



Review Article

A Need to Know Lgbt Rights

Dr. K.Sangeetha M.A.M.L, Ph.D (Law), P.G.D.HRM, P.G.D.IT*

Assistant Professor, Department of Environmental Law, Dr. Ambedkar Law University, Chennai, India

*Corresponding Author

Dr. K.Sangeetha M.A.M.L
Email:

Article History

Received: 04.01.2020

Accepted: 15.01.2020

Published: 29.01.2020

Abstract: Lesbian, Gay, Bisexual and Transgender (LGBT) people in India face both Legal and Social difficulties not experienced by non LGBT persons. Sexual activity between two persons of the same sex is criminalised, and is punishable by incarceration in the eye of Law in India. However, India does, legally recognise Hijras as a gender separate from Men or Women, making the Country one of the few in the World to legally recognise a Third Gender's Rights.

Keywords: LGBT Rights, Constitution of India, Law in India, Supreme Court.

Copyright @ 2019: This is an open-access article distributed under the terms of the Creative Commons Attribution license which permits unrestricted use, distribution, and reproduction in any medium for non commercial use (NonCommercial, or CC-BY-NC) provided the original author and source are credited.

INTRODUCTION:

Lesbian, Gay, Bisexual and Transgender (LGBT) people in India face both Legal and Social difficulties not experienced by non LGBT persons. Sexual activity between two persons of the same sex is criminalised, and is punishable by incarceration in the eye of Law in India. However, India does, legally recognise Hijras as a gender separate from Men or Women, making the Country one of the few in the World to legally recognise a Third Gender's Rights.

Law regarding Same-Sex Sexual Activity:

Homosexual Intercourse was made a Criminal offence under Section 377 of the Indian Penal Code, 1860. This made it an offence for a person to voluntarily have "Carnal Intercourse against the order of nature." In 2009, the Delhi High Court decision in Naz Foundation v. Govt. of NCT of Delhi¹ Respondents found Section 377 and other Legal prohibitions against private, adult, consensual, and non-commercial same-sex conduct to be in direct violation of fundamental rights provided by the Indian Constitution.

According to a ruling by the Indian Supreme Court, decisions of a High Court on the Constitutionality of a Law apply throughout India, and not just to the "Territory of the State" over which the High Court in question has jurisdiction. However, even there have been incidents of harassment on homosexual groups.

On 23 February 2012, the Ministry of Home Affairs expressed its opposition to the decriminalisation of homosexual activity, stating that in India, homosexuality is seen as being immoral. The Central Government reversed its stand on 28 February 2012, asserting that there was no Legal error in decriminalising homosexual activity. This resulted in two judges of the Supreme Court reprimanding the Central Government for

frequently changing its stand on the issue. "Don't make a mockery of the system and don't waste the Court's time," an Apex Court Judge told the Government.

On 11 December 2013, the Supreme Court set aside the 2009 Delhi High Court order decriminalising consensual homosexual activity within its jurisdiction. The Bench of Justices G. S. Singhvi and S. J. Mukhopadhya however noted that parliament should debate and decide on the matter. On January 28, 2014 Supreme Court dismissed the review Petition filed by Central Government and a NGO Naz Foundation and several others, against its December 11 verdict on Section 377 of IPC. In explaining the ruling the bench said: "While reading down Section 377, the High Court overlooked that a minuscule fraction of the Country's population constitutes Lesbians, Gays, Bisexuals or Trans-Genders, and in the more than 150 years past, less than 200 persons have been prosecuted for committing offence under Section 377, and this cannot be made a sound basis for declaring that Section stands ultra vires to Constitution of India Articles 14, 15 and 21.

Various Human Rights Groups expressed worries that this would render homosexual couples vulnerable to police harassment, saying: "The Supreme Court's ruling is a disappointing setback to Human Dignity and the basic Rights to Privacy and Non-Discrimination". The Naz Foundation (India) Trust stated that it would file a petition for review of the Court's Decision.

