and what are the situation in different countries. Further we will discuss in this paper about how gender biasness can be curbed and how we can contribute in making them feel safe, secure and treated equally. In conclusion, the following research paper dwells on the legal perspective and key issues and challenges faced by the court.*

## I. INTRODUCTION

Hate Crimes are described as the violent act, which intend to hurt and intimidate someone just because of their race, caste, ethnicity, national origin, religion, sexual orientation. Hate incident is not a crime it is an expression of biasness which turn into violent hate crime. A person who commits the hate incident must have motivated by their biasness and they have done any violent crime.

Stonewall Inn was recognized as a birthplace of the gay rights movement in 1969 because at

---

<sup>1</sup> Author is a Student at School of Law, University of Petroleum and Energy Studies, Dehradun, India.

that place gay marriage took place. Recently LGBTQ group had achieved victories in many ways like in New York for same sex marriage legislation was made and removal of Don't Ask, Don't Tell. There was observation made which basically says that big campaigns generally focus on white gays and their main priority is for the upliftment and acceptance of white gay's status in society. LGBTQ includes white gays but campaigns only focus on white gay so this is discriminatory with other people they also have right to represent.

If we go back in history we would find that biasness are always done towards women, if we talk about gender based biasness it should be treated differently because it is not done against the particular gender. Nowadays gender biasness can affect lesbians, gays and transgender women. "Whether the perpetrator is a stranger or an intimate partner, their actions are a learned response to many years of subliminal, conscious male-domination and misogyny in our society (i.e. that women must be in a submissive role and any defiance should be silenced with physical or sexual force in order to enforce male domination)".

LGBTQ community faces discrimination by police, society and solicitors. As they are from LGBTQ community they have to face the discrimination by the police, indifferent behavior of police, discriminate treatment in hospitality, due to all this sometimes they goes in mental trauma and face domestic abuse. Many members in LGBTQ group face discrimination by their color specially people who belongs from minority groups. LGBTQ rights in terms of criminal justice system would consider as moving beyond broad policy and practice, police targeting of LGBTQ people, police indifference to violence against LGBTQ people, and the discriminatory treatment of LGBTQ people in the courts.<sup>2</sup> LGBTQ rights have narrow goals in criminal justice system because our legislature has focused on making laws in only particular area like hate crimes, anti-bullying statute etc they did not focus on making law related to the serious crime like buggery. In case *Lawrence v Texas* Supreme Court in 2003 stated about the invalidation of sodomy law.

## **II. PROTECTING LGBTQ PEOPLE FROM VIOLENCE AND MOVING TOWARDS EQUALITY**

"Ending Acts of Violence and Related Human Violation Based on Sexual Orientation and Gender Identity" this statement was given by the eighty five nations at U.N. Human Rights. In this joint session they recognized that gays should be treated as humans and their rights are

---

<sup>2</sup> Joey L. Mogul, Andrea J. Ritchie and Kay Whitlock, *QUEER (IN)JUSTICE": MAPPING NEW GAY (SCHOLARLY) AGENDAS*, *Queer (In)Justice: The Criminalization of LGBT People in the United States*, Vol. 102, No. 1 (Winter2012), pp. 171-193

equal to human right which normal citizens enjoy, in international world they had done progress. U.N. Human Rights Council in June made laws in support of gay rights. High Commissioner had requested the other countries to recognize homosexuality, heterosexuality, bisexuality and asexuality as valid basis for asylums, there must be campaigns in which general public should be informed about homophobia and they must be given proper training to look after and ensure that LGBTQ community must be treated fairly without any biasness and improper treatment. In 2012 there was a report given by the U.N. Human Rights Council under it certain recommendation were given and it also says that countries should provide legal recognition to transgender and they should be given relevant identity documents according to their gender and name.

Some international organization took steps to promote LGBTQ rights and European Parliament adopted the resolution they said that still some countries thinks that homosexuality, sexuality and trans-sexuality regarded as mental illness including European Union. The resolution also discussed about that states are stressing LGBTQ people to change their identity just to meet the social security scheme of the society. WHO had said that gender identity disorder cause due to mental and behavioral disorder of the people; till the view point will not change we cannot stop the hate and discrimination which LGBTQ people face.

