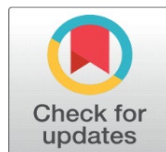
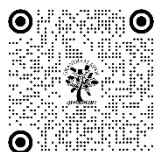


BLOOD DONATION BAN POLICIES AND FUNDAMENTAL RIGHTS OF LGBTQI COMMUNITY: DOES IT NEED A POTENTIAL SOCIO-LEGAL REFORMS FOR INCLUSIVITY?

Dr. Deo Narayan Singh ¹✉

¹ Assistant Professor of Law (Senior Scale), Department of Law & Governance, Central University of South Bihar, Gaya



Corresponding Author

Dr. Deo Narayan Singh,
deonarayan@cusb.ac.in

DOI

[10.29121/shodhkosh.v5.i1.2024.2254](https://doi.org/10.29121/shodhkosh.v5.i1.2024.2254)

Funding: This research received no specific grant from any funding agency in the public, commercial, or not-for-profit sectors.

Copyright: © 2024 The Author(s). This work is licensed under a [Creative Commons Attribution 4.0 International License](https://creativecommons.org/licenses/by/4.0/).

With the license CC-BY, authors retain the copyright, allowing anyone to download, reuse, re-print, modify, distribute, and/or copy their contribution. The work must be properly attributed to its author.



ABSTRACT

The current debate on the subject has drawn ample attention of the civil society towards a case pending before the Hon'ble Apex Court comprising of a bench headed by Chief Justice of India D. Y. Chandrachud who has also sought responses from the National AIDS Control Organisation (NACO) and the National Blood Transfusion Council (NBTC). In his petition, Sharif D. Rangnekar, represented by attorneys Rohit Bhatt and Ibad Mushtaq, contested the legality of Clause 12 of the "Guidelines for Blood Donor Selection & Blood Donor Referral, 2017" that were published on October 11, 2017, by the National Aids Control Organization and the National Blood Transfusion Council (NBTC). Thus, Rangnekar requested that the SC order the Centre to create rules permitting homosexual and LGBTQI (lesbian, gay, bisexual, transgender, queer, intersex) individuals to donate blood, subject to appropriate limitations based on "screen and defer" or "assess and test" regulations. The petitioner challenge the ban stating that "It is presumed that a particular group of persons may be suffering from sexually transmitted diseases. Medical technology and education, especially in the field of haematology, has progressed tremendously. The screening of donors is conducted for every donation before a transfusion," further, it was also claimed by the petitioner that "Today, a blanket prohibition does not stand to reason."

Keywords: LGBTQI Community, Socio-Legal Reforms, Civil Society

1. INTRODUCTION

In the similar case, the mother of *Vyjayanti Vasanta Mogli* had frequent blood transfusions as she battled severe Parkinson's disease and was near death. Though *Ms. Mogli*, a trans woman living in Hyderabad, a city in southern India, was her mother's primary caretaker, she was unable to donate blood¹. In yet, another similar but serious case of a physician in the North Eastern state of Manipur named Mrs. Beoncy Laisharam related the story of a patient whose transgender daughter was unable to donate blood for the patient's medical care. "The father required two to three blood transfusions per day. Blood from other sources could not be found and so two days after his arrival, he passed away."²

¹ Umang Poddar, LGBT Indians demand end to 'discriminatory' ban on blood donation" BBC, 22nd Aug, 2024. Accessed on 12-09-2024.

² Umang Poddar, LGBT Indians demand end to 'discriminatory' ban on blood donation" BBC, 22nd Aug, 2024. Accessed on 12-09-2024.

Therefore, in the light of the above serious issues and current debate, the author explores the current position, legal provisions, issues and challenges, the position of some developed countries and international legal scenario.

2. EVOLUTION OF THE RIGHTS OF LGBTQI

The LGBTQ community has made great strides in gaining global societal acceptance. Their battle has also been protracted in India because of British Indian laws that persecuted these sexual minorities under section 377 of the Indian Penal Code. This segment criminalized homosexuality and established a climate of violence, terror, and persecution from the government apparatus and society at large. The Supreme Court's ruling in *Navtej Singh Johar v. Union of India*³, which decriminalized section 377, assisted the community in overcoming a number of obstacles; nevertheless, the community continues to be denied a number of social and legal rights, the most important of which is the Blood donation ban on the LGBTQI.

