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Original Review Article

Access and Rights to Healthcare of LGBTQ Patients: A Systemic Review

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Abstract

The article deals with the clinical care and accessibility of the LGBTQ community. LGBTQ people faces a lot of challenges in social, political and cultural life — the primary reason being the absence of legal recognition. It is one of the most comprehensible hindrances that often restrict them to employ their rights associated with marrying the person of their preferred gender to child adoption to employment to access of healthcare facilities and health insurance schemes. A varying degree of healthcare discrepancy is encountered by the LGBTQ community on a daily basis in accessing and utilizing of healthcare services. There are multiple manifestations of discrimination that these minority people face to meet their basic healthcare requirements. The article also talks about the LGBTQ Health rights and demonstrates some effective approaches to protect healthcare rights of the LGBTQ individuals. The study aimed to understand the challenges faced by the LGBTQ population, its psychological consequences, their healthcare needs & rights to avail healthcare services. The study based on secondary data, which is collected from books, research papers, newspaper articles, international journals concerned with the atrocities and discrimination committed against the LGBTQ population in regards to attain basic standardized healthcare needs. There is dire need to make these populations meet the basic amenities of healthcare.

1. Introduction

LGBTQ people faces a lot of challenges in social, political and cultural life — the primary reason being the absence of legal recognition. It is one of the most comprehensible hindrances that often restrict them to employ their rights associated with marrying the person of their preferred gender to child adoption to employment to access of healthcare facilities and health insurance schemes.

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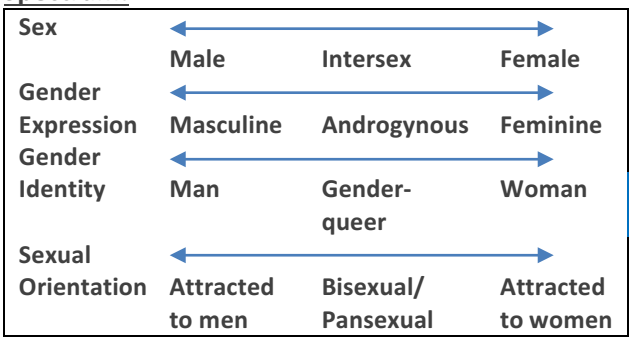
The stigma of being a member of LGBTQ culture is so high that people, especially youth, often fear to reveal their sexual identity. Thus, it becomes difficult to identify the actual number of LGBTQ people in a community. However, in 1994 Laumann and associates, used "the national probability Health and Social Life Survey combined with data collected in the General Social Survey", ascertained that "2.8% of men and 1.45% of women" recognize themselves as "gay or lesbian, while 7.7% of men and 7.5% of women" have same sex desires. Perhaps the most misinterpreted population inside the spectrum of **LGBTQ community are the bisexual individuals —** because for some people the recognition of their bisexuality in continuous and lifelong, while for some the sexual orientation is fluid in nature and shifts from being heterosexual to gay or lesbian or vice versa. Thus, mistaken beliefs about bisexuality is often noticed and unfortunately sometimes the healthcare service providers also embrace some of those myths and perceive bisexual people to have emotional and psychological damage. Transgender, on the other hand, is a broad terminology that circumscribes within itself a range of individuals varying from "transsexuals" to transvestites to bigender to androgynous people and they demonstrate the entire radius of "sexual orientations" (from homosexual to bisexual and heterosexual individual).[1] LGBTQ individuals confront almost all the same issues that a regular person faces as they progress through life. In fact, it is noticeable that an LGBTQ individual witnesses apparently more difficult life cycle issues — like "coming out" of the mainstream sexual orientation and disclosing about the choice of "being different" involves the risk of rejection and ostracism.