Inter-American Commission on Human Rights are working on the documentation of “serious discrimination, both in fact and in law against LGBTQ community” in America LGBTQ people have to face discrimination and comments regarding their gender and looks so the Americans has created a unit on the rights of LGBTQ and intersex persons just in order to strengthen its capacity to protect their rights. US Secretary made efforts to achieve and promote equal rights for the people of all the nations. US Government was the first government to make strategy for combating abuses against the LGBT people said by Secretary Clinton. She announced for creation of Global Equality Fund to support and promote the work of civil society organizations those are working on these issues and they also make sure for the protection of LGBT people rights.

#### **(A) The End of "Don't Ask, Don't Tell"**

December 2010 legislation was being repealed by President Obama which states that gays and lesbian people should live under threat. US government had lifted the ban which states that homosexuals are not allowed to take part in military by lifting the ban they maintain the equality between gays, lesbians. In total, more than 14,000 troops were discharged "Don't Ask, Don't Tell, Don't Pursue Policy." After President Obama certified repeal would not jeopardize

military combat readiness, it became effective 20, 2011<sup>3</sup>. Equality between everyone is still a dream. Case was being filed by challenging the nature and its constitutionality of the “Defense of Marriage Act (DOMA)” because gays and lesbian groups are still treated unequally so they challenged this act. This act basically does not allow and neither recognizes the same sex marriage. This act is also a hurdle in obtaining marriage benefit and recognition. In the US military transgender people are still ban they are not allowed neither they can serve in the military if they openly speaks about their sexual identity. Such kind of laws should be removed from the developed countries. Either it is developed or developing country everybody has same perception regarding LGBT groups. Discrimination can only be removed if people change their perception.

### **(B) Public Awareness-Raising Campaigns**

Public awareness regarding the LGBT community and hate crimes is important each person should have knowledge about this and they must protect the rights of same. People should accept LGBTQ community and should not do any things which may affect their rights. Unacceptability of hate crimes can serve as an important foundation for building a strong prevention strategy. Public awareness can be better done by campaigns and in campaigns they should provide information for combating misinformation, myths and stereotypes about gender and their sexual orientation, identity, expression these are the few area where LGBT community face discrimination. By issuing brochures in public can also help in raising awareness of the problems faced by the lesbian, gay, bisexual .For example In Brazil there was public awareness campaign was launched with the title “Brazil without Homophobia” there main motive is to aware people about the homophobic violence and discrimination in general public.

Public displays of solidarity with LGBT and intersex people can act as a strong signal of support, putting the spotlight on discrimination and promoting a no-tolerance approach to hate-motivated violence and abuse.<sup>4</sup> There are countries which are itself taking part to aware the people and they are basically raising awareness about bullying and mental touchier of LGBT people. There are number of schools in Thailand which took part in rainbow campaign, this campaign done to bring awareness among the people related with bullying and violence against LGBTQ people. People in Thailand hosted rainbow around the educational institution, schools etc just to make the space diverse and safe for the homosexual people. Public awareness

---

<sup>3</sup> Elisabeth Bumiller, A Final Phase for Ending 'Don't Ask, Don't Tell', N.Y. Times

<sup>4</sup> Briefing: In a violence special the Health Service Report (London: IRS, (1998). *Bmj*, 317(7159). doi: 10.1136/bmj.317.7159.3a

campaign which is done it does not ensure that it may reach to both urban and rural area but they try to make aware everybody about the violence and discrimination which is done with them. Among the few examples identified of State initiatives specifically targeting transphobia were in Mexico, where the Government of the Federal District launched a campaign in 2014 to combat transphobia in collaboration with civil society organizations, and in the United Kingdom, where civil society efforts to raise awareness and tackle underreporting of transphobic hate crime received support from police forces and local authorities in Wales.<sup>5</sup>

### **(C) Training For Law Enforcement Personnel**

UN and regional human rights had made a documented report about the law enforcement officials who are engaged in doing things which are discriminatory towards LGBT and intersex person, they were using disrespectful language and words, physical and mental abuse, humiliating treatment with them, not reporting their complaints and protecting the accused. Because of all these they neither have trust on public officials nor on the legislature. To combat all these things training for law enforcement authority is very important just to tackle violence and specific measures to build the confidence and establishes accountability measures. In Denmark citizens as well as police officers were invited to participate in LGBT awareness training campaign.

### **(D) Measures To Address Education Sector Violence And Bullying**

Under every sector LGBT community have to face discrimination either it is education, job or in society. Still people are not able to accept them as a part and member of the society. Schools should make efforts to conduct awareness campaigns about hate crimes and violence against gay, lesbian, transgender. UNESCO has reported the incident of violence against student on basis of his sexual orientation and gender identity. This type of violence impacts on the student education, health and their career too. Schools should make policies regarding the hate crimes against students to prevent the violence and discrimination and ensure them with safe and secure environment in school. If any crime is committed in the premises of school related with sexual character, sexual orientation or any other type of discrimination is done against the gay, lesbian, transgender then it must be reported immediately.

