

# Prohibition of and Rehabilitation from Violence



## Queering the Law: Beyond Supriyo



VIDHI Centre for  
Legal Policy

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This is an independent, non-commissioned piece of work by the Vidhi Centre for Legal Policy, an independent think-tank doing legal research to help make better laws.

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# Queering the Law: Beyond Supriyo

## ABOUT THE SERIES

### Introduction

On October 17, 2023, the Supreme Court of India ('Court') delivered its judgment in the landmark case of *Supriyo alias Supriya Chakraborty vs. Union of India* ('Supriyo'). While the Court recognised that it was the legislature's prerogative to enable marriage equality, it also noted the discrimination faced by queer persons in various realms of life. Consequently, it directed the Union Government to set up a High-Powered Committee ('Committee') to set out the scope of benefits that will accrue to queer couples and outline key areas that require State intervention to realise the constitutional rights of the queer community, including the right against discrimination.

In September 2024, the Committee issued a press release outlining the steps taken by the Union Government to address the discrimination queer persons face, such as inclusion for the purposes of opening a joint bank account or a ration card. The Committee also invited comments from the public in relation to measures that may be taken to ensure queer inclusion. In pursuance of this, the Vidhi Centre for Legal Policy ('Vidhi') and the Keshav Suri Foundation ('KSF') collaborated to make joint submissions to the Committee.

This set of four policy briefs, namely, 'Queering the Law: Beyond Supriyo' ('Beyond Supriyo') follows Vidhi's 2019 project, 'Queering the Law: Making Indian Laws LGBT+ Inclusive' ('2019 Project'). The 2019 Project, which was the outcome of several rounds of consultations held at the Vidhi office, identified how laws excluded queer persons across four areas: identity, violence, family, and employment. Beyond Supriyo is a continuation of this initiative and prescribes how laws and policies may be modified to be made queer inclusive. It provides for measures that may be pursued by the Union and State governments to address and redress the discrimination queer persons and persons in queer relations are subject to on account of a legal system that does not recognise them at par with cis-gendered and heterosexual persons.

In light of the Court's judgment in *Supriyo*, the onus of queer inclusion in laws now largely lies with the legislature. We hope this work will inform and assist queer civil society in carrying out advocacy towards more queer inclusive law reform.

### Pan-India Consultations

The recommendations put forth in this series of policy briefs, and those presented before the Committee, have been informed by three public hybrid consultations conducted by Vidhi and the KSF in New Delhi, Bombay and Jaipur. These consultations were attended by around 150 stakeholders including members of the queer community, lawyers, civil society organisations, activists, and other interested stakeholders. The consultations were aimed at understanding the lived experiences and demands of the queer community in relation to law and policy reform. They were organised around five broad themes: (a) recognition of queer relationships, (b) queer parenthood, (c) access to goods and services, (d) violence, and (e) healthcare.

The plurality of views expressed across the consultations guided our approach to various policy questions and enabled us to make holistic recommendations. The detailed minutes of each consultation are annexed to the comprehensive recommendations submitted by KSF and Vidhi to the Committee.

## About the Series

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Beyond Supriyo comprises four policy briefs covering the following themes: queer relationships, discrimination, healthcare, and violence. These themes are informed by the observations and directions issued by the judges in Supriyo and the inputs received at the consultations. The Court in Supriyo broadly identified family law, access to goods and services, welfare benefits, financial benefits, labour benefits, healthcare and involuntary treatments, transgender rights and violence as areas that require State intervention.

While the policy briefs follow an accessible and actionable format to aid queer civil society and other interested stakeholders in their law reform advocacy, for a holistic view of the nature and form of measures that may be pursued by the State, one can refer to the comprehensive recommendations submitted by Vidhi and KSF to the Committee.

The series comprises of the following briefs:

### 1. Recognition of Queer Relationships and Family:

This policy brief addresses the need for legal recognition of queer families and relationships. Part A focuses on relationships between parties and recognition of a variety of family structures in law. Part B on parent-child relations, recommends amendments to the secular law on adoption to make them queer inclusive and suggests targeted measures for reform of laws governing parenthood to make them modern and inclusive of atypical families.

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### 2. Discrimination in Access to Goods and Services:

This policy brief makes recommendations to address the discrimination queer persons face. Part A recommends general measures such as a comprehensive anti-discrimination law and reforms to the Transgender Persons (Protection of Rights) Act, 2019. Part B recommends sector specific recommendations across four sectors: financial services, employment, education, and housing. Recommendations are directed towards both prohibition of discrimination as well as affirmative measures to address systemic exclusion.

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### 3. Queer-Affirmative Healthcare:

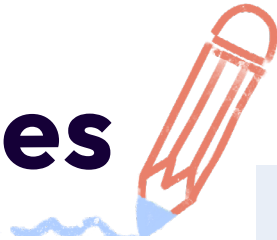
This policy brief captures wide-ranging recommendations spanning combatting existing discriminatory practices in healthcare, introducing affirmative healthcare, and affecting systemic measures. The removal of existing discrimination includes banning conversion therapy and medically unnecessary intersex surgeries, and ensuring compliance with the law on anti-discrimination against persons living with HIV-AIDS. Recommended affirmative measures include the provision of gender-affirming treatment, affordable mental health support, queer-inclusive health research, and provision for nomination of healthcare representatives of choice. Systemic measures include making health laws queer-inclusive, and increasing the presence of queer-affirmative healthcare workers through improved training and modified curricula, as well as horizontal reservations in public healthcare.