Terminology and Conceptual Understanding:

The notion of "**sexual orientation**" constitutes "a complex, multidimensional construct that reflects an individual's sexual behavior, attraction and identity that respond to environmental context and may change across the life course." People whose sexual desires is towards individuals of the alternate sex are **"heterosexual"** and those people whose "orientation" is towards the individuals of the same sex are **"homosexual"**, with women who primarily desire other women are described as **"lesbian"** and men who are oriented to other men are called **"gay"**. **Gender**, on the other hand, is defined as a psychological, social and cultural construction of factors that classifies individuals as "male, female, both or neither, with individuals traditionally assigned a gender role at birth based on one's *sex*, the anatomy and physiology that determines whether one is biologically male, female or intersex."[2] The people who specify not to acknowledge to any particular mainstream social norms are regarded as "**gender variant**". This amount of diversity thus demands the necessity of healthcare service providers to approach the LGBTQ individuals (patients) with few or no prior assumptions about them and to have a broadened outlook to the needs of these patients within their cultural milieu.[3]

Spectrum:

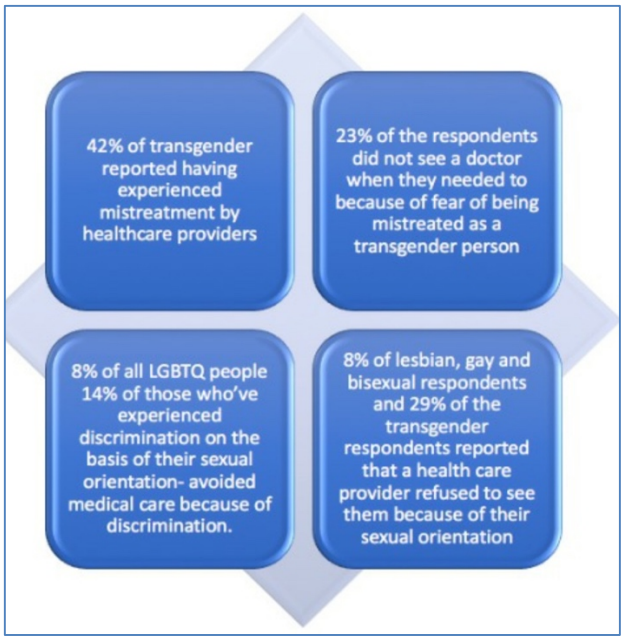


2. Fear of Stigmatization and Access of Healthcare:

There exists a varying degree of health discrepancy within the LGBTQ community which includes "access and utilization of programs and services".[1] For instance, in a study of "Women's Health Initiative" (with a sample size of 96000 older women from US), it was demonstrated that heterosexual women are comparatively more insured than lesbian and bisexual women.[1] According to the Gay and Lesbian Medical Association the highest uninsured people belong from the transgender spectrum as most healthcare services associated to transgender concerns are not enclosed by any insurance, resulting their healthcare costs way too expensive.

The social stigmatization associated with the LGBTQ community creates a huge amount of mental health outcome that results in the "feeling of shame, self-hatred" which in turn give rise to low self-respect, depression, alcohol and drug dependence, anxiety, substance use disorders, panic attack among other things.[3-5] Many LGBTQ

individuals often witness homophobia or denial of service from healthcare professionals, or sometimes they often isolate themselves from care because of agitation of ill-treatment or perceived homophobia.[4,5] A Healthy people 2020 report found that "LGBTQ youth are 2 to 3 times more likely to attempt suicide, more likely to be homeless, and have a higher risk of HIV and other sexually transmitted diseases (STDs)."[6] According to Ryan Thoreson, an LGBTQ rights researcher at Human Rights Watch "Discrimination puts LGBT people at heightened risk for a range of health issues, from depression and addiction to cancer and chronic conditions." Despite healthcare being a right, when require care LGBTQ individuals often witness higher number of obstacles to assess and avail the services. Also, at times within the healthcare premises, transgender people often face inappropriate and unprofessional remarks and questions about their sexual preferences and genetalia which results in distrust and apprehension for the healthcare service institution.