### **(E) Recording and Reporting Violence, Hate Crime And Hate Speech**

State must encourage people to report any violence which is related with LGBT rights and discriminatory against their community. Records should be made in effective manner and it

---

<sup>5</sup> Briefing: In a violence special the Health Service Report (London: IRS, (1998). *Bmj*, 317(7159). doi: 10.1136/bmj.317.7159.3a

must be properly compiled so that its statistic can be easily compared with other reports which records crime against LGBT people. These reports can also include other forms of discrimination such as against gender, race, caste and religion.

National human rights institutions should closely monitor and assess patterns of hate crime and hate speech against LGBT and intersex people. Despite the importance of this information, most States do not collate such data. A growing number are collecting data related to violence based on sexual orientation, but only a small number are doing it on violence based on gender identity. No instances were identified of States collecting data on violence against intersex people.<sup>6</sup> There are lot of cases which are not recorded so government have initiated to support and encourage people to report their complaint and make other aware about this. Till the time people do not report their complaint government will not be able to support and remove this discrimination from the society. In Sweden to make people aware about discrimination and hate crime against homophobic and transphobic they had provided information on its website for raising awareness of hate crime. Police of Sweden are making all their efforts to prevent them from any kind of violation.

### **III. CAUSE AND CONSEQUENCE OF HATE MOTIVATED VIOLENCE**

Violence against LGBT community has been increased in US and by the time it is also being serious societal problem. Earlier people do not know about hate crimes against LGBT, in late 1990 they saw some development in our legislation on hate violence. Concept of hate crimes achieved popularity when certain scientists tried to examine its significance. Some social organization named it as a social problem and law making institution like legislatures, courts and tribunal had made law related to it. There are few rights which are provided to every citizen, under article 5 of UDHR, article 7 of the ICCPR and article 2 of the Convention against torture these are the certain rights guaranteed to the citizen. Under international law it is said that state have the obligation and responsibility to protect every citizen from any kind of torture and cruel activity, it also states that state have obligation to prohibit people from doing ill-treatment and help them with legal aid. If state is not able to protect the victim and do justice with them then it will be breach of international human rights law.

#### **(A) Vulnerability Of Lesbian, Gay, Bisexual And Transgender**

The UNODC means United Nation Office of Drugs and Crime it states that LGBTQ prisoners are consider as the weaker section, they get more attention because thing which they face is

---

<sup>6</sup> Briefing: In violence special the Health Service Report,1998, 317

something very torturous and humiliating for them under some situations. Though we have laws to protect them but still they have to face violence under certain situation. International human rights has made certain standards which states that state must ensure that every prisoner should be protected from any kind of violence. UNODC had made certain policies to implement and help the staff to carry out their duties and they had made policy which says that LGBT prisoners should be protected from any kind of violence and their rights must be unhindered. A joint association report was came which have given eight risk factors and situation for human rights abuse of LGBTQ persons such as under police custody, at the time of interrogation, in the prison, violence among the prisoners and lastly discrimination at the time of service and taking benefits. It is very important to make certain restriction and laws so that violence against gay, lesbian bisexual can be avoided. The United States Justice Department, in its national standards for the prevention of abuse in prisons, calls for the “unique vulnerabilities of lesbian, gay, bisexual, transgender, intersex and gender nonconforming inmates” to be addressed in training and screening methods. When deciding whether to place a transgender or intersex inmate in a male or female facility, the United States national standards require that prison authorities decide on a case-by-case basis, taking into account the prisoner’s gender self-identification rather than their “genital status”.<sup>7</sup>

### **(B) Special Measures To Protect Transgender Detainee**

Mandela rules states that every gender should be respected and protected specially in prison. If state authority fails to provide human rights situations and are not able to fulfill the needs of the transgender prisoner then it will be regarded as inhuman, cruel and ill-treatment. There were certain guidelines was set by the ministry of justice of UK regarding the rights of transgender prisoners and it also includes clothes, respect of their gender and sexual identification, there should be well behaved staff. Main provision for the protection of transgender detainee is that there should no forced treatment and any kind of abusive language should be used. Policies which were given in the Mandela rules also states that recognition should be given to them in accordance with human right standard and it should not be discriminatory on the basis of gender.