But this did not stop a Gurgaon Court in 2011 from effectively recognising a marriage between two women. After marrying, the couple began to receive threats from friends and relatives in their Village. Their Lawyer said, "The Court had asked to serve two week notice to the Victims Relatives and Villagers who had threatened them with dire consequences". Haryana has been the centre of widespread protests by Villagers, who believe their Village Councils, or Khaps should be allowed to impose their own punishments on those who disobey their rulings or break local traditions mainly honour killings of those who marry within

¹ CIVIL APPEAL NO.10972 OF 2013 (Arising out of SLP (C) No.15436 of 2009) Suresh Kumar Koushal and another ... Appellants versus NAZ Foundation and others ...SCC.

their own Gotra or Sub-Caste, regarded in the State as a kin to incest. Deputy Commissioner of Police Dr. Abhe Singh told to the vernacular newspaper 'The Daily Telegraph': that, "The couple has been shifted to a safe house and that they have been provided adequate security as per the Court's Orders. The security is provided on the basis of threat perception and in this case the couple feared that their families might be against their relationship." The couple eventually won Family approval.

Trans - Gender Rights in Tamil Nadu:

The Tamil Nadu State in India was the first State to introduce a Transgender (Hijra/ Aravani) Welfare Policy. According to the Transgender Welfare Policy, transgender people can access Free Sex Re-assignment Surgery (SRS) in the Government Hospital; Free Housing Program; various Citizenship Documents; Admission in Government Schools and Colleges with full scholarship for Higher Studies; Alternative sources of Livelihood through formation of Self-Help Groups (for savings) and Initiating Income-Generation Programmes (IGP). Tamil Nadu was also the first State to form a Transgender Welfare Board with representatives from the transgender community.

In India one group of transgender people are called Hijras. They were legally granted Voting rights as a third sex in 1994. Due to alleged Legal ambiguity of the procedure, Indian transgender individuals do not have access to safe medical facilities for SRS. On 15th April 2014, Supreme Court of India declared Transgender people as a Socially and Economically Backward class entitled to Reservations in Education and Job, and also directed Union and State Governments to frame Welfare Schemes for them.

On 24th April 2015, the Rajya Sabha passed "The Rights of Transgender Persons Bill, 2014", guaranteeing rights and Entitlements, Reservations in Education and Jobs (2% reservation in Government Jobs), Legal aid, Pensions, Unemployment Allowances and Skill development for Transgenders. It also contains provisions to prohibit discrimination in employment, prevent abuse, violence and exploitation of transgenders. The Bill also provides for the establishment of Welfare Boards at the Centre and State level, and for Transgender Rights Courts. The Bill was introduced by DMK MP Tiruchy Siva, and marked as the first time the House had passed a private member's bill in 45 years. The Bill was passed unanimously by the House. However, the Bill contains several anomalies and a lack of clarity on how various ministries will co-ordinate to implement its provisions. Social Justice and Empowerment Minister Thaawar Chand Gehlot stated on 11th June 2015 that the Government would introduce a Comprehensive Bill for Transgender Rights in the Monsoon Session of the Parliament. The Bill will be based on the study on Transgender issues conducted by a Committee appointed on 27th January 2014. According to Gehlot, the Government intends to provide Transgenders with all Rights and entitlements currently enjoyed by Scheduled Castes and Scheduled Tribes.

Transgenders Participation in Indian Politics:

Shabnam Mausi was Mayor from Katni and later same year when she became Mayor, Hira Bhai became first Trans Gender MLA of India from Jabalpur Constituency (Vidhanshaba seat).

The All India Hijra Kalyan Sabha fought for over a decade to get their voting rights, which they finally got in 1994. In 1996 Kali stood for elections in Patna under the then Judicial Reform Party and gave the Janata Dal and the BJP a bit of a fight. Munni ran for the elections as well from South Bombay that year. They both lost, more than 13 years Hijras are participating in the Politics in India.

After the defeat of Kali and Munni, three years later one Kamla Jaan participated and won the position of the mayor of Katni in MP. Then there was Shabnam Mausi, who was elected to the Legislative Assembly in 2002 as well. In the huge political

machinery, Heera won a seat at the City Council of Jabalpur, Meera won a similar position in Sehora, and so did Gulshan in Bina.

In December 2000, Asha Devi became the mayor of Gorakhpur, and Kallu Kinnar was elected to the City councilor in Varanasi. And she said in her speech that, "I am sure there are many more Low level, Inconspicuous Bureaucratic positions that were held by the Hijras, but did not whip up any excitement for the media not to mention the cases where they were probably threatened, bullied and killed to prevent them from running for seats". Curiously looking to this, the recent elections had Mangesh Bharat Khandye running for the Thane Lok Sabha Seat. Shabnam Mausi is the first Transgender in Indian or Hijra to be elected to a Public Office. She was an elected member of the Madhya Pradesh State Legislative Assembly from 1998 to 2003. In 2000 Shabnam Mausi became India's first Eunuch MP. (Hijras were granted Voting Rights in 1994 in India.) In 2003, Hijras in Madhya Pradesh have announced establishing their own political party called "Jeeti Jitayi Politics" (JJP), which literally means 'politics that has already been won'. The party has also released an eight-page election manifesto which it claims outlines why it is different from mainstream Political Parties.