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### 4. Prohibition of and Rehabilitation from Violence:

This policy brief addresses violence propagated by the State and society at large, by the natal family, and domestic and sexual violence. It recommends reforms in law enforcement including police sensitisation, amended police rules and binding directions. Proposed affirmative measures for rehabilitation from violence include shelter homes and emergency helplines. Legislative changes have been suggested to protect queer persons and persons in queer relationships from sexual, domestic and intimate partner violence as well as workplace harassment.

# Principles



## 1. Non-Discrimination:

An individual's gender identity or sexual orientation must not be grounds for impeding their right to protection from violence.

### Examples:

- \* Recommends amending the various State Police Acts and Service Rules to criminalise harassment of queer persons by law enforcement personnel.
- \* Calls for ending natal family coercion, and recognising the rights of persons in queer relationships to cohabit safely.

## 3. Recognition of Diverse Family Structures:

Legal protections must apply across chosen families, non-marital partners, and atypical households.

### Examples:

- \* Proposes executive orders protecting queer couples from wrongful FIRs or forced separation.
- \* Calls for expanding the scope of domestic violence laws to include and protect queer partnerships.

## 2. Affirmative Action and Positive Obligations:

The State must proactively prevent violence through structural reforms, not only merely react post-fact.

### Examples:

- \* Suggests creation of queer-safe shelter homes and crisis support helplines.
- \* Proposes mandatory sensitisation of police personnel.

## 4. Gender-Inclusive and Queer-Inclusive Language:

Violence laws must protect all victims, regardless of gender or the gender of the perpetrator.

### Examples:

- \* Recommends making the definitions of various sexual offences gender-inclusive for the victim.
- \* Proposes updates to the PoSH Act to include identity-based harassment.

## 5. Participation and Voice of Queer Communities:

Anti-violence strategies must be shaped by those directly impacted.

### Examples:

- \* Advocates for the inclusion of queer community representatives in internal committees and grievance redressal bodies.
- \* Recommends taking steps towards community-based policing, such as involvement of the queer community in formulating police training and sensitisation curricula.

# Prohibition of and Rehabilitation from Violence

## • INTRODUCTION •

Violence directed against queer persons remains one of the most pressing and pervasive challenges faced by the LGBTQIA+ community. It represents a socio-physical manifestation of deep-seated hatred and discrimination. The targeted, identity-based nature of such violence makes it an urgent area for legal and policy reform. Measures for policy reform must be aimed at:

- a) providing assistance and rehabilitation to victims of violence, and
- b) prohibiting and preventing further acts of violence against queer persons.



**There are, broadly, three sources or sites of violence against LGBTQIA+ persons. These may be categorised as:**

**1. Violence From the State and the Society:**

The state owes an obligation to protect all individuals, especially the most vulnerable. However, structural biases and institutional failures make the state a site of the very violence it is required to protect against. This includes institutionalised discrimination and queerphobia, police brutality and misuse of the criminal law machinery to propagate harassment, and denial of access to public spaces and services. Societal violence, too, is rampant, manifesting as hate crimes, bullying, harassment, and public humiliation, all rooted in entrenched homophobia and transphobia.

**2. Violence Committed by the Natal Family:**

For many queer individuals, the family, traditionally seen as a source of support, is the first site of violence. Queer persons may face coercion, emotional abuse, physical violence, and practices such as conversion therapy, corrective rape, and forced marriage. Economic dependence, emotional bonds, and the lack of accessible alternatives often prevent individuals from leaving violent family environments, trapping them in cycles of harm.

**3. Intimate Partner Violence and Sexual Violence:**

Queer individuals are not immune to violence within intimate and domestic relationships. This includes emotional abuse, controlling behaviour, and sexual violence. Yet, the legal system continues to exclude queer relationships from the ambit of domestic violence laws, leaving survivors without recourse. The failure to recognise non-heteronormative domestic setups further marginalises queer persons and restricts their access to justice and protection.

The overt as well as covert violence directed towards queer persons has been acknowledged by the Supreme Court, as has the state's failure in protecting them from systemic and social oppression. Going forward, India's response to violence against LGBTQIA+ persons must be: rooted in constitutional values, responsive to lived realities, and implemented through comprehensive, rights-affirming legal reform.

## • ISSUES •

**1. Gendered Framing of Violence and the Exclusion of Queer Realities**

Legal and policy frameworks addressing violence, such as the Protection of Women From Domestic Violence Act, 2005 and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 ("PoSH Act") have been drafted from a heteronormative perspective, grounded in an understanding of violence as occurring primarily between cisgender men and cisgender women. These frameworks were shaped around familiar power dynamics and patterns of abuse in heterosexual contexts. As a result, they do not account for the forms of violence experienced by queer persons, whose relationships and social realities do not fit these normative scripts. This leaves large sections of the LGBTQIA+ community outside the protective reach of the law.