### **(C) Preventing Torture And Ill Treatment In Medical Or Hospitals**

It is necessary to protect and prevent LGBT community from torture, ill treatment and any kind of biasness either in the school, college, prison or in the hospitals. In 2015 there was an act

---

<sup>7</sup> Briefing: In a violence special the Health Service Report (London: IRS, (1998). *Bmj*, 317(7159). doi: 10.1136/bmj.317.7159.3a

which was adopted by Malta called Gender Identity, Gender Expression and Sex Characteristics Act. This act was made to protect the rights of minor gays, lesbian by prohibiting surgery and any kind of treatment in which minor have not given the consent particularly medical treatment under societal fear. Other countries have also made some important assistance from parliaments, courts, tribunals and other bodies regarding the regulation of treatment of intersex child. In Switzerland there was advisory commission on biomedical has given some opinion that talks about the situation of intersex groups and recommended that without the consent of any child nobody is allowed to do irreversible surgery or any kind of medical treatment. To prohibit people from doing torture, inhuman treatment, and abusive activities so it is necessary to ban some practices which is being conducted by the state and non state actors which we called therapies. In these therapies intersex child became victims of forced anal or genital examination, unnecessary medical surgery and treatments performed on them without their consent.

#### **IV. THE WAYS IN WHICH LGTB PEOPLE DETERMINE THAT VIOLENCE IS BASED ON THEIR SEXUALITY**

People who are being victim of hate crime violence they firstly hesitate from reporting complaints, it affects their psychology and mental health. Gay men, lesbian women and transgender they could easily understand that violence which they are facing is based on their sexual identity. Couple of same-sex faces lot of discrimination in public place. Intersex groups hesitate before going in public places or if any violence is being committed they do not report complaints in police station. Every citizen has right to move freely in public places without being fear under any kind of violence or discrimination. State authority should maintain proper law to protect them.

There was survey being conducted in 2013 which states more than 23% LGBT community people being attacked threatened with violence in past five years. There was report being published which shows high number of anti-LGBT crimes across the region. There are several cases of hate crime which are still not reported. There are several ways by which we can curb this activity by imposing sanctions, making provision which restrict people from committing hate crime and the main thing is by making people aware with campaigns and brochures' about the fact that LGBT people also part of the society.

#### **V. PROTECTING PEOPLE FROM DISCRIMINATION**

Any kind of discrimination on the basis of sexual orientation, gender identity or expression and sex characteristic should be eradicated from the society. It is the fundamental right of every

citizen. Article 2 of universal declaration of human rights states that there should be no discrimination and provisions should be made to protect the rights. Article 7 of the Universal Declaration it talks about the equality of everyone before the law without any discrimination.

### **(A) Constitutional and Legislative Guarantees**

There is only one country which has included sexual orientation, gender identity and gender expression as a protected ground but other two states have included sexual orientation and gender identity as non discrimination grounder not as a protected ground of discrimination like Bolivia and Malta. Countries like Ecuador and South Africa has only included sexual orientation in their constitution. If we look today's scenario there is no constitution which includes sexual characteristic as a ground for prohibit discrimination. There should be clear inclusion about the non-discrimination provisions in the constitution about gender identity, sexual orientation and other provision which takes important measures to combat the discrimination and also help in guiding other laws, public schemes.

Short of constitutional protection, a strong non-discrimination legal framework that prohibits discrimination in all spheres of life can provide protection, particularly if it effectively addresses the key contexts in which discrimination is frequently experienced by LGBT and intersex people, such as education, health care, housing, civil administration, social services, employment, provision of goods and services, recognition of relationships and family law, immigration and inheritance.<sup>8</sup>

Constitution should clearly and expressly include gender identity, sexual orientation, expression as a prohibited grounds for discrimination and it should be applicable on both public and private sectors. There are different cases in which at later stage it might be possible to add some additional provision on the ground of discrimination which will add by the legislative amendments and after the amendment it will expand the meaning of earlier anti-discriminatory legislation. Mexico was a country in which it was done. If any definition is being added then it should be clearly adopted in the legislature like South Africa have adopted the word "sex" in their anti-discrimination legislation. Indian courts can also include and amend their constitution if they want to add any word to protect and prohibit the discrimination like Nepal added two words in their constitution which give identity and protect the rights of third gender and intersex people. They had added two words sexual orientation and gender identity in there constitution and they have right to be recognized officially. There should be laws which must include

---

<sup>8</sup> Briefing: In a violence special the Health Service Report (London: IRS, (1998). *Bmj*, 317(7159). doi: 10.1136/bmj.317.7159.3a

measures under which investigation can be done for any discriminatory act and actions, measures should be taken to restore the right of the victims and effective measures taken for making them feel safe and secured. There should be laws which talks about sanctions like civil and criminal sanction.

