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Government Policies, Migration and Development of Indo-American Queer Diaspora

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Abstract

The paper studies and analysis the migration of Indian queer individuals to US. It explores the development of heterosexual and non- heterosexual migrants under social, cultural and economic aspects. It also discusses the development of homeland and host land through migrants' remittances, skills and knowledge. It also examines the driving factors of Indian queer migration to US. It also talks about various policies that have been implemented in India and US to provide equal rights to LGBTQ individuals irrespective of their sexual orientation and gender identity. Further it will focus on the activities and protests happened in India and US to legalise homosexuality and same-sex marriages, gender identity etc. On the final step, it will try to compare policies of both the countries and the steps taken by both the countries to provide rights to LGBTQ individuals, groups and communities.

Introduction

Migration has various phases such as forced migration, labour migration, and migration in the search of better education and jobs, etc. Urban sectors have attracted people from rural areas especially from the period of industrialisation. Foreign countries such as US, Canada, and Gulf countries have mostly attracted people from South Asian countries. Indo-American migration has different phases of migration such as before 1900s and after the implementation of 1965 US immigration policy. Indian Migration to US before 1900s includes individuals who were unskilled and who worked in US as drivers, waiters, labourers, etc but after 1965 highly skilled and educated individuals have been migrated and earned reputed jobs as engineers, doctors, scientists, etc.

Indian queer migration to US has main driving factor that is searching for queer-friendly environment to explore and form homosexual identity but gradually other migration factors also included in their migration such as to obtain better education and jobs. Migration has developed migrants and their families as well as their nation economically. And it has also brought changes in the lifestyle of migrants and their families due to influential aspects of host land's social, cultural and political environment. Government policies play an important role to mould individuals' lives. Policies and laws have the power to protect individuals' human rights. Thus, policies

and laws should be implemented in the welfare of the people irrespective of their gender, class, caste, religion, ethnicity, etc.

The paper focuses on the changes in the policies of Indian government, and makes a comparison of Indian and U.S. government policies aspiring to bring relevant changes in the wellbeing of queer individuals, groups and communities. Changes in the policies can bring changes in the lives of queer individuals; they will be welcomed in the Indian society. And the queer diaspora in foreign countries will feel the warmth and security of their homeland, which will add vigour and enthusiasm in their attachment with their homeland India. Of course, their contribution to the all-round development of India will continue. The aim of the paper, by focusing on the mentioned themes and issues, is to bring into light the issues and concerns of human rights of queer individuals, groups and communities.

Migration and Developmental Factors

Generally, people migrate to developed countries, mainly, those individuals who migrate for job purpose. Labour migration has increased in the world of globalisation for the economic development of self, family and nation. Migration of individuals from developing countries to developed countries has increased economic and skill based development of the countries. Migrants help their homeland through their skills and remittances (Pong-Sul 2 & 15; Haas, Remittances 3).

Developing countries receive benefits in educational and economic sectors as migrants contribute in the development of the homeland through remittances and also contribute in education sector and other developments of the country through their gained knowledge and skills from the host land. (Haas, Remittances 3; Haas, Migration 231; Singh 5-8). Knowledge of return migrants who have migrated to other countries for education and also who have gained experience in working sectors can improve their homeland's technology, infrastructure, management sectors etc (Ratha et al. 6).

Migrants from South Asian countries mostly from Bangladesh and Nepal migrate to improve their economical condition. Studies say that poverty is the main element of their migration to other countries. And they also largely migrate to other South Asian countries mainly to India. Researchers claim that India has large quantity of migrants from Nepal (Pong-Sul 2).

Migration has developed migrants' over all development including the way of their living and they have also gained experiences in job sectors which have enhanced their skill (Pong-Sul 14). Migrants to countries such as US and Canada state that their and their family's life style has been changed and they also have better schools and educational institutions option for their children (Pong-Sul 20). However, Haas (Remittances 2007) claimed that some of the migrants do not invest their money in productive things which affects their and their family's economic development (14).

Other than developmental factors Goldscheider (1987) focuses on the negative factors of migration. He argues that rural to urban migration cause increase of population in urban areas which lead to lack of land, lack of jobs, poverty etc in urban areas. Government of such countries have also raised concern regarding the increasing length of the population of the areas. Disbalance in the length of population affects social, political and economic structure of urban areas (675).

Badgett et al. (2019) argue that exclusion of queer individuals from society not only affects queer individuals but it also affect the economic development of the nation (1). They argue that overall development of individuals develop the nation in all aspects. Over all development includes better education, health, job etc which can be provided only if individuals are treated equally in social, cultural, political and economic status of the society. Most of the queer individuals are denied of better education which affects their skill and knowledge development and thus they lack creative ability. These all lead to poverty and unemployment of queer individuals especially transgender. Other queer individuals such as gay, lesbian, bisexual, etc can hide their sexual orientation in academic, job and public domains but transgender cannot hide their identity which affects them socially, culturally, politically and economically. So, queer individuals' development is important for the development of the society and nation (2).