**2. Lack of Recognition of Queer-Specific Forms of Violence**

While the legal understanding of violence against women has evolved to include psychological, emotional, and economic abuse, similar progress has not been made in recognising the distinct forms of violence queer persons face. Queer individuals may be subjected to threats of outing, identity-based humiliation, forced gender expression, coercive "corrective" measures, and exclusion from chosen families or communities. These experiences are still largely invisible to the state and absent from statutory definitions of violence, limiting the applicability and effectiveness of existing legal remedies.

**3. Institutional and Enforcement Failures**

Law enforcement agencies and support systems often fail queer persons. Police routinely dismiss complaints, misgender survivors, or coerce them into returning to violent homes. Shelters may refuse entry to queer individuals, and many state institutions lack even basic sensitisation. Even when laws are in place, these institutional barriers prevent queer persons from reporting violence or seeking redress, reinforcing a cycle of harm and impunity. Without structural reforms, queer persons remain underserved and vulnerable in moments of crisis.

# • POLICY • RECOMMENDATIONS



## A. PROTECTION AGAINST VIOLENCE FROM STATE MACHINERY

Law enforcement agencies like the police are meant to protect everyone. But for queer persons, they often cause more harm than help.



Participants in our consultations shared multiple accounts of state-perpetrated violence.

In one account, a person described how the *garima greh* they were staying in was raided by local police. Several residents were physically assaulted and forcibly dragged out. This incident underscores the continued vulnerability of queer persons to state violence, even in spaces meant for their protection.

—Consultation participant, New Delhi

When queer persons can't rely on the police, they stay silent. Violence goes unpunished, and justice becomes a privilege, not a right.

An approach that targets both legal reforms and institutional accountability may ensure that queer persons can access the police without fear. The goal should be not only to prevent harm but to actively build trust and responsiveness within the system. This includes redefining what counts as misconduct, embedding LGBTQIA+ sensitivity into everyday policing, and creating access points that queer persons can turn to in times of crisis. This will lead to increased complaint registration, accountability, and redressal and rehabilitation.



**Nodal Authority:**  
**Ministry of Home Affairs;**  
**Department of Home for States**

### What Can the Law Do?

Laws like the Bharatiya Nyaya Sanhita, 2023 ("BNS") and relevant State Police Acts should be amended to:

- \* Prohibit the police from harassing persons belonging to the queer community and persons or organisations working for the welfare of the queer community.
- \* Penalise profiling, intimidation, harassment, and refusal to file FIRs by and pertaining to LGBTQIA+ persons.
- \* Introduce penalties and disciplinary measures akin to those under The Scheduled Castes and The Scheduled Tribes (Prevention of Atrocities) Act, 1989, such as fines, suspension, internal inquiry, and victim compensation.

What Kind of Executive Action Should Be Taken?

- \* Similar changes should be made to relevant State police service rules. Non-registration of complaints by queer persons who are facing violence/harassment or threat of violence on account of their gender identity, sexual orientation or for being in a queer relationship should be deemed to be an act of deliberate negligence or misconduct which warrants appropriate departmental and disciplinary action.



The Supreme Court, too, took note of the experience of queer couple with state machinery:

“Lesbian and gay couples often approach the police for protection from family violence. However, instead of granting protection to the couple, the police ‘hand over’ the couple to their families. In one such case, the police colluded with the family despite court orders granting protection to a couple from the queer community. The parents of a cis-woman (who was in a relationship with a trans man) filed a missing persons case. The couple already had filed an affidavit in court that they were in a live-in relationship. However, the police ‘tracked them down’.”

Protection of Persons in Queer Relationships:

A government order should direct police to follow clear, rights-based protocols when handling cases involving queer persons, in line with *Supriyo*, *Lata Singh*, *Shakti Vahini*, and *S. Sushma*. It should mandate that:

- \* No FIR should be registered against consenting adults in queer relationships. Police must first verify age and consent, and close complaints accordingly.
- \* Missing person cases involving consenting queer adults must be closed upon locating the individual and recording their statement.
- \* Police must respect autonomy and not force queer persons to return to natal families.
- \* Protection and safe housing must be provided where threats from families or communities exist.

Police Sensitisation and Training

Many officers may act out of ignorance or bias rather than explicit malice. Training can demystify queer identities and foster empathy, thereby reducing routine discriminatory practices. Knowledge of legal obligations, coupled with real stories, can challenge entrenched stereotypes and prepare officers to act responsibly in the field.

- \* LGBTQIA+ sensitisation should be a core and compulsory module in all police training programmes. This should happen both at induction and through periodic in-service training. Relevant civil society organisations should be involved in developing training modules as well as conducting the workshops.
- \* Training should cover case law (e.g., *Navtej Johar*, *Supriyo*), lived experiences of queer persons, trauma-informed policing techniques, and community engagement strategies.