In 2015, a seismic shift occurred in the US landscape of LGBTQ+ rights. The Supreme Court ruled that the Constitution guarantees same-sex couples the right to marry, effectively legalizing it in 13 states overnight. This decision came at a time when public opinion was undergoing a dramatic transformation. From a mere 27% approval in the late 1990s, support for same-sex marriage skyrocketed to 61% by 2019, reflecting a growing societal acceptance.⁴

The European Union (EU) Court of Justice in Luxembourg was faced with a difficult decision on April 29, 2015: whether or not to uphold a French bylaw that permanently bars homosexuals from donating blood due to their sexual behaviour, which increases their risk of contracting serious infectious diseases that are spread through blood¹. The matter was sensitive since a prohibition of this kind clearly prevents a certain group of persons from giving blood, potentially violating basic human rights recognized by EU law, including the principle of equal treatment and non-discrimination. Second, the Court was asked to decide on a matter pertaining to the organization and provision of health services and medical treatment, which falls under the exclusive jurisdiction of certain member states. Notwithstanding the exclusive.⁵

3. ISSUES RELATED TO BLOOD DONATION BAN

1) HUMAN RIGHTS VIOLATION ISSUES-

Because they target a certain group based on sexual orientation and/or gender identity rather than individual risk assessment, these restrictions are fundamentally discriminatory. This is against the fundamental human right to be free from discrimination, which is protected by many international human rights treaties, including the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights. It upholds discrimination and stigma against the LGBTQI+ community.

Sexual orientation is not specifically mentioned in the International Covenant on Civil and Political Rights (ICCPR) or the Universal Declaration of Human Rights (UDHR). These texts were written before LGBTQ+ rights were widely acknowledged. Nonetheless, the ideas they include are employed to combat prejudice on the basis of sexual orientation. The arguments depend on how these clauses are interpreted and how they relate to changing conceptions of human rights. The following provisions may be reviewed for better understanding and inferences⁶

³ Navtej Singh Johar v. Union of India, (2018) 10 SCC 1

⁴ Kimberly Carter Kelly, Defense of Marriage Act, Britannica, available at <https://www.britannica.com/topic/Defense-of-Marriage-Act> (last accessed at March 25, 2024 at 10:44 PM).

⁵ <https://doi.org/10.2450/2015.0155-15>.

⁶ The key provisions used in this argument are:

Article 1 of the UDHR: "All human beings are born free and equal in dignity and rights." This fundamental principle is the cornerstone of the argument against discrimination based on sexual orientation. If all humans are equal, then discrimination based on sexual orientation is a violation of this principle.

Article 2 of the UDHR: "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." While not explicitly mentioning sexual orientation, the phrase "or other status" is interpreted by many to include sexual orientation and gender identity. This is a key legal argument used to challenge discriminatory laws.

Article 7 of the UDHR: "All are equal before the law and are entitled without any discrimination to equal protection of the law." This provision is used to argue against discriminatory laws and policies that specifically target LGBTQ+ individuals.

Article 26 of the UDHR: "Everyone has the right to education. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms." This is relevant in challenging discriminatory practices in education which affect LGBTQ+ individuals. The ICCPR contains similar provisions, particularly:

Sexual orientation is not specifically mentioned in the International Covenant on Civil and Political Rights (ICCPR) or the Universal Declaration of Human Rights (UDHR). These texts were written before LGBTQ+ rights were widely acknowledged. Nonetheless, the ideas they include are employed to combat prejudice on the basis of sexual orientation. The arguments depend on how these clauses are interpreted and how they relate to changing conceptions of human rights

2) VIOLATION OF CONSTITUTIONAL LAW

Although there isn't a single legislation in India that specifically addresses this, a restriction on blood donations based just on the sexual orientation or gender identity of LGBTQ+ people would violate several current laws and fundamental constitutional values. The infraction results from the meeting point of many legal safeguards:-

The right to equality is guaranteed under *Article 14* of the Indian Constitution, which also provides equal protection under the law across India. A complete prohibition on blood donation based just on gender identity or sexual orientation would be against this basic right and discriminatory. The prohibition would violate the equality principle by treating LGBTQ+ people differently without any justification.