For example, in Germany, on the basis of a judicial finding, same-sex couples were recognized as being able to benefit from the same inheritance tax rules as different-sex couples, and in Hong Kong China unequal age of consent for sexual relations between men as opposed to between men and women was considered discriminatory. “While many States prohibit discrimination on grounds of sexual orientation in employment, it is critical that the scope of anti-discrimination legislation includes all spheres of life and applies to both public and private actors”. Where national legislation creates national bodies tasked with upholding non-discrimination legislation, such bodies should also have an explicit mandate to address discrimination based on sexual orientation, gender identity, gender expression and sex characteristics.<sup>9</sup>

### **(B) Anti-Discrimination Action Plans and Strategies**

Anti discrimination action plan is adopted and incorporated by only few countries which specify measures for discrimination on basis of their sexual identity, gender orientation and characteristic. Every country should incorporate this action plan in there laws so that they can provide safe and human environment to the intersex and LGBT people. Only few strategies and plans deals with rights of intersex people and talks about discrimination or have proper laws and framework to monitor.

The constitutional and legal frameworks underpinning anti-discrimination efforts throughout all sectors of society need to be complemented by robust national programmers’ that incorporate specific concrete measures to combat discrimination on the basis of sexual orientation, gender identity and expression, and sex characteristics, including monitoring the implementation of related recommendations of the United Nations and regional human rights bodies.<sup>10</sup>

### **(C) Prevention of Discrimination In Employment**

ILO had prepared the report in relation with discrimination on the basis of sexual identity and gender, though government is making efforts to remove the discrimination in countries. State

---

<sup>9</sup> Briefing: In a violence special the Health Service Report (London: IRS, ... (1998). *Bmj*, 317(7159). doi: 10.1136/bmj.317.7159.3a

<sup>10</sup> Briefing: In a violence special the Health Service Report (London: IRS, ... (1998). *Bmj*, 317(7159). doi: 10.1136/bmj.317.7159.3a

has the responsibility to prohibit people from doing discrimination on the basis of sexual orientation, gender, their habits and behavior related with right to work. Right to work is the fundamental right of a person nobody can prohibit a person from doing work on the basis of their gender identity. Neither on the work place nor at any other place intersex and LGBT people should be discriminated or face any violence. Article 6 of the International Covenant on Economics Social and Cultural Rights says that every person has the right and opportunity to gain living wages by work which he chooses and it also states that state should take appropriate steps to protect their rights and duties. UN Committee said that article 6 tries to stop or prohibit the discrimination and maintain proper environment for the employers without any discrimination on the basis of gender identity. State should make policies which benefit the people who are being discriminated at every place and policy should protect the rights of disadvantage group of society. Many states in every region have tried to prohibit discrimination with regards to their character and gender. It was estimated that 67 states have prohibited discrimination. There are number of countries which have prohibited gender discrimination like Ukraine had amended their labour code to make laws which prohibit employees and employers discrimination on the ground of their gender and sexual character. Malta is the other place they had also amended there code to incorporate the article which prohibits gender discrimination and it states punishment too. South Africa, Malta and Australia are three major countries which have amended their constitution and willing made the law for the discrimination which was faced by the LGBT group in the work place. India has also made laws for prohibiting discrimination at the work place, they had incorporated certain provision which states punishment if any citizen do gender discrimination. There are some states which has passed specific laws and also adopted certain measures to protect LGBT people from gender based discrimination at work place. Countries like Philippines and Argentina had adopted laws.