Community-based policing and trust-building

Trust-building with the LGBTQIA+ community as well as integration of relevant civil society members with the law enforcement system should be undertaken in the following ways:

- \* Relevant people such as social workers, counsellors, and NGOs working in the area of LGBTQIA+ rights should be integrated with the law enforcement system.
- \* Standard operating procedures ensuring comprehensive support should be laid down, that involve NGOs and mental health professionals in cases related to LGBTQIA+ persons.
- \* Joint community programs should be organised to build trust between law enforcement and queer communities, to encourage reporting of crimes without fear of discrimination.



### Institutional Mechanisms For Access and Oversight

Even when laws exist, their effectiveness hinges on the availability of access points and institutional responsiveness. Dedicated units and helplines that are explicitly queer-friendly can be a first step towards trust and responsiveness. Telangana has tried to institutionalise this by setting up Pride Place, a dedicated LGBTQIA+ protection cell.

#### \* **Separate Law Enforcement Unit:**

A separate law enforcement unit may be designated for dealing with complaints relating to LGBTQIA+ persons. This unit should comprise different level officials from among current law enforcement officials itself, and should have queer representation, as far as practicable. These officials should be the first responders in case of complaints that are lodged in relation to issues faced by LGBTQIA+ persons and should be tasked with handling and resolving such complaints.

#### \* **Liaison Officer:**

The unit should have a liaison officer between the LGBTQIA+ community and the police departments, to help persons filing complaints navigate the legal system and build trust. A named, trained officer provides a predictable and trusted access point for survivors, and can ensure follow-through on complaints.

#### \* **Oversight Mechanisms:**

Independent oversight mechanisms can be created with civil society and legal experts to review complaints of police inaction or abuse against queer persons.



## B. PROTECTION FROM AND RECOURSE AGAINST DOMESTIC VIOLENCE

Anecdotal accounts and community-based studies reveal that queer individuals experience high rates of intimate partner violence in relationships. Despite this, only certain categories of queer persons are protected under current laws.



A transgender woman who has undergone sex reassignment surgery can be an “aggrieved person” under the DV Act and thus has the right to seek interim maintenance in a domestic violence case. The court said that the term ‘aggrieved person’ under Section 2(a) of the Protection of Women from Domestic Violence Act, 2005 has to be given a broad interpretation as the purpose of the Act is to protect women from domestic violence.

—Vithal Manik Khatri v. Sagar Sanjay Kamble @ Sakshi Vithal Khatri and Anr., Bombay High Court

Survivors also face distinct barriers to seeking help, including fear of discrimination, lack of queer-affirming shelters, and alienation from support systems. These structural gaps underscore the need for a dedicated, gender-inclusive legal framework that acknowledges the diverse forms of domestic violence faced by queer persons and ensures accessible, appropriate remedies.



**Nodal Authority:**  
Ministry of Women and Child Development; Ministry of Law and Justice

### What Can the Law Do?

A comprehensive, queer-inclusive domestic violence framework should be developed for queer persons. This can be done through a **new standalone law or through amending the DV Act**.

The DV Act offers civil remedies like monetary compensation, focusing not only on penalising the perpetrator but also on ensuring safety and security for the survivor. With its broad definition of domestic violence, covering physical, sexual, verbal, emotional, and economic abuse, it addresses many of the challenges queer persons face in violent family environments.

**A framework protecting queer persons should have the following components:**

## 1. Inclusive Definitions of Relationships and Persons

### i) Scope of Protection:

The framework must protect individuals of all genders. Complaints should be able to be filed by or on behalf of any person experiencing violence, regardless of gender identity or sexual orientation.

### ii) Domestic Relationships:

The gender-inclusive provisions should allow persons of all genders to file cases against their partners and other family members.

Thus, the defining characteristic should be a “domestic relationship” like under the DV Act. People should be allowed to file a complaint of violence against anybody that they are in a domestic relationship with, and should include a broad spectrum of relationships such as:

- \* Partners in a marriage or civil union;
- \* Persons in a relationship in the nature of marriage or de facto civil unions (including those not formally registered);
- \* Blood relatives and persons related through adoption;
- \* Persons living in familial setups or shared households (including chosen families, hijra gharanas, and polyamorous households).

### iii) Chosen Families:

The framework should recognise that queer persons may live in chosen families not recognised under existing frameworks. The definition of “domestic relationship” must reflect these realities and go beyond the joint family model embedded in the DV Act.

### iv) Age-Agnostic Complaint Mechanism:

The right to file a complaint should not be limited by the age of the survivor, although adult-only respondents may be specified to align with civil and criminal procedural norms.

## 2. Comprehensive Definition of Violence

The definition of domestic violence should go beyond physical abuse to include:

### i) Physical, sexual, emotional, verbal, and economic abuse.

### ii) Different forms of violence specific to queer experiences, including:

- \* Outing or threats of outing a person’s sexual orientation or gender identity;
- \* Deliberate misgendering;
- \* Forced attempts to “correct” gender expression (e.g., cutting hair, preventing access to gender-affirming resources);

- \* Conversion therapy and corrective rape;
- \* Coercive “gender-normalising” surgeries;
- \* Identity-based humiliation and derogatory remarks;
- \* Restriction of movement or access to supportive communities.