The Indian Constitution forbids discrimination based on specific factors under *Article 15*. Discrimination on the basis of religion, ethnicity, caste, sex, or place of birth is forbidden under this article. Although gender identity and sexual orientation aren't stated specifically, the "or other status" phrase is frequently understood to include these characteristics, much like the UDHR. This justification has been effectively applied in other.

The Protection of Human Rights Act, 1993:- This Act establishes a National Human Rights Commission to investigate and address human rights violations. A discriminatory blood donation ban would fall under its purview as a violation of fundamental rights.

4. INTERNATIONAL LEGAL REGIME

1) United States of America

In an effort to lower the risk of HIV transmission through transfusions, the U.S. Food and Drug Administration (FDA) said that it is considering switching from time-based deferrals to an individual risk-based approach for determining blood donor eligibility. This plan aligns with existing practices in nations such as Canada and the United Kingdom.⁷

The FDA carefully reviewed the available evidence, including data from other nations with comparable HIV epidemiologies that have implemented this strategy, and continued surveillance of the American blood supply to create these tentative recommendations. On January 27, 2023, the FDA is certain that the adoption of the suggested individual risk-based questions won't jeopardize the availability or safety of the blood supply based on the evidence that is already available.⁸ The U.S. Food and Drug Administration (FDA), in May 2023, finalized its guidance on individual risk assessment for blood donations in which following guidelines were issued---

- 1) There would be no more time-based deferrals for women who have sex with MSM or men who have sex with men (MSM).
- 2) The proposed revision to the donor history form would entail inquiring about any new or numerous sexual partners during the last three months from all potential donors.
- 3) The next question to be asked of potential donors is if they have had any anal intercourse in the last three months whether they report having had more than one partner or a new one.
- 4) Donation will be withheld from any potential donors who disclose having had anal intercourse within the last three months and/or having more than one sexual partner.

Article 26 of the ICCPR: This mirrors Article 7 of the UDHR in guaranteeing equal protection under the law without discrimination.

Article 3 of the ICCPR: The right to life is applicable here, as discriminatory practices can indirectly threaten the lives and well-being of LGBTQ+ individuals (e.g., through increased risk of violence or denial of healthcare).

⁷Press Release, on January 27, 2023, by Food and Drug Administration (FDA) Proposes Individual Risk Assessment for Blood Donations, While Continuing to Safeguard U.S. Blood Supply. Available on-<https://www.fda.gov/news-events/press-announcements/fda-proposes-individual-risk-assessment-blood-donations-while-continuing-safeguard-us-blood-supply>. Accessed on-02-09-2024.

⁸ "Whether it's for someone involved in a car accident, or for an individual with a life-threatening illness, blood donations save lives every day," said FDA Commissioner Robert M. Califf, M.D. "Maintaining a safe and adequate supply of blood and blood products in the U.S. is paramount for the FDA, and this proposal for an individual risk assessment, regardless of gender or sexual orientation, will enable us to continue using the best science to do so."

- 5) If all other eligibility requirements are satisfied, a potential donor may be allowed to give under this proposal if they do not disclose having had anal intercourse or new or many sexual partners during the previous three months.
- 6) Anyone who has ever taken medicine to treat HIV infection or received a positive HIV test result will always be postponed.

Blood facilities would still need to screen all donors for HIV, hepatitis B, and hepatitis C, among other transfusion-transmitted illnesses.⁹

2) United Kingdom¹⁰

- 1985: MSM donors receive permanent deferral from donating blood. Men who have sex with other men have historically faced outright prohibitions or extremely lengthy deferral periods (MSM). This is now different. Instead than concentrating only on sexual orientation or gender identity, the current policy places more emphasis on evaluating each person's risk based on their sexual conduct. This is a crucial development in the fight against prejudice.