Kalki Subramaniam, a Transgender Rights Activist, Writer and an Actor, In the 2011 assembly elections, Kalki tried in vain to get a DMK ticket. Again on March 2014 Kalki announced in Pondicherry that she would contest in this election from Villupuram constituency in neighbouring Tamil Nadu. She is likely to be among the very few contestants fighting in the national elections from the transgender community that faces discrimination and ridicule. On 4th January 2015, independent candidate Madhu Bai Kinnar was elected as the Mayor of Raigarh, Chhattisgarh becoming India's first openly Transgender Mayor.

Manabi Bandopadhyay became India's first Transgender College Principal, on 9th June 2015, when she assumed the role of Principal of the Krishna Nagar Women's College in Nadia District, West Bengal.

Gender issue in TNPS and UPSC:

Transgender Swapna and Gender Activist Gopi Shankar from 'Srishti' (NGO) from Madurai staged the protest in Madurai Collectorate on 7th October 2013 demanding Reservation and to permit alternate genders to appear for Examinations conducted by TNPS, UPSC, SSC and Bank Exams. Swapna, incidentally, had successfully moved the Madras High Court in 2013 seeking permission to write the TNPS Group II exam as a 'Woman' candidate. Swapna is the first Trans person to clear TNPS Group IV exams.

Third Gender Literature and Studies:

"Vaadamalli" by Novelist Su.Samuthiram is the first Tamil Novel about Aravani Community in Tamil Nadu published in the year 1994. Later Transgender activist, A. Revathi is the first Hijra to write about Transgender issues and Gender politics in Tamil, her works have been translated in more than 8 languages and acting as a primary resources on Gender Studies in Asia. Her book is part of research project for more than 100 universities. She is the author of 'Unarvum Uruvum' (Feelings of the Entire Body); is the first of its kind in English from a member of the Hijra community. She also acted and directed several stage plays on Gender and Sexuality issues in Tamil and Kannada. "The Truth about Me: A Hijra Life Story" by Transgender A. Revathi is part of the syllabus for Final Year students of The American College in Madurai. The American College is the first college in India to introduce Third Gender Literature and Studies with Research Oriented Seminar and the Tamil terms for Gender queer people was coined in this College by Gender Activist Gopi Shankar. Later "Naan Saravanan Alla" (2007) and Vidya's "I am Vidya" (2008) became first Trans Woman autobiography.

Gay Literature Studies:

In 2013 The American College Madurai's offers an undergraduate Course in the English Department included Funny Boy by Shyam Selvadurai as part of syllabi under Gay Literature and Marginalized Studies.

SECTION 377 OF IPC: (LEGAL STRUGGLE):

SECTION 377, (Unnatural offences): Whoever voluntarily has Carnal Intercourse against the order of Nature with any man - man, woman - woman or animal, shall be punished with imprisonment for life, or with imprisonment of either description for term which may extend to ten years, and shall also be liable to fine.

Explanation: Penetration is sufficient to constitute the Carnal Intercourse necessary to the offense described under this section.

The ambit of Section 377 of IPC extends to any Sexual Union involving Penile Insertion. Thus, even Consensual Homo-Sexual acts such as Fellatio and Anal Penetration may be punishable under this Law in India.

PUBLIC OPINION:

In 2008 Additional Solicitor General, P.P. Malhotra said: "Homosexuality is a Social issue and the State has the power to control it. [Decriminalising Homo-Sexuality] may create breach of peace. If it is allowed then evils of AIDS and HIV would further spread and harm the people. It would lead to a big health hazard and degrade moral values of society." A view similarly shared by the former Home Ministry.

The 11th December 2013 Judgement of the Supreme Court, upholding Section 377 was met with support from Religious Leaders. The Daily News and Analysis called it "The Univocal Unity of Religious Leaders in expressing their homophobic attitude. Usually divisive and almost always seen tearing down each other's Religious Beliefs, Leaders across sections came forward in decrying homosexuality and expressing their solidarity with the judgment."