### 3. Accessible Procedures for Filing Complaints

#### i) Clear procedural safeguards:

Clear safeguards must be articulated, including how complaints will be recorded sensitively, especially when filed by minors or survivors facing ongoing coercion or surveillance.

#### i) Safeguards for minors:

Drawing from The Protection of Children from Sexual Offences Act (POCSO Act), 2012’s procedural safeguards, the framework should:

- \* Involve support persons (counsellors, social workers);
- \* Outline sensitive protocols for statement recording and medical examinations;
- \* Create age-appropriate, survivor-centric mechanisms for support.

#### iii) Multi-sectoral Coordination:

Protocols must ensure coordination across legal aid services, shelter homes, health services, and police to provide holistic support to survivors.

### 4. Rehabilitative and Support Measures

The framework should provide for:

#### i) Civil Remedies:

Protection orders, residence orders, compensation orders, and monetary relief along the lines of Sections 5, 18–20 of the DV Act. Survivors should have the right to reside in the shared household or access safe, alternative accommodation based on their preference and safety.

#### ii) Protection Officers:

Appoint trained protection officers to assist queer survivors in accessing remedies, safe shelters, and legal aid. These officers must be sensitised to queer experiences and identity-based vulnerabilities.

#### iii) Shelter and Counselling Services:

Establish and fund queer-inclusive shelters. Ensure that existing *garima grehs* are sensitised and appropriately staffed. Counselling support must be offered to both survivors and, where safe and appropriate, perpetrators, mirroring Section 14 of the DV Act, while **safeguarding survivor agency and avoiding coercive reconciliation**.

#### iv) Integration of Support Personnel:

Legal aid lawyers, mental health professionals, and social workers must be integrated into the legal process to ensure that survivors’ needs are holistically addressed.

#### v) Quick Response Teams:

Institutionalise rapid support units composed of trained personnel who can intervene when a survivor is in danger. These teams should coordinate with police, shelters, and helplines.

#### vi) Training and Sensitisation:

The framework should mandate sensitisation of magistrates, police officers, protection officers, shelter staff, and healthcare workers on queer-specific forms of violence, survivor-centric approaches, and legal entitlements.





## C. MEASURES FOR PROTECTION AGAINST WORKPLACE HARASSMENT

Queer individuals face pervasive and often invisible forms of harassment and discrimination in the workplace. Existing legal protections—most notably the PoSH Act—are gender-specific and do not account for the needs and experiences of LGBTQIA+ persons. While the Transgender Rights Act makes general references to non-discrimination in employment, it lacks any concrete or robust grievance redressal mechanisms for workplace harassment.

Queer persons report not only sexual harassment but also frequent identity-based hostility, such as deadnaming, misgendering, forced disclosure, and denial of facilities matching their gender identity. The absence of a comprehensive, gender-inclusive workplace harassment framework denies queer persons access to safe working environments and institutional remedies.



**Nodal Authority:**  
**Ministry of Women and**  
**Child Development**

What can the law do?

### 1. Amend the PoSH Act, 2013 to Protect All Persons Irrespective of Their Gender Identity

The PoSH Act, is limited in scope, as it allows only “aggrieved women” to file complaints, even though complaints can be made against persons of any gender. While some courts have interpreted “woman” expansively in other contexts to include transgender women, there is no clear jurisprudence on whether this applies under the PoSH Act—particularly for transgender women who have not undergone medical transition. At the organisational level, workplaces are free to build upon the statutory framework and adopt gender-inclusive policies, and many have done so. However, this has resulted in inconsistency across workplaces—some extend protections to all employees, while others restrict them to women—creating ambiguity for queer and non-binary persons about whether they are covered. Amending the law to be gender-neutral would eliminate this uncertainty and ensure equal protection for all employees across sectors. Amending the Act will also enable a large-scale, institutionalised framework to become inclusive, without requiring entirely new infrastructure.

This involves the following specific changes to the law:

#### i) Expand the Definition of “Aggrieved Person”

The Act should be amended to protect all persons, irrespective of gender identity or sexual orientation, who face sexual or identity-based harassment at the workplace.



The category of aggrieved persons, under Section 2(a) of the Act, who can file a complaint under the PoSH Act, should be expanded. This should not be restricted to just ‘women’ but should include persons of all genders.

#### ii) Revise the Definition of “Sexual Harassment”

i) Include “identity-based violence and harassment” under the Act. This should mean violence and harassment directed at

persons because of their sexual orientation or gender identity or their “perceived” sexual orientation or gender identity, or affecting persons of a particular sexual orientation or gender identity disproportionately.

ii) Broaden the definition to include harassment specific to queer persons, such as:

- \* Deliberate misgendering and deadnaming;
- \* Outing people at the workplace;
- \* Derogatory language aimed at a person’s gender identity or sexual orientation;
- \* Threats or attempts to use sexual advances or violence to “fix” someone’s gender identity or sexual orientation;
- \* Intrusive questions about gender identity;
- \* Exclusion from gender-appropriate facilities;
- \* Sexualisation and fetishisation of queer identities.