Socio-Cultural and Economic Structure: Development of Indo-American Queer Diasporas

Studies show that migrants struggle to form their social and cultural identity in the host land. Newly migrated individuals face some problems such as in communication due to differences in languages and accents, finding place to live, finding educational institutions, better jobs, etc (Fuks 297). Newly migrated migrants even struggle with the weak financial conditions. It may differ from person to person such as individuals from good economic background do not suffer from weak financial condition but individuals who are in the search of job they go through financial problems. The social and cultural problems also arise if individuals share different culture from the destination land. South Asian individuals are discriminated in western countries because of their racial identity. Likewise, less educated and unskilled individuals too face many problems in urban areas. They may face problems in finding a job and a place to live which affects their development in all sectors. Some researchers say migration affects migrants' social and economical structure whereas some researchers say that it also affect their psychological health (Goldscheider 680 & 681).

Rahman and Paik (2017) argue that South Asian migrants struggle right after their migration to other countries. They say that South Asian migrants work as drivers, waiters, etc in US. They state that Indian migrants are one of the largest communities who have migrated to US, they stand in the position of third largest group among the Asian American groups (28-31). Migrations that took place before the 1965 US immigration policy was subjected to discrimination. South Asian migrants who have migrated before 1965 suffered more discrimination in every place including job sectors. They were treated as less educated and illiterate individuals thus were unable to find good places to live, good jobs, etc. Those who have migrated after 1965 were offered good jobs, educational institutions, better places to live etc but racial discrimination was still presented in almost all spaces (38).

Indian migrants in US have received highly educational qualifications; they have also succeeded to attain reputed and highly paid jobs as engineers, doctors, scientists, technologists, etc through their skills and knowledge (Rahman and Paik 41).

Indian migrants searched for other Indian community in US to form their ethnic identity in the foreign country. Most of the Indian migrants have established their community in New York and California. Already established Indian communities in US help newly migrated Indian individuals, families, groups and communities to find places and community that share common culture in the new land (Rahman and Paik 40). Ayoub and Bauman (2018) also state that most of the migrants have social networks at the destination places which make their movement easier to the foreign land (4).

Queer individuals also form community that share similar ideas, thoughts, problems, culture, etc, hence, queer migrants seek for the queer community in the host land to establish their identity and this community also form collective identity in the heterosexual society. Queer migrants meet and connect with other queer individuals came from different countries who share different social, cultural and political aspects. Thus, migration gives a total different social, cultural and political structure to migrants which they gradually obtain. Migration provides Indian queer migrants and other queer migrants a mixture of socio-cultural and political environment inside the queer community in the host land (Ayoub and Bauman 4-5).

Badgett et al. (2019) argue that queer individuals in India have faced physical and psychological violence. They also say that many queer individuals have also been murdered. Due to discrimination and physical and psychological abuse queer individuals could not focus on their education, job, etc which affects their well being. Many queer individuals quit their education due to violence in academic spaces and many discontinue their jobs. Their social and economic development ends in the middle of their life journey. They too dream to become one of the people who are accepted by the society in all spaces. It is perceived as a very important aspect for the development of queer individuals as a part of the society and nation (5-6).

Most of the Indian queer diasporas have migrated to other countries in search of freedom of sexual expression. US and Canada were the most demanding and desired destination land for Indian queer individuals. Some of them left India and migrated and settled in Canada and US but some of them did not want to leave their family and country thus chose to remain in India and live as a heterosexual individuals (Fuks 313). Ayoub and Bauman (2018) argue that migration can change the situation and life of queer individuals because migration gives them different social, cultural and political environment. According to them positive environment in the host land can change the negative perspectives of queer individuals on their sexuality into positive one, because many queer individuals feel ashamed of their sexuality or they lack confidence to build their sexual identity in the society due to examining negative reactions in their homeland. Thus, welcoming environment of the host land can bring positiveness in their behaviour, thoughts, etc which develops their queer identity (6).

Queer individuals' internal and international migration takes place from rigid environment to flexible and adequate environment. Studies say that queer migration take place from rural to urban areas and from countries that have banned homosexuality to countries that have legalised homosexuality. India has legalised

homosexuality in the year 2018 but before that homosexuality was a criminal offence which have made many queer individuals to migrate to US and other countries that have legalised homosexuality and same-sex marriages and provided human rights. Legalising homosexuality has not changed the behaviour and thoughts of the Indian society, they still humiliate and make fun of queer individuals, spread hate speeches for them, suppress and harass, discriminate, etc which affects queer individuals' mental health and their social, cultural, political and economic development. In such circumstances they find other countries especially US and Canada as their destination places. Furthermore, they accept these countries as their home because they have given them the freedom to express themselves and provided human rights (Baas 5).