The news added that Baba Ramdev India's well known Yoga Guru, after praying that Journalists not "Turn Homosexual" stated he could cure homosexuality through yoga and called it a bad addiction. The Vishwa Hindu Parishad's Vice-President, Om Prakash Singhal said, "This is a right decision, we welcome it". Homosexuality is against Indian Culture, against Nature and against Science. We are regressing, going back to when we were almost like animals. The SC had protected our Culture." The article states that Singhal further went to dismiss HIV/AIDS concerns within the LGBT community as, "It is understood that when you try to suppress one anomaly, there will be a break-out of a few more." (Traditionally, Indian culture, or at least Hinduism, has been more ambivalent about homosexuality than Singhal suggests).

Maulana Madni of the Jamiat Ulema echoes this in his interview to Journalists, stating that "Homosexuality is a Crime according to Scriptures and is Unnatural". People cannot consider themselves to be exclusive of a Society. In a Society, a family is made up of a Man and a Woman, "not a woman and a woman, or a man and a man." Rabbi Ezekiel Issac Malekar, Honorary Secretary of the Judah Hyam Synagogue, in upholding the Judgment was also quoted as saying "In Judaism, our Scriptures do not permit Homosexuality." Reverend Paul Swarup of the Cathedral Church of the Redemption in Delhi in stating his views on what he believes to be the unnaturalness of homosexuality, stated "Spiritually, human sexual relations are identified as those shared by a man and a woman. The Supreme Court's view is an endorsement of our Scriptures."

Opposition and Criticism:

Convictions are extremely rare, and in the last Twenty years there have been no convictions for homosexual relations in India. However, Human Rights Watch argues that the Law has been used to harass Transgenders and Homosexual all over in India. Government takes support steps to curb HIV/AIDS prevention efforts, create Health Awareness as well as creating awareness to sex workers, homosexuals, and other groups at risk of the disease. The People's Union for Civil Liberties has published two reports of the Rights violations faced by Sexual Minorities and, in particular, Transsexuals in India.

In 2006 it came under criticism from Indian Literary Society, most prominently from Vikram Seth. The Law subsequently came in for criticism from several Ministers, most prominently Anbumani Ramadoss and Oscar Fernandes. In 2008, a Judge of the Bombay High Court also called for the scrapping of the provision from the Law.

LEGAL ISSUES:

The Judgement of the High Court of Delhi on 2nd July 2009 declared portions of Section 377 as Unconstitutional Consensual Sex among adults Naz Foundation v. Govt. of NCT of Delhi. The movement to repeal Section 377 was initiated by AIDS Bhedbhav Virodhi Andolan in 1991. Their historic publication, "Less than Gay: A Citizen's Report," spelled out the problems with 377 and asked for its repeal. In 1996 an article in Economic and Political Weekly by Vimal Balasubrahmanyam titled, 'Gay Rights in India', chronicles spotlighted the issue. As the case prolonged over the years, it was revived in the next decade, led by the Naz Foundation (India) Trust, an activist group, which filed a Public Interest Litigation in the Delhi High Court in 2001, seeking Legalisation of homosexual intercourse between consenting adults.

The Naz Foundation worked with a Legal team to engage Senior Council's from the Lawyers Collective Group to appear on their behalf before the Court of Law. In 2003, the Delhi High Court refused to consider a petition regarding the legality of the Law, saying that the petitioners had no locus standi in the matter. Since nobody had been prosecuted in the recent past under this section it seemed unlikely that the section would be struck down as illegal by the Delhi High Court in the absence of a petitioner with standing. Naz Foundation appealed to the Supreme Court against the decision of the High Court to dismiss the petition on technical grounds. The Supreme Court decided that Naz Foundation had the standing to file a PIL in this case and sent the case back to the Delhi High Court to reconsider it on merit.

Subsequently, there was a significant intervention in the case by a Delhi based coalition of LGBT, women's and human rights activists called 'Voices against 377', which supported the demand to 'Struck Down' section 377 to exclude adult consensual sex from within its purview. The Indian Author Rajesh Talwar wrote a satirical play on Section 377 titled 'Inside Gay Land' where a young Lawyer visits a planet where homosexuality is the norm and heterosexuality is criminalised.

In May 2008, the case came up for hearing in the Delhi High Court, but the Government was undecided on its position, with The Ministry of Home Affairs maintaining a contradictory position to that of The Ministry of Health on the issue of enforcement of Section 377 with respect to homosexuality. On 7 November 2008, the seven-year-old petition finished hearings. The Indian Health Ministry supported this petition, while the Home Ministry opposed such a move. On 12 June 2009, India's new law minister Veerappa Moily agreed that Section 377 might be outdated.