### iii) Amend the Definition of “Workplace”

Many queer individuals work in informal or precarious jobs. Thus, the definition of workplace should be expanded to include informal, platform-based, freelance, and domestic work settings and spaces of professional training.

### iv) Ensure Queer Representation on Internal Committees and Local Committees

Section 4 lays down the composition of Internal Committees (“ICs”) for dealing with sexual harassment complaints. It should be amended to require representation of persons from the LGBTQIA+ community as far as practicable, or people who have worked in the area of queer rights. For example, this could include an NGO or association working on the rights of queer persons. This should be a requirement for Local Committees set up under the Act as well.

## 2. Strengthen Legal and Institutional Frameworks for Prevention, Reporting and Accountability

Prevention, training, and accountability are as critical to addressing workplace harassment as grievance redressal. Embedding some of these requirements into the legal framework, and not leaving them to just discretionary organisational policy, may ensure enforcement and long-term cultural change.

### i) Nature of PoSH training:

The PoSH Rules can be amended to lay down the components of workshops, such as specialised training for managerial staff and likely first responders. It should also include bystander intervention and compulsory LGBTQIA+ inclusion modules addressing identity-based harassment and exclusion.

### ii) Expand reporting requirements under the PoSH Rules

Workplaces are required to prepare and submit Annual Reports under the Rules. These should go beyond complaint statistics to include details of preventive measures such as the training conducted, sensitisation sessions, internal policies developed as per the Act, and workplace audits. Employers should also report on efforts to foster inclusive workplaces, with specific reference to LGBTQIA+ inclusion. This shift promotes preventive accountability and reflects genuine organisational commitment.

### iii) Mandate Annual Workplace Audits

Workplaces should be required to conduct annual internal audits assessing compliance with the PoSH Act, inclusivity of workplace culture—especially for women and LGBTQIA+ persons—and the effectiveness of grievance redressal systems. Audit results must be summarised in the Annual Report to the District Officer.

### iv) Empower District Officers to Monitor Compliance Proactively

Amend the Rules to require District Officers to conduct periodic workplace inspections, verify IC functioning and training efforts, and take *suo moto* notice of systemic gaps such as exclusion of queer persons or hostile workplace culture.



## D. PROHIBITION OF AND RECOURSE AGAINST SEXUAL VIOLENCE

General criminal law in India provides a limited and inconsistent framework for protecting LGBTQIA+ persons from sexual violence. These limitations stem from the gendered construction of sexual offences and the exclusionary framing of victimhood. As a result, many forms of sexual violence experienced by queer persons, such as non-consensual anal penetration or coercive sexual acts that fall outside heteronormative expectations, are either excluded or poorly addressed under existing statutes. This leaves queer individuals particularly vulnerable to abuse.

Following the partial striking down of Section 377 by the Supreme Court, the provision has been deleted entirely in the Bharatiya Nyaya Sanhita, 2023. This deletion, however, has created new legal gaps: non-consensual same-sex sexual acts and bestiality are no longer criminalised, as there are no equivalent provisions reintroduced elsewhere in the BNS.

The existing framework under the BNS offers only limited recourse. Survivors of violence may attempt to file complaints under general provisions, such as the use of criminal force (Section 129), grievous hurt (Sections 116–117), assault (Sections

130–131), endangerment of life (Section 125), or criminal intimidation. However, these provisions were not designed to address sexual violence. They fail to capture the nature, severity, and psychological trauma of such acts. Survivors are hence left with piecemeal and inadequate remedies.

For transgender persons, the The Transgender Persons (Protection of Rights) Act, 2019 (“Transgender Rights Act”) is the only statute that explicitly references sexual abuse. However, here, a range of offences, from bonded labour, denial of access to public places and passage, physical abuse, sexual abuse, and economic abuse have been clubbed together under section 18 of the Act. They have all been made punishable with imprisonment of 6 months to 2 years. This punishment is disproportionately low for some offences, such as rape, compared to punishments provided under general criminal law. Such inadequacy in the framework was highlighted by participants at our consultations as well. The issue is exacerbated by the fact of disproportionate violence, sexual and otherwise, against transgender persons.

### Approach

While it is crucial to maintain a gendered understanding of patriarchal power dynamics, particularly in heterosexual and cisgender contexts, sexual violence laws must be reformed to ensure that victims of all genders are recognised and protected.

Restricting victimhood to certain genders may also result in incongruent situations. The 2019 act takes a medicalised approach to recognition of gender identity. It mandates surgery or medical intervention to be recognised as a man or a woman. Some transgender women may be able to access remedies under rape laws, for instance, if they fulfill this criterion. Other categories of queer persons, including transgender men and transgender women who have not undergone medical intervention, are excluded. This results in inconsistent, discriminatory access to justice and leaves many without recourse.



Consultations with numerous representatives from the transgender community highlighted that the legal framework at present contains a lacuna in providing protections from sexual violence to transgender individuals. This was specifically pointed out in the context of persons who are either transitioning, or who have not yet completed transition surgeries.