Access or availing the healthcare refers to the methods in which healthcare facilities are (or arenot) addressable to the LGBTQ community. Even before addressing healthcare service providers, LGBTQ individuals can witness complexity in looking for the particular care they need. If they encounter bias or prejudice, they often do not have an alternative provider accessible. "Data collected by the Center for American Progress" indicate that 18% of LGBT people is of the belief that if they were denied treatment at a healthcare setting, it would be "very difficult" or "not possible" to get referred to an alternate service-provider. Although LGBTQ individual in general have similar basic health requirements as do other persons, but adding to it they also have health issues related to being LGBTQ. For instance, a young adult LGBTQ individual should be routinely immunized for hepatitis A, hepatitis B, and influenza. In a study it was found that in the "United States men who have sex with men continue to be disproportionately affected by HIV/AIDS, accounting for 49% of all HIV/AIDS cases diagnosed in 2005 (CDC, 2006), with depression occurring among 20–37% of infected individuals." [3] However, it is noted that only a few LGBTQ healthcare customers or establishments have openly declared the specific requirements and issues of this diverse group. LGBTQ individuals, particularly "non-white", remain "hidden". They lack the potential for being legitimized and a criticality to take part in designing of resources that may empower their approach and availability to a standardized healthcare.[3]

Leidolf and colleagues, in an article titled "Intersex Mental Health and Social Support Options in Pediatric Endocrinology Training Programs," wanted to analyze the degree to which the mental supportive services available among those "providers most likely to evaluate and treat intersex children and their parents." The resulted report documented that "69% of programs offered psychological support and 58% had a dedicated mental health specialist on staff".[7] In spite of these, it was reported that only "19% of patients or families reportedly received psychological support during diagnosis and 15% after diagnosis." The anecdotes of the respondents advocate that the services were not adequate and were addressed on an "as-needed" basis. However, the specificity of these disparities in accessibility and utilization of psychological health care among these people and their families prevail to remain obscure and demand additional scrutinization.[7]

However, in some of the recent studies it is noted that LGBTQ consumers, patients and advocates of health services are coming out of their long silence on care-taking and care-giving. For

instance, the "American Public Health Association" had acknowledged the health issues of LGBT populations with a "policy statement" on the requirement for research on "gender identity and sexual orientation" and a subsequent journal issue wholly dedicated to the topic in 2001 and the inclusion of homosexual people in Healthy People 2010.[8,9]

The passion and constant effort of advocates of Los Angeles, Santa Clara, Alameda, and Humboldt Counties made the quest for safe and accessible healthcare for LGBTQ population practicable. Withtheir perseverance, they have made it possible to successfully implement transgender health care services.[10] For instance, Danielle Castro, a transgender Latina woman often faced difficulty in availing healthcare services. She believed that she alone was not facing this kind of situation but many other LGBTQ individuals are also dealing with similar sets of issues.[11] She was referred to "Transpowerment" (a county health program housed at Community Health Partnership created to reduce HIV infection and transmission among transgender people and their partners). She chose to work in that organization as a health trainer (hired by the Pacific AIDS Education and Training Center (PAETC) through their Minority AIDS Initiative funds).[12] As she belonged from the transgender community, she was able to connect Transpowerment to the economically weaker transgender crowd and started a multicultural support group. Danielle realized the need for healthcare services within this minority population and performed hard to set off as an extraordinary trainer with the guidance of JoAnne Keatley, PAETC Minority AIDS Initiative Program Manager. Shortly after the support, Transpowerment also focused on training to provide services to gay people and other sexual minorities —which help to create an ensuring place where LGBTQ people could get healthcare support and services.

Availability of standard healthcare services for LGBTQ population in rural area are more challenging than urban setting.[13] There are huge number of testimonies of people being refused health treatment and are subject to "verbal abuse" and "public humiliation", "psychiatric evaluation", a number of "forced procedures such as sterilization, State-sponsored forcible anal examinations for the prosecution of suspected homosexual activities, and invasive virginity examinations" done by healthcare staffs, hormone therapy and genital normalizing surgeries under the false colours of "reparative therapies".[14] Isolation from healthcare services is very common in rural areas. To further worsen the situation, if an individual belongs from the "other" identity based-groups, then the isolation adds on another layer which creates unruly concoction of healthcare barriers for LGBTQ individuals. The professor of Health behavior Doctor Rob Stephenson has conducted a study on rural LGBTQ people and learnt that failing to "come out" and reveal sexual orientation and gender identity results in decreased healthcare utilization: "Not age or education or income. Nothing else mattered. All that mattered was whether or not your doctor knew you were gay," Thus the rural LGBTQ individuals carry a burden of anxiety and negative stereotypes within themselves and distance themselves from availing healthcare services.