Eventually, in a Historic Judgement delivered on 2nd July 2009, Delhi High Court overturned the 150 year old section, Legalising consensual homosexual activities between adults. The essence of the section goes against the Fundamental Right of Human Citizens, stated the High Court while striking it down. In a 105 page Judgement, a Bench of Chief Justice Ajit Prakash Shah and Justice S Muralidhar said that if not amended, section 377 of the IPC would violate Article 14 of the Indian Constitution, which states that, "every citizen has equal opportunity of life and is equal before law". The Two Judge Bench went on to hold that:

"There is one Constitutional Tenet that can be said to be underlying theme of the Indian Constitution; it is that of 'inclusiveness'. This Court believes that an Indian Constitution respects and reflects this value deeply ingrained in Indian Society, nurtured over several generations. The inclusiveness that Indian Society Traditionally displayed, literally in every aspect of life, is manifest in recognising a role in Society for everyone. Those perceived by the majority as "deviants" or 'different' are not on that score excluded or ostracised."

"Where society can display inclusiveness and understanding, such persons can be assured of a life of dignity and non-discrimination. This was the 'Spirit behind the Resolution' of which Nehru spoke so passionately. In our view, Indian Constitutional Law does not permit the Statutory Criminal Law to be held captive by the popular misconceptions of who the LGBT's are. It cannot be forgotten that discrimination is antithesis of equality and that it is the recognition of equality which will foster the dignity of every individual."

The Court stated that the judgement would hold until Parliament chose to amend the Law. However, the Judgement keeps intact the provisions of Section 377 insofar as it applies to non-consensual non-vaginal intercourse and intercourse with minors.

A Batch of Appeals was filed with the Supreme Court, challenging the Delhi High Court judgment. On 27 March 2012, the Supreme Court reserved verdict on these. After initially opposing the judgment, the Attorney General G. E. Vahanvati decided not to file any appeal against the Delhi High Court's verdict, stating, "insofar as [Section 377 of the Indian Penal Code] Criminalises consensual sexual acts of adults in private [before it was struck down by the High Court] was imposed upon Indian society due to the moral views of the British rulers."

2013 Judgement:

The Judgement of the Supreme Court of India of 11th December 2013 did not find enough reason for portions of section 377 to be declared as unconstitutional and overturned the Delhi High Court judgement. On 11th December 2013, the Supreme Court of India ruled Homosexuality to be a Criminal offence setting aside the 2009 judgement given by the Delhi High Court. In its Judgment the Supreme Court Bench of Justices G. S. Singhvi and S. J. Mukhopadhaya stated that, "In view of the above discussion, we hold that Section 377 IPC does not suffer from the vice of unconstitutionality and the declaration made by the Division Bench of the High court is Legally Unsustainable."

The Bench of Justices G. S. Singhvi and S. J. Mukhopadhaya however noted that the Parliaments should debate and decide on the matter. A bench of justices upheld the constitutional validity of Section 377 of Indian Penal Code that makes anal sex a punishable offense. The central government has filed a review petition on 21 December 2013. In its review petition the Centre said: "The judgment suffers from errors apparent on the face of the record, and is contrary to well-

established principles of law laid down by the apex Court enunciating the width and ambit of Fundamental Rights under Articles 14, 15 and 21 of the Constitution." The IPC, when enacted in 1860, was justified; but with the passage of time it had become arbitrary and unreasonable, the petition added. Naz Foundation has also filed a review petition against the Supreme Court order on Section 377. On January 28, 2014 Supreme Court dismissed the review Petition filed by Central Government, NGO Naz Foundation and several others, against its December 11 verdict on Section 377 of IPC.

Responses:

Days Later and influenced by the Devyani Khobragade incident, former Finance Minister Yashwant Sinha called for the arrest of same sex companions of US diplomats, citing the Supreme Court of India's recent upholding of Section 377 of the Indian Penal Code. The decriminalisation of gay sex comes under fire from World leaders. The United Nations human rights Chief Navi Pillay voiced her disappointment at the re-criminalisation of consensual same sex relationships in India, calling it "a significant step backwards" for the Country. In the wake of Indian Supreme Court's ruling that gay sex is illegal. UN Chief Ban Ki-Moon stressed on the need for equality and opposed any discrimination against Lesbians, Gays and Bisexuals. Soon after the judgement, Sonia Gandhi, President of the then ruling Congress Party, asked Parliament to do away with section 377. Congress Party Vice President Rahul Gandhi also wanted section 377 to go and supported Gay Rights. In July 2014, Minister of State for Home Kiren Rijju in the BJP led Central Government told the Lok Sabha in a written reply that a decision regarding Section 377 of IPC can be taken only after pronouncement of judgement by the Supreme Court. However, on 13 January 2015, BJP spokesperson Shaina NC, appearing on NDTV, stated, "We [BJP] are for decriminalising Homosexuality. That is the progressive way forward."