The lowered penalties for sexual assault under the Transgender Rights Act as compared to criminal laws which apply to women was pointed out as an area of concern.`

However, sexual offences, for example rape and gang rape, should be made gender-inclusive with respect to the victim at this stage and not the perpetrator. These crimes are rooted in patriarchal power structures and are often acts of control and domination directed disproportionately by men against women. Making rape laws perpetrator-neutral risks obscuring their gendered nature and opening the door to potential misuse. As feminist scholars have argued, such changes can distort the structural understanding of sexual violence and lead to the weaponisation of the law against women. It is thus important to retain the gendered framing of perpetration, while expanding the law to recognise and protect survivors of all genders.





**Nodal Authority:**  
**Ministry of Home Affairs; Ministry**  
**of Social Justice and Empowerment**

#### What can the law do?

##### The Bharatiya Nyaya Sanhita, 2023 must be amended to:

- \* Make the offences of rape [Section 63], rape of minors [Section 65], gang rape [Section 70], sexual intercourse by a person in authority [Section 68], and sexual harassment by showing pornography against the viewer's will [Section 75(1)(iii)] gender-neutral as regards the victim;
- \* Make the offences of voyeurism [Section 77] and stalking [Section 78] wholly gender-neutral (i.e., gender-neutral as regards the victim as well as the perpetrator);
- \* Expand the definition of rape to include a broader set of instances of sexual violation, such as those committed by a male perpetrator against a male victim, for instance through including application of mouth to a penis.

##### The Transgender Persons (Protection of Rights) Act, 2019 must be amended to:

- \* Make the offences and penalties for crimes committed against transgender persons [Section 18] congruent to those committed against cisgender persons;
- \* Make the punishment for offences committed against transgender persons proportionate to the gravity of said offences (eg. - a maximum of two years' imprisonment for sexual abuse under Section 18(d) being inadequate considering the gravity of the crime);
- \* The offences under Section 18 of the Transgender Rights Act must be re-examined critically to ensure consistency with general criminal law, clear and unambiguous drafting, prioritisation of restorative justice, and rationalised prescription of punishments.



## E. OTHER AMENDMENTS TO THE TRANSGENDER RIGHTS ACT

Section 18 of the Transgender Rights Act, criminalises a range of offences against transgender persons but suffers from significant gaps in clarity and scope. It fails to define the ingredients of the offences it covers, such as sexual abuse, physical abuse, and economic abuse. As a result, it leaves survivors with unclear standards for prosecution and enforcement.



**Nodal Authority:**  
**Ministry of Social Justice and**  
**Empowerment**

#### The Act should be amended to:

- \* Explicitly define different kinds of violence, such as sexual abuse;
- \* Include definitions of identity-based violence, such as the use of transphobic slurs, misgendering, or threats rooted in gender non-conformity;
- \* Recognise that violence is often perpetrated against individuals not only because they are transgender, but because they are perceived to be transgender or gender non-conforming;
- \* Ensure that protections extend to persons across the spectrum of gender diversity, including those without formal legal documentation, like a transgender ID card.



## F. SPECIFIC AFFIRMATIVE MEASURES



**Nodal Authority:**  
**Ministry of Social Justice and  
Empowerment; Ministry of Women  
and Child Development**

### A. Helplines

The propagation of violence must be dealt with swiftly and effectively, for which the access to support services is essential. Crisis intervention helplines are among the most accessible forms of redress for victims. Yet, most existing queer support helplines are run by private organisations and NGOs with limited capital.



During the consultations, various participants spoke about how, in times of crisis situations, no immediate help was available. Helplines are all either defunct, or calls go unanswered. In the rare instances that helplines were functional and calls were answered, the operators were inadequately equipped to provide required support to queer persons facing violence or experiencing distress.

Integrated State-run, multilingual queer support helplines must be established and widely publicised. These must be operational 24x7 by operators who receive regular training to be queer-affirmative and trauma-informed.

**Helpline operators must be able to support callers with:**

- \* Reporting of hate crimes and other instances of violence;
- \* Access to emergency services including queer-affirmative healthcare and mental health support;
- \* Intervention in the case of suicidal ideation or continued violence or threat of violence;
- \* Legal aid or assistance;
- \* Support in identifying and accessing safe public shelter homes including *garima grehs*; and
- \* References to sources of civil society support.

### B. Shelter Homes

Aside from *garima grehs* (numbering only 18 across the country at present) for transgender persons, there is no state-run framework for shelter homes or other protective housing for non-transgender queer persons. There is no facility for co-habitation of queer couples, especially those facing violence or the threat of violence from their natal families, or systemic discrimination from society. When facing violence, members of the LGBTQIA+ community should have access to facilities for safe shelter.