Providing healthcare to all is the ultimate Public Health Goal and the accomplishment of thisgoal explicitly demands elimination of different level of discrepancies that exist in healthcare delivery system among minority population. However, it becomes extremely difficult and complicated for especially sexual minority population (gay, lesbian, bisexual individuals, transgenders).[5] Thus it becomes imperative to conduct population based surveys to understand the priorities for mental health intervention efforts within these communities, however there are limitations that exist in regard of the inferences that are deduced like the sample size of the individuals who open up about their sexual preferences (within this community) is very small (less than 5% in each study) and again some respondents do not feel comfortable enough to reveal their personal information.

Availability of healthcare services and economic status are closely knitted. In the year 2008, "Transgender Law Center" carried out a survey within the "transgender Californians", enquiring about their "employment", "housing" and "healthcare status". The resulting report which was found disclosed these statistics: "among 648 respondents: 30% postponed care due to disrespect

or discrimination from health care clinicians; 42% postponed care because they could not afford the medical care they needed; and 26% of those who postponed care reported that their conditions worsened as a result."[10] The condition further exacerbates as the transition related care such as hormone therapy and gender reassignment surgery are often explicitly excluded from the health insurance plans — which seriously affects both the physical and mental health and economic stability of these minority individuals. As a result, it is often seen that these people have to pay out-of-pocket for the cost of hormones or transition related surgeries or mental health therapy — for which they often avail less expensive care from unlicensed practitioners. Such incomprehension and discrimination by the insurance companies and healthcare service providers lead LGBTQ people fight each day to fill the gap for their primary health requirements.

"…[T]here is nothing new or special about the right to life and security of the person, the right to freedom from discrimination. These and other rights are universal … enshrined in international law but denied to many of our fellow human beings simply because of their sexual orientation or gender identity"

—United Nations High Commissioner for Human Rights Navi Pillay, 2012.

3. LGBTQ HEALTHCARE RIGHTS:

The human right with the association to LGBTQ health is the right to enjoy the highest "accessible standard of physical and mental health (**Refer table no. 1**)." The Yogyakarta Principles on the Application of Human Rights Law in Relation to Sexual Orientation and Gender Identity (the Yogyakarta Principles, signed by 29 international human rights expert) were set to motion on March 26th, 2007 who elaborately work on the rights of all people irrespective of their sexual orientation and gender identity.[9] The 17 and 18 of the Yogyakarta Principles convey "the right to highest attainable standard of health and protection from medical abuses." The principle states "Everyone has the right to the highest attainable standard of physical and mental health, without discrimination on the basis of sexual orientation or gender identity. Sexual and reproductive health is a fundamental aspect of this right." However, LGBTQ individuals witness multiple manifestations of discrimination stemming from heterosexism and traditional views regarding sexuality. Homophobia, ignorance and the stigma associated with it act not only as an impediment to avail healthcare, but also operate as a hinderance in the way of research which in turn perpetuates within the cycle of mistreatment. For instance, on 7th August 1995, a 24-year transgender woman named Tyra Hunter was severely injured in a car accident. The paramedical staffs arrived at the scene and started treating Tyra, but when they discovered that she had a penis, they stopped providing treatment and began to mock her. Horrified bystanders did nothing but witnessed the incident silently until someone came on the scene and resumed treatment. Tyra however lost her life. Another incident where an LGBTQ individual named Robert Eads (who was diagnosed with ovarian cancer) was refused treatment for one year as more than dozens of doctors did not want to treat him.[13]

Accessibility of standard healthcare for LGBTQ people is not a privilege, it's a RIGHT

Some Effective Approaches to Protect Health Rights of LGBTQ Individuals:

Enable LGBTQ individual to proclaim their gender identity: To attainthe highest achievablequality of health it is essential to allow people to proclaim their "gender identity" in state documents and other administrative procedures.[8] According to a report of Harvard school of public health "upholding a right to privacy in relation to past and present gender identity, and the ability to change legal identity to protect this privacy, helps to ensure that LGBTI persons are less likely to be subjected to unlawful discrimination, harassment, and psychological harm."