According to Baas (2018) queer individuals migrate to experience and enhance their sexuality in the first place and migration to seek better education and employment stands as a secondary status in the factor of queer migration. Thus, he says that queer migration usually takes place to reveal and explore sexuality in queer-friendly environment (4-5).

Government Policies

Migration to developed countries progresses economic circumstances of developing countries which is the main reason that developing countries mainly South Asian countries promote migration and have implemented policies in the welfare of the migrants. Most countries have MOUs with host countries to develop social, cultural, political and economic status of the country. Home countries also provide securities to migrants to promote migration to other countries (Pong-Sul 5).

Rahman and Paik (2017) state that US government policies were not much in the welfare of South Asian migrants in the 1900s. They were not allowed to take their family to US and denied to have citizenship. They were also banned to migrate to US in 1917 and 1924 (36) after 1946 they were allowed to migrate and allowed to bring their family after getting citizenship. In 1965 US immigration policy was further changed and presented much opportunity to South Asian individuals (37). Changes in the US immigration policy increased the migration of skilled individuals who were professionals in certain areas especially medicine, engineering, science and technology (37).

Badgett et al. (2019) state that many countries have made changes in their policies in the welfare of queer individuals. They have given legal rights to them as they have noticed the social and economic development of the nation through queer skills, knowledge and remittances (3).

LGBTQ Rights and Policies in India and US

September 6, 2018 has changed the lives of queer individuals, groups and communities in India with the abolition of Section 377 of Indian Penal Code. When homosexuality was a punishable offence in India, Queer individuals were tortured, beaten, humiliated, murdered, abandoned, harassed, discriminated and punished openly without any fear of law and rules. Abolition of Section 377 of IPC may not have totally changed the situation of queer individuals in the society but it has given them strength to form their homosexual identity without being afraid of punishment.

Queer individuals should be protected under the Articles of the Indian Constitution 15(2) and 16(4) (Revathy and Pandiaraj 4880) which provides social equality to minorities. Article 21 of the Indian Constitution provides transgender to choose their gender identity (Revathy and Pandiaraj 4881). Tanweer (2018) argues that fundamental rights of Indian Constitution stand against the discrimination of individuals irrespective of their gender identity in work places (5).

America has been coordinated by Global Equality and Global Rights with the cooperation of Human Rights Campaign, Human Rights First, and National Centre for Lesbian Rights, and Immigration Equality (The Council for Global Equality 1). According to the researchers America has contributed to the founding of the United Nations and the birth of the modern human rights movement. They argue that LGBTQ Americans have been treated as second class citizens. They were denied of basic constitutional protections at the federal level and also denied of family recognition in many states. After certain period America had announced its commitment to the UN General Assembly Statement on Human Rights, Sexual Orientation and Gender Identity. And thus American LGBTQ rights activists demanded that America should soon adopt legislation which will give full human rights to all LGBTQ Americans. And thus, demanded to implement the following policies:

1. Hate crimes should be stopped.
2. Actions should be taken against private and governmental employees those who discriminate LGBTQ people.
3. They should be allowed to form stable families.
4. They should be protected from the sexual violence by guards and fellow prisoners.
5. Changes should bring in asylum practices and in immigration rules that discriminate LGBTQ asylum seekers and immigration.
6. State laws should grant the permission to transgender people to change their names on official documents.
7. Queer people and their children should be protected from violence, abuse and discrimination (The Council for Global Equality 1-2).

Articles 2(1), 3, 6, 7, 13, 17, 19, 23, 24, and 26 of American Constitution are established for human rights. American government has been asked by Human Rights Committee to impose strict laws against people, irrespective of their profession, who go against these Articles both in private and government sectors. In 2006, the Human Rights Committee called America on its failure in following Articles 2(1) and 26, non-discrimination and it failed in protecting LGBTQ from employment discrimination in many states. There were no federal laws that could have protected discrimination in employment sector. Many LGBTQ people who were well qualified and hard working were denied of job opportunities. They were also denied in joining military forces under the law 'Don't Ask, Don't Tell' (DADT). According to this law, LGBTQ people had to hide their sexual orientation and gender identity in military, otherwise they were fired from their respective jobs. This law has been changed and now they are welcomed in military forces. (The Council for Global Equality 2).