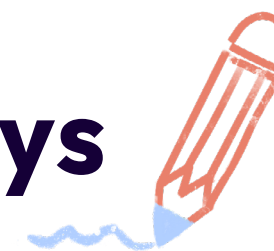
**What kind of executive action should be taken?**

- \* Shelter homes similar to *garima grehs* must be set up across the country for non-transgender members of the LGBTQIA+ community.
- \* Various shelter homes must be made adequately diverse to provide shelter to various categories of LGBTQIA+ people. Spaces should be made available where people can cohabit safely with their chosen families and access shelter in an affirming and supportive environment. Existing shelter homes for other marginalised

groups, such as shelter homes for survivors of domestic violence or assisted living facilities for persons with disabilities and the elderly, must be made inclusive and queer affirmative.

- \* All shelter homes, including *garima grehs*, must be adequately equipped with crisis intervention facilities including medical and mental health care, maintenance of privacy, and staff trained to be queer-affirmative.
- \* Adequate security and privacy measures must be put in place to the safety of the residents.

# Key Takeaways



## Discriminatory Practices In Healthcare

- \* Prohibiting police and other public officials from harassing queer persons or organisations, through legislative and executive mandate.
- \* Institutionalising mechanisms for disciplinary action against deliberate negligence or misconduct targeted against the queer community.
- \* Providing mandatory training and sensitisation to the police and other State authorities on issues pertaining to the LGBTQIA+ community.

## Domestic Violence

- \* Creating a gender-inclusive domestic violence framework to extend protection to persons of all genders, across a wide range of domestic relationships including atypical family structures.
- \* Defining “violence” within the domestic violence framework in a comprehensive and queer-inclusive manner.
- \* Holistically offering recourse to queer persons facing domestic violence, through rehabilitative measures coupled with accessible procedures for filing complaints.

## Workplace Harassment

- \* Expanding the definition of “aggrieved person” under the PoSH Act to be gender-inclusive.
- \* Revising the definition of “sexual harassment” to explicitly recognise the specific violence targeted against gender and sexual minorities.
- \* Ensuring queer representation in ICs and LCs under the PoSH Act.

Sexual Violence
* Recognising and punishing sexual violence against victims of all genders.
* Expanding the definition of rape to protect against and punish a broader set of instances of sexual violation.
* Ensuring that sexual violence against LGBTQIA+ persons (including transgender individuals) is treated in a principled manner with the same gravity as cisnormative and heteronormative sexual violence, and that punishments are rationalised.
* Establishing clear and specific standards for recognising violence against the transgender community.

Affirmative Measures
* Establish an integrated, 24x7 accessible queer support helpline to extend multi-sectoral crisis-support to queer victims of violence.
* Establish adequate shelter homes for all subsets of the LGBTQIA+ community for safe access to shelter and opportunity for cohabitation with chosen family.



# Glossary

## Term

## Definition

### ASEXUAL PERSONS

A person with a complete or partial lack of sexual attraction or interest in sexual activity with others. Asexuality exists on a spectrum.

### BINARY GENDER

The false concept that there are only two genders, namely man and woman.

### BISEXUAL

A person emotionally, romantically or sexually attracted to more than one gender, though not necessarily simultaneously, or in the same way or to the same degree.

### CIS-GENDER PERSON

A person whose gender identity corresponds with the sex assigned to them at birth.

### CIS-NORMATIVE

The idea that everyone is cis-gender.

### CIVIL UNION

A legally recognised union with rights similar to that of marriage.

### GAY

A person who is emotionally, romantically or sexually attracted to members of the same gender.

### GENDER

The socially constructed norms, behaviours and roles associated with being a woman, man, girl or boy, as well as relationships with each other. The law currently recognised three genders: man, woman, transgender.

### GENDER AFFIRMING CARE

A range of social, psychological, behavioural or medical (including hormonal treatment or surgery) interventions designed to support and affirm an individual's gender identity.

### GENDER IDENTITY

A person's subjective sense of their gender. This exists on a spectrum.



Term	Definition
<b>HETERONORMATIVE</b>	The idea that everyone is heterosexual.
<b>HORIZONTAL RESERVATION</b>	Derived from Article 15(3) of the Constitution, these are equal opportunities provided to other categories of beneficiaries, including women, transpersons, persons with disabilities, and cuts through vertical categories.
<b>INTERSEX PERSONS</b>	Persons who have innate sex characteristics that do not fit medical and social norms for female or male bodies.
<b>LESBIAN</b>	A person who experiences same-sex emotional, romantic or sexual attraction to non cis-male people.
<b>LGBTQIA+</b>	Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, Asexual and other allies that are not heterosexual or cis-gender.
<b>QUEER</b>	An umbrella term that includes persons who are not cis-gender or heterosexual. Queer & LGBTQIA+ have been used interchangeably in this series.
<b>SEX</b>	This is the biological difference on the basis of genetics, hormones, and genitalia. Traditionally, it has been assumed to be male and female, but also includes intersex persons.
<b>SEXUAL ORIENTATION</b>	A person's enduring physical, romantic and/or emotional attraction to members of particular sexes or genders.
<b>SEX REASSIGNMENT SURGERY</b>	A surgical procedure to align a person's physical characteristics with their identified gender.
<b>TRANSGENDER PERSON</b>	A person whose gender identity does not correspond with the sex assigned to them at birth.

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