The right to avail proper Gender affirming Healthcare Services: The freedom to define one's own gender identity is "one of the most basic essentials of self-determination." Thus, availing appropriate gender affirming healthcare which includes the freedom to change one's gender through medical intervention is one of the basic healthcare rights that can impact the LGBTQ community. A patient who has undergone partial gender reassignment surgery alleged that: "…[H]is continuing inability to complete gender-reassignment surgery left him with a permanent

feeling of personal inadequacy and an inability to accept his body, leading to great anguish and frustration. Furthermore, due to the lack of recognition of his perceived, albeit pre-operative, identity, the applicant constantly faced anxiety, fear, embarrassment and humiliation in his daily life. He has had to submit to severe hostility and taunts in the light of the general public's strong opposition, rooted in traditional Catholicism, to gender disorders. Consequently, he has had to follow an almost underground life-style, avoiding situations in which he might have to disclose his original identity, particularly when having to provide his personal code. This has left him in a permanent state of depression with suicidal tendencies." So, it becomes imperative to facilitate the self-determination of gender identity along with the provision of funding of relevant healthcare procedures.

Table no. 1: Healthcare as a basic right[15]

Who is to be protected?	What is the law?	What is the situation?	What should be done?
• LGB People	Everyone has the right to the highest attainable standard of physical and mental health, without discrimination on the basis of sexual orientation or gender identity. Sexual and reproductive health is a fundamental aspect of this right	Despite healthcare being a right, when require care LGBTQ individuals often witness higher number of obstacles to assess and avail the services. Also, at times within the healthcare premises, transgender people often face inappropriate and unprofessional remarks and questions about their sexual preferences and genetalia which results in distrust and apprehension for the healthcare service institution.	▪ The right to avail proper Gender affirming Healthcare Services
• Transgenders			▪ No healthcare caregivers should treat the identity of the individual rather they should treat the unique needs of the patient
• Gender Non-conforming People			
• Intersex individuals			▪ Effective communication between these multicultural groups and the service providers should be ensured
• Non binary people			

LGBTQ Individuals in Health Policy Setting: Another way in which the health of the LGBTQ people can be facilitated is through the training the healthcare professionals and service providers to be sensitive enough to the concerns of these people.[8] No healthcare caregivers should treat the identity of the individual rather they should treat the unique needs of the patient. The LGBTQ population should not feel "overlooked or undeserved" when it comes to their healthcare needs and in this regard the health policy makers should prioritize the LGBTQ population group along with the heterosexual consumers.

Health Education for LGBTQ Population: Another aspect of LGBTI health is the right to educate. "Health education is an important aspect of the right to health for LGBTQ individuals. In many countries around the world the hetero-norm is reinforced through withholding education about sexual and gender diversity,70 and risking the health of young LGBTQ people in the process.

4. Discussion & Conclusion:

The review highlights the prejudice and discrimination suffered by the LGBT population in accessing good quality health services. The LGBT population experience difficulties communicating with health professionals, apart from the fear of assumptions about their sexual orientation, and of embarrassing situations when expressing their homosexuality/bisexuality, due to the homophobia present in professionals' conduct. The exclusion and marginalization in health services imply a reduction in attendance and the subsequent search for assistance, contributing to the deviation of this clientele, in view of their own body care, and reducing the chance of developing educational and preventive health work.

It becomes necessary, therefore, to ensure that, apart from the provision of qualified and equipped health services, there are trained professionals stripped of discriminatory attitudes in that area. These should be able to analyze the health status of their clients, taking into consideration the health, social, and cultural context in which they are placed. To that, the accomplishment of new research on the theme may provide a broader discussion and generate

favorable changes in the health care of the LGBT public.