Between the years 2006-2009, it has been seen that LGBTQ people have been murdered because of their sexual orientation. And they were also murdered inside prisons and prison officials failed to protect LGBTQ people and then concern has been raised under Articles 6, 7, 9, and 10 of the International Covenant on Civil and Political Rights (ICCPR). In 2006, UN Human Rights Committee asked to ensure that its hate crime legislation should address sexual orientation violence both at the federal and state levels. It has been observed that many countries have failed to follow Article 7 of the ICCPR, which refers to 'Freedom from Torture and Cruel, Inhuman or Degrading Treatment or Punishment'. They should take care of not violating any of the Articles established for human rights. Especially, they should take care of not failing to protect LGBTQ people and should save them from selective and inappropriate arrest and harassment (The Council for Global Equality 7-10).

Further, activists demanded policies should be made to allow LGBTQ people to form stable families and to be respected, and transgender people should have the right to change their names/legal sex on official documents under Article 17 of American Constitution. Moreover, individuals should be allowed to express without fear or homophobia of losing family, job etc. under Article 19 of American Constitution which refers to Freedom of Expression. Under Article 19, the law 'Don't Ask, Don't Tell', which was established in 1993 and did not allowed homosexuals to serve openly in the U.S. military, was struck down (The Council for Global Equality 14).

Activists in US further demanded to establish policies that allow same-sex marriages and thus states should remove such amendments and legislation which forbids them from marrying. And acts such as the Domestic Partnership Benefits and Obligation (DPBO) and The Respect for Marriage (RMA) should be passed in order to provide benefits to same-sex marriage couples that are available to opposite sex marriage couples (The Council for Global Equality 17).

Activists further demanded to implement policies to provide equal rights to LGBTQ youth and children under article 24 of American Constitution. This Article refers to 'Special Protection of Children'. Thus, demanded to pass Acts such as Safe Schools Improvement Act (SSIA) and Student Non-Discrimination Act (SNDA) etc. to protect LGBTQ children and youth especially from sexual violence and abuse (The Council for Global Equality 21).

Corrales (2012) says that Latin America has progressed in forming LGBTQ legal rights as compared to other regions. It has imposed most advanced legislation and policies on the welfare of LGBTQ individuals and community. He further says that it has also implemented policies such as good treatment by the police, forming education campaigns, implementing public health policies for LGBTQ and giving rights in employment and housing (4).

Implementing such policies and upgrading legislation in order to make LGBTQ lives better and to provide equal rights is necessary. These are basic human rights and thus LGBTQ people should get their human rights. He gives a chart comparing the situation, that how it changed positively, of 1999 and 2013. They got rights in marriage, allowed adopting children, permitted to join military service, and the rate of hate crime has diminished, following anti-discrimination, homosexuals and homosexual activities have been fully decriminalized, and imposed strong legal laws against discrimination of gender identity. (Corrales 6)

In 2010, Argentina became the first country in Latin America for legalising same-sex marriage and adoption of children. Other countries such as Uruguay and Brazil also legalised same-sex marriages. Latin America has made this progress in LGBTQ rights in fifteen years, earlier it has very limited legal protection. In 2013, two trans-women, Diane Rodriguez and Valentina Verbal became first (openly) transgender officers in national legislatures. Even after these impressive legal advances, public discrimination prevailed in Latin America. Incidents such as hate crimes and public hate speeches took place in low LGBTQ representation countries and also in the countries with high LGBTQ representation and legal rights scores such as Brazil and Mexico (Corrales 6).

The Role of Indian and American Constitution in the protection of LGBTQ Human Rights

Constitution plays a vital role in protecting rights of human beings. And LGBTQ people have given their rights because of the constitution of the countries. Constitutions having Articles in the welfare and rights of human beings helped LGBTQ people to get their rights. Such as Articles 14, 15 and 21 of Indian Constitution helped in decriminalising Section 377 of Indian Penal Code. Likewise, Articles 2, 3, 6, 7, 13, 17, 19, 23, and 24 of American Constitution helped to retain rights of LGBTQ people in America and same-sex marriages are legalised, they are allowed to adopt children, they are allowed to join military services etc.

Conclusion

Government policies in the welfare of people are important as it gives security to individuals to live fearlessly. Policies and strict laws should be introduced in the protection of queer rights in India. They should be protected in academic areas, work places, domestic and public domains. Migration of Indian individuals, families, groups and communities have been influenced by the strong policies and laws of the foreign countries. US have implemented strict laws and policies in the welfare of queer individuals against discrimination in academic, work places, domestic and public spaces which is the driving force of Indian queer migration to US. Same-sex marriages were legalised by the U.S. Supreme Court in 2015. Since protests against discrimination and inequality began in 1969 in New York City, people of America were familiar with the concept of homosexuality since 1969 which helped society to change their mindsets. In India, homosexuality is legalised in the year 2018 which have given hope and showed new path to queer individuals but they still face discrimination in Indian society. Thus implementation of strict laws and policies are important for their welfare. It is important to bring changes in the thought processes of the Indian society in the favour of queer individuals because every human being is important for the country and every individual contributes in the development of the country and society.

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