Protest on Social Media:

Actor Imran Khan took action in order to disabuse homophobic people from their mistaken notions of homosexuality in a satire video. Many Mumbai film industry personalities such as Aamir Khan, Celina Jaitley, Twinkle Khanna, John Abraham, Karan Johar, Farhan Akhtar, Riteish Deshmukh, Shruti Haasan, Sonam Kapoor, Anushka Sharma, Amitabh Bachchan, commented against the ruling. Many other well known persons, including Nobel Laureate Amartya Sen, and writer Vikram Seth, protested against the Supreme Court Ruling. The Wrong Burrow, a short story satirising the Judgment of the Supreme Court, was published in the 25th January 2015 edition of an Indian Express.

The Politics of Gay Rights in India: Legalising Homosexuality may not be as much of a Political stretch as it appears.

When it comes to Lesbians, Gays, Bisexual and Transgendered people, in the last week of June 2015 the U.S. Supreme Court ruling Legalising Same-sex Marriage highlights the gulf between India and much of the Democratic World. More than 150 years after it was introduced, a Colonial era Indian Law continues to criminalize "Carnal intercourse against the order of nature with any man, woman or animal." This effectively makes homosexuality illegal in India, aligning the country closer to Pakistan and Egypt than with the liberal democracies in Asia and the West.

In 2009, the Delhi High Court decriminalized all consensual sex between adults in private, raising hopes among activists that India was finally outgrowing an archaic law restricting individual freedom. But two years ago the Supreme Court overturned the decision and tossed the fate of Section 377, the part of the Indian penal code that criminalizes gay sex, back to Parliament.

Judicial restraint not practiced nearly enough by India's hyperactive Court's is not the problem. The principle that Social Conventions are better challenged by elected Legislators than by unelected Judges is sound. Unfortunately, India's politicians show little inclination to revisit the issue. Liberals within the ruling Bharatiya Janata Party who oppose Section 377 remain a small minority. Those who call for the scrapping of the antiquated Law are quickly drowned out by the likes of 75 year old Subramanian Swamy, who calls homosexuality "a Genetic Disorder" and publicly likens gays to "Handicapped Persons."

CONCLUSION:

Over the past Two decades Indian Society has rapidly become more accepting regarding Sexuality. Many of India's major cities hold pride parades. Gay characters have begun to appear in mainstream Bollywood films and the occasional television commercial, and discussions of gay rights on talk shows are commonplace enough to barely raise an eyebrow. India's English Language Newspapers greeted the U.S. Supreme Court ruling with a flurry of opt ends and editorials demanding an end to Section 377.

Opposition to Homosexuality in India may appear to remain relatively broad, but it doesn't run particularly deep. Nobody is likely to lose an election because they revoked a law mostly used by crooked cops to shake down gays who lack connections. According to the Pew Research Center, about 67% of Indians regard homosexuality as morally unacceptable. But this is lower than the 82% of people who feel similarly in the Six Sub-Saharan African countries surveyed, and the 89% who feel that way in six Muslim-majority Middle Eastern Countries.

Legalizing Homosexuality in India may not be as much of a Political stretch as it appears to be. On the other hand, any Political party interested in appealing to a cohort of idealistic and well educated sometimes including thousands of Indians studying abroad, won't be hurt by striking the right note on what many people see as a matter of basic Human Rights. This is something that the three year old Aam Aadmi Party (Common Man Party), which won a dramatic State Election Victory in Delhi in February 2015, appears to have figured the issue in a different way.

Though some Conservative Hindus, such as the yoga guru Baba Ramdev, remain opposed to homosexuality, antigay positions lack deep Scriptural Sanction in Hinduism. As the writer Dev Dutt Pattanaik points out, "Ancient Indian Scriptures frowned upon homosexuality but carried no threats of Eternal Damnation." The kind of organized opposition to Gay rights mounted by mosques in the Middle East and sections of the Church in Africa does not exist in India. This may explain why