In November 2017, the three-month deferral period for MSM donors was enacted which later on, June 2021, MSM donors who have been with the same partner for greater than the past 3 Months are permitted to donate blood.

- Association for the Advancement of Blood & Biotherapies (2020, December 14). UK to

Introduce New MSM Blood Donation Policy

3) Germany

Germany eliminated its general restriction on blood donations by men who have sex with men (MSM) in December 2023, in line with a larger European trend to do away with discriminatory norms. A 12-month deferral period that applied to MSM was then shortened to 4 months in 2017 and changed to prioritize individual risk assessments above sexual orientation¹¹. This modification was made as part of a more inclusive strategy that LGBTQI+ activists and health groups supported in an effort to increase the number of donors while preserving blood safety. The new rules help dispel outmoded stigmas related to LGBTQI+ people in the context of blood donation by applying behaviour-based criteria to all potential donors, regardless of sexual orientation¹².

4) Netherlands

Legal modifications in recent years have started to bring blood donation rules closer to the ideals of equality and non-discrimination. Gay and bisexual males who are sexually active were not allowed to donate blood at all until 2015¹³. This was modified to allow them to donate provided they hadn't had intercourse with another guy in the preceding 12 months; however, this window was eventually shortened to four months 3–7. By 2021, the Ministry of Health, Welfare, and Sport plans to move even further away from these broad policies by emphasizing behavioral hazards over sexual orientation. Beginning in September 2021, men in monogamous same-sex partnerships were permitted to donate blood. According to the most recent information, the Dutch blood bank Sanquin¹⁴ plans to move away from the former policy of deferring donations based on sexual orientation by selecting donors based on individual dangerous behavior starting in January.

5) Ireland

Ireland too has revised its blood donation laws, with a focus on the LGBTQI+ population. Previous limitations on blood donation based on sexual orientation have been removed by the Irish Blood Transfusion Service (IBTS). As of November 28, the IBTS evaluates donors individually based on their conduct rather than their demographic group risks, and it no longer imposes limitations based on sexual orientation. This modification seeks to improve equity and

⁹ "Our approach to this work has always been, and will continue to be, based on the best available science and data. Over the years, this data-driven process has enabled us to revise our policies thereby increasing those eligible to donate blood while maintaining appropriate safeguards to protect recipients," said Peter Marks, M.D., Ph.D., director of the FDA's Center for Biologics Evaluation and Research. "We will continue to follow the best available scientific evidence to maintain an adequate supply of blood and minimize the risk of transmitting infectious diseases and are committed to finalizing this draft guidance as quickly as possible."

¹⁰ <https://www.aabb.org/news-resources/news/article/2020/12/14/uk-to-introduce-new-msm-blood-donation-policy>

¹¹ Available on- <https://www.aabb.org/news-resources/news/article/2021/07/06/germany-to-revise-blood-donor-eligibility-criteria>. Accessed on

¹² The Association for the Advancement of Blood and Biotherapies (AABB) Association for the Advancement of Blood and Biotherapies (2021, July) which has represented the issue, is a not-for-profit organization that represents people and institutions involved in blood and biotherapy.

¹³ Available on-<https://www.aabb.org/news-resources/news/article/2020/12/14/uk-to-introduce-new-msm-blood-donation-policy>

¹⁴ The sole company in the Netherlands that handles blood and blood products is Sanquin. Blood, plasma, and cell products are gathered, processed, and distributed by this non-profit organization. Sanquin also creates pharmaceuticals, offers diagnostic services, and carries out scientific research.

inclusivity for all prospective donors—regardless of gender or sexual orientation—in the blood donation process. Certain high-risk activities mean that some limitations still apply despite this ongoing transition¹⁵.