#### **(D) Prevention Of Discrimination In Education**

Article 2 and 13 of the International Covenant on Economics Social and Cultural rights states that discrimination should not be done in education sector, everybody has right to get educated and freely join the education institution without being discriminated on the ground of their gender. Students either they are in school or in college they face discrimination on ground of their gender and sexual identity. They are being judged by their co-students and sometimes they face hate violence with them. It is not compulsory that they only face discrimination by the students it can be by any staff of a school or college or any teacher. Every state should ask their school and college to make policy and law related with anti-discrimination and anti-

bullying so they can prohibit discrimination against the intersex people, minor or students. Educational institution must conduct campaigns and training which aimed to combat and change the discriminatory thought and attitude towards them. There are countries which have adopted in their legislation certain provision to prohibit discrimination in education sector such as there are many states who have adopted legislation to prohibit discrimination and many schools had added in their education curriculum about the gender discrimination, how to manage the stereotype thinking, adopted laws related with antidiscrimination it helps to protect the school children from being discriminated on their gender and should be treated equally. Department of Education in US had made certain guidelines which ensure that LGBT student should be respect and same treatment as other children are being treated, they should have different restrooms in school and college, their privacy should not be infringed nor any activity should be conducted which may be discriminated against them. Malta has adopted many acts and made lot of provisions to protect the rights of LGBT group and also protect them from any discrimination either being faced by them in work place or in school. Recently they have adopted policy that majorly deals with the situation of transgender and intersex students in school. They have adopted anti-discrimination policy which every school and college have to incorporate to prohibit the discrimination.

#### **(E) Prevention Of Discrimination In Access To Health Care**

There are many countries which condemn and criminalize same-sex relationship they also have no access to any legal rights or recognition of their gender identity. LGBT and intersex groups face lot of problem in accessing health services. They face discrimination in the hospitals and attaining medical facilities. Due to all this circumstances and discrimination LGBT people are not able seek proper medical attention and facilities. Citizens of all the counties have to accept that LGBT group are also the member and part of society; they should be treated as normal citizens. Still in some countries transgender people do not have any kind of recognition nor can they access any medical facilities. In hospitals doctors are trained so they can assist any special need of intersex and LGBT people. In Norway government has made plan for the betterment of LGBT group and they had specified certain measures like providing health facilities and preventing them any kind of discrimination in the hospital. They had also collaborated with the LGBT civil society organization which can help LGBT groups. Article 12 of the Covenant on Economics, Social and Cultural Rights stated that “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health”. This committee has also stated the grounds for non-discrimination regarding both sexual orientation and gender identity. State has the responsibility to provide health access and medical facilities to the LGBT group without

any hindrance and discrimination on basis of their sexual identity. It should be protected through law and order. In Argentina there is a law which states that every citizen has right to get recognition of their sexual identity it also gives right to the person to affirm hormonal surgery and treatment with the consent of the national health insurance system without any judicial authorization.

Malta has adopted the legislation which says that if any person is seeking counseling, medical support related to their sex or intersex character they will be provided support in health care centre till the time they feel necessary. Nobody can force them to seek any kind of counseling or undergo for surgery without their consent. It also look after the rights of minor child, legislation has made laws which focus on protecting the rights of child and prohibiting from any kind of medical treatment without consent and will of the minor. Parents under the pressure of society they make child to go under certain surgery this is totally inhuman treatment.

## **VI. CONCLUSION**

Hate crimes, discrimination or gender biasness cannot be removed in a day or two. It will take time to completely eradicate the discrimination against LGBT community from the society. Hate Crimes are described as the violent act, which intend to hurt and intimidate someone just because of their race, caste, ethnicity, national origin, religion, sexual orientation. Hate incident is not a crime it is an expression of biasness which turn into violent hate crime. A person who commits the hate incident must have motivated by their biasness and they have done any violent crime. Earlier there was no law in our constitution which protects and prohibits discrimination against LGBT community. If we go back in history we would find that biasness are always done towards women, if we talk about gender based biasness it should be treated differently because it is not done against the particular gender. After time passes and when there was growth about LGBT rights in our society then citizen have started recognizing them as a member of the society. It is necessary that every state must conduct campaigns to educate the citizens about the hate crimes and violence which they face. Hate crimes not only affect the person who is being victimized but it also affect the society. It is necessary to include provision in constitution which could prohibit the discrimination against the LGBTQ. There are several countries like Malta, Ukraine, South Africa which have adopted several provisions which protect their citizen and also prohibit discrimination in work place, medical institution and in educational institution. State should make anti-discriminatory policies to avoid the discrimination. Still in some countries it has very difficult situations for trans community, if we ask from them then we could easily find that every second person in there might be the

victim or has suffered hate violence. After reading so many article what I conclude from this topic is that still in several countries people have not accepted the fact that gay, lesbian, transgender and intersex people do present. In this entire situation minority group people are being mostly suffered by this, they are not able to get proper treatment in hospitals just because they belong from a different community.

\*\*\*\*\*