Thus, we can understand how clinical settings and research training opportunities in LGBTQ medicine, epidemiology and public health are of dire need to make these populations meet the basic amenities of healthcare. Proper and meaningful interaction and engagement with the local, national and global LGBTQ communities will facilitate to create an environment that provide medical treatment and counseling that support LGBT people in adopting healthy lifestyles.

Effective communication between these multicultural groups and the service providers are of paramount importance to ensure and augment the trust between the caretaker and the caregiver. By working together and developing productive relationships with the amalgamation of various range of politics, medicine, and social service organizations, one can move towards progress. It takes patience, determination, and effort– may be often years, but it can be achieved. Such interventional efforts will be maximally responsive if they attend to the multiple health care needs of the LGBTQ people.

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References:

1. Johnson C, Mimiaga M, Bradford J. Health Care Issues Among Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Populations in the United States: Introduction. Journal of Homosexuality. 2008;54(3):213-224.
2. Berg M, Mimiaga M, Safren S. Mental Health Concerns of Gay and Bisexual Men Seeking Mental Health Services. Journal of Homosexuality. 2008;54(3):293-306.
3. Reisner S, Radix A, Deutsch M. Integrated and Gender-Affirming Transgender Clinical Care and Research. JAIDS Journal of Acquired Immune Deficiency Syndromes. 2016;72:S235-S242.
4. J B, C R, ED R. National Lesbian Health Care Survey: implications for mental health care [Internet]. PubMed. 2020 [cited 27 March 2020]. Available from: https://pubmed.ncbi.nlm.nih.gov/8201059/
5. Satisfaction with mental health services among sexual minorities with major mental illness. American Journal of Public Health. 2001;91(6):990-991.
6. Lesbian, Gay, Bisexual, and Transgender Health | Healthy People 2020 [Internet]. Healthypeople.gov. 2020. Available from: https://www.healthypeople.gov/2020/topics-objectives/topic/lesbian-gay-bisexual-and-transgender-health?topicid=25 Retrieved on 4 April 2020.
7. Connelly R, Turner T. Health Literacy and Child Health Outcomes. Cham: Springer; 2017.
8. [Internet]. Cdn1.sph.harvard.edu. Available from: https://cdn1.sph.harvard.edu/wp-content/uploads/sites/2410/2014/03/HHRRG_Chapter-1.pdf Retrieved on 4 April 2020.
9. [Internet]. Cdn1.sph.harvard.edu. 2020. Available from: https://cdn1.sph.harvard.edu/wp-content/uploads/sites/2410/2014/03/HHRRG_Chapter-1.pdf
10. Organizing for Transgender Health Care [Internet]. San Francisco: Transgender Law Center; 2020 [cited 12 April 2020]. Available from: http://transgenderlawcenter.org/wp-content/uploads/2012/03/Organizing-for-Transgender-Health-Care.pdf
11. Blueprint for the Provision of Comprehensive Care for Trans Person and their Communities in the Caribbean and other Anglophone Countries [Internet]. Arlington; 2014 [cited 13 April 2020]. Available from: https://www.paho.org/hq/dmdocuments/2014/2014-cha-blueprint-comprehensive-anglo-countries.pdf
12. "You Don't Want Second Best" [Internet]. Human Rights Watch. 2020 [cited 10 April 2020]. Available from: https://www.hrw.org/report/2018/07/23/you-dont-want-second-best/anti-lgbt-discrimination-us-health-care
13. Death of Tyra Hunter [Internet]. En.wikipedia.org. [cited 27 March 2020]. Available from: https://en.wikipedia.org/wiki/Death_of_Tyra_Hunter
14. Hub R. LGBTQ Healthcare: Building Inclusive Rural Practices - The Rural Monitor [Internet]. The Rural Monitor. 2020 [cited 14 April 2020]. Available from: https://www.ruralhealthinfo.org/rural-monitor/lgbtq-healthcare/
15. Legal Recognition of Gender Identity of Transgender People In India: Current Situation And Potential Options-UNDP India. Available from: https://www.undp.org/content/dam/india/docs/HIV_and_development/legal-recognition-of-gender-identity-of-transgender-people-in-in.pdf Retrieved on 4 April 2020.