6) RUSSIA—

Since 2001, HIV prevalence in Russia, Eastern Europe and Central Asia has increased by 250%, making the region home to the world's most rapidly expanding epidemic¹⁶. It is challenging to determine with certainty how Russia's blood donation laws pertaining to LGBTQI+ people have changed over time due to a dearth of clear government data. However, it's quite plausible that discriminatory policies, perhaps including blanket bans or much longer deferral periods for MSM compared to the general population, have occurred, echoing global patterns. These laws were probably motivated by the general atmosphere of societal shame and discrimination against LGBTQI+ people in Russia, as well as worries about HIV/AIDS. Given the general social and political climate, it is doubtful that there has been a major trend towards individual risk assessment (IRA), even though a precise timeline of policy changes is unclear owing to a lack of openness. Thus, it is likely that discriminatory behaviors still exist, even though the specifics are still hidden by a lack of data.

7) Hungary

The Hungarian National Blood Transfusion Service subjected MSM to the worst, lifetime exclusion until the new legislation was introduced. Considering the brief duration of the window period, this restriction was wholly unnecessary. Moreover, the exclusion ignored the reality that not all male-to-male sexual encounters carry a heightened risk of HIV transmission. In a monogamous relationship, a homosexual couple is no more vulnerable than a heterosexual pair—especially if they use condoms or PrEP to protect themselves against HIV. Comparing non-penetrative sexual experiences between males to heterosexual contacts involving vaginal penetration, the probability of transmission is significantly lower.

Now, the Men who have sex with men (MSM) are permitted to donate blood as of January 1, 2020, according to the Hungarian National Blood Transfusion Service, unless their sexual conduct poses a risk. Decades of prejudice against homosexual and bisexual men are ended by the new rule.¹⁷

8) Laws Related To Helath In India

The Indian Penal Code (IPC): Despite the historic triumph of decriminalizing Section 377 in 2018, its legacy still has an influence on healthcare. For many LGBTQI+ people, the stigma and discrimination from previous criminalization still exist, making it difficult for them to receive treatment. Fear of prejudice or criticism might keep people from getting the medical care they need.

The National AIDS Control Programme (NACP) or National AIDS Control Programme: Although this program does not directly target LGBTQI+ people, it does cover HIV/AIDS prevention and treatment. The success of its services and outreach to the LGBTQI+ community, however, is still up for discussion. Prior discriminatory actions have made it more difficult for the program to reach this at-risk group.

The Transgender Persons (Protection of Rights) Act, 2019: This Act is a significant step towards recognizing the rights of transgender individuals. While it addresses some aspects of their well-being, its impact on healthcare access is still developing. The Act's implementation and enforcement are crucial to ensuring access to appropriate healthcare services for transgender individuals. The Act¹⁸, doesn't directly address blood donation bans. It focuses on the rights of transgender persons, and while its principles could be used to argue against discriminatory blood donation policies, there isn't a specific provision that explicitly covers this.

The Act's relevant provisions that could be used in a legal challenge to a blood donation ban that disproportionately affects transgender individuals are:¹⁹.

¹⁵ <https://www.aabb.org/news-resources/news/article/2021/12/23/ireland-to-ease-restrictions-on-blood-donations-from-gay-bisexual-men>.

¹⁶ HIV and AIDS in Russia, Eastern Europe & Central Asia, AVERT, <http://www.avert.org/aidsrussia.htm> (last visited August. 27, 2024).

¹⁷ Lifelong blood donation ban on gay and bisexual men in Hungary lifted. Available on-<https://en.hatter.hu/news/lifelong-blood-donation-ban-on-gay-and-bisexual-men-in-hungary-lifted-0>. Accessed on-02-9-2024.

¹⁸ The Transgender Persons (Protection of Rights) Act, 2019

¹⁹ Section 3 (Recognition of Gender Identity): This section recognizes the self-perceived gender identity of transgender persons. A blanket ban based on assigned sex at birth, rather than self-identified gender, could be argued as a violation of this recognition. If the ban is applied differently to transgender individuals than cisgender individuals, it could be seen as discriminatory.

Section 5 (Prohibition of Discrimination): This section prohibits discrimination against transgender persons in various areas, including employment, education, healthcare, and access to public services. A blood donation ban could be argued as discrimination against transgender persons if it's applied disproportionately to them without a valid and non-discriminatory justification.

Mental Healthcare Act 2017: It is relatively early to determine how well the Act supports LGBTQI+ people who require mental health services. Though, The Mental Healthcare Act of 2017 does not specifically shield LGBTQI+ people from being prohibited from donating blood. The rights and treatment of people with mental diseases are the main topics of the Act. A prohibition on blood donations is not automatically related to mental health services. Blood donation regulations and eligibility requirements are not covered by the Act itself, notwithstanding the possibility that some actions connected to blood safety may be associated with mental health conditions. Consequently, no clause in this Act may be explicitly invoked to overturn a restriction on blood donations. Arguments against such prohibitions would have to be made in accordance with other laws, such those that guarantee equality and prohibit discrimination.²⁰.

9) Issues And Challenges In Regulation Of Blood Donation Ban

The challenges and debates surrounding blood donation bans on gay and transgender Individuals are complex and multifaceted, touching upon issues of equality, discrimination, public health, and individual rights. Here are several key aspects of these challenges and debates:

i. Constitutional Rights: Blood donation bans raise questions about the constitutional rights of individuals, particularly regarding equal protection under the law and freedom from discrimination based on sexual orientation or gender identity. Critics argue that these bans violate individuals' rights to equal treatment and access to healthcare services, as enshrined in various national and international human rights frameworks. In the case of *National Legal Services Authority VS Union of India*²¹, it was observed that it is the right of all persons to self-identify their gender. Gender identity did not refer to biological characteristics but referred to as "an innate perception of one's gender"²²

In *Navtej Singh Johar VS Union of India*²³, the Supreme Court decriminalises section 377 of the Indian Penal Code citing that same sex marriage between consenting adults is not a crime.

ii. Legal Challenges: Blood donation bans have been subject to legal challenges in various jurisdictions around the world. Advocacy groups and affected individuals have filed lawsuits challenging the constitutionality and legality of these bans, arguing that they are discriminatory and not based on scientific evidence. These legal challenges have prompted courts to re-examine blood donation policies and consider evidence-based approaches to ensure fairness and equality.

iii. Public Health Justifications: Proponents of blood donation bans often cite public health justifications for these policies, emphasizing the need to protect the safety and integrity of the blood supply. They argue that certain populations, such as gay men and transgender individuals, may have a higher prevalence of HIV/AIDS or engage in behaviors that increase their risk of infections around the world. Advocacy groups and affected individuals have filed lawsuits challenging the constitutionality and legality of these bans, arguing that they are discriminatory and not based on scientific evidence. These legal challenges have prompted courts to re-examine blood donation policies and consider evidence-based approaches to ensure fairness and equality.

iv. Public Health Justifications: Proponents of blood donation bans often cite public health justifications for these policies, emphasizing the need to protect the safety and integrity of the blood supply. They argue that certain populations, such as gay men and transgender individuals, may have a higher prevalence of HIV/AIDS or engage in behaviors that increase their risk of infection, warranting exclusion from blood donation. However, critics question the scientific validity of these justifications and advocate for more nuanced risk assessment criteria that focus on individual behavior rather than blanket exclusion based on identity.

v. International Standards and Guidelines: International organizations, such as the World Health Organization (WHO) and the International Society of Blood Transfusion (ISBT), have issued guidelines and recommendations regarding blood donation policies. These organizations emphasize the importance of evidence-based approaches to

²⁰ Section 1(3): This section defines "mental illness" to avoid discriminatory labeling. Arguments can be made that pathologizing LGBTQI+ identities as mental illnesses is a violation of this section's intent.

Section 2(n): This defines "mental healthcare professional," ensuring that professionals providing care are qualified and ethically bound to provide non-discriminatory care. This is crucial as many LGBTQI+ individuals might require specialized support from professionals aware of the unique challenges they face.

Section 14: This section deals with the rights of persons with mental illness. These rights—including the right to dignity, respect, and non-discrimination—are crucial for protecting LGBTQI+ individuals from discrimination within the mental healthcare system.

Section 26: This section speaks to the protection of the rights of persons with mental illness during treatment. It emphasizes informed consent, the right to refuse treatment, and the importance of a therapeutic environment. These rights are particularly important for LGBTQI+ individuals who might be vulnerable to coercive or discriminatory treatment.

²¹ AIR 2014, SCC 438.

²² Available on-<https://www.openglobalrights.org/rethinking-trans-peoples-right-to-self-perceived-gender-identity-and-genderexpression-in-india/>

²³ AIR 2018, SCC 4321.

ensure the safety and adequacy of the blood supply while upholding principles of equality and non-discrimination. Countries that maintain blood donation bans on gay and transgender individuals may face scrutiny and pressure to align their policies with international standards.

vi. Policy Reform: The legal challenges and debates surrounding blood donation bans have spurred discussions about policy reform and revision. Some countries have responded to legal challenges by revising their blood donation policies, either by lifting blanket bans or implementing individualized risk assessment criteria that consider specific behaviors rather than identity-based exclusion. These policy reforms aim to balance public health concerns with principles of equality and non-discrimination, while also ensuring the safety and adequacy of the blood supply.

In summary, the legal challenges and debates surrounding blood donation bans on gay and transgender individuals highlight the complex intersection of legal, ethical, public health, and human rights considerations. These debates reflect ongoing efforts to reconcile competing interests and values while promoting evidence-based, inclusive, and equitable blood donation policies. Addressing these challenges requires a multifaceted approach that addresses systemic barriers, promotes cultural competency and sensitivity among healthcare providers, and advocates for inclusive policies that uphold the rights and dignity of gay and transgender individuals. By addressing these challenges, we can work towards creating a healthcare system that is inclusive, equitable, and accessible to all individuals, regardless of sexual orientation or gender identity.

10) Recommended Actions For Addressing The Lgbtq Blood Donation Ban

There is significant potential for policy reforms regarding blood donation bans on gay and transgender individuals, driven by evolving scientific evidence, changing societal attitudes, and advocacy efforts aimed at promoting inclusivity and equity in healthcare policies. Here are several potential avenues for policy reforms:

i. Making the switch to an individual risk assessment (IRA)-It is the most important stage. Use personal risk assessment forms in place of general prohibitions based on gender identity or sexual orientation. Regardless of sexual orientation, the focus of these surveys should be on particular behaviors (such as recent sexual partners, high-risk sexual practices) that raise the risk of bloodborne infections. This method of assuring blood safety is more successful, less discriminating, and supported by science.

ii. Invest in Enhanced Blood Screening Technology: The danger of spreading bloodborne infections can be considerably decreased by the development of blood screening technology. The most recent technological advancements might be used in conjunction with IRA to create a strong and fair blood safety system.

iii. Public Awareness Campaigns to Fight Misinformation and Stigma: Because of misunderstandings and the stigma associated with being LGBTQ+, there are still a lot of prohibitions in place. Legal Advocacy and Litigation: Legal challenges are required in cases where prohibitions are still in place. Using the previously described legal arguments (e.g., violations of equality and non-discrimination provisions in national constitutions and international human rights treaties), lawsuits and advocacy efforts should concentrate on highlighting the discriminatory nature of the bans and their violation of fundamental human rights.

iv. Policy Reform via Cooperation: To promote policy reforms, have productive conversations and work together with public health professionals, legislators, and LGBTQ+ groups. This involves putting out effort to create evidence-based policies and procedures that give equal weight to the human rights of LGBTQ+ people and blood safety. Establishing credibility and proving the viability and efficacy of IRAs and improved screening technologies are necessary for this.

Even when considered from a scientific standpoint, a general ban on blood donation is predicated on the notion that a certain population may be afflicted with STDs. The 21st century has seen tremendous advancements in medical technology and knowledge, particularly in the science of haematology. Blood donors are screened before to each donation, and transfusions are considered possible for all donors. A general ban stemming from a strongly discriminating attitude toward homosexuals is irrational in such a time. And therefore, the steps of Indian judiciary in liberating these people from the blanket ban will provide oxygen to their life and they can also be treated equally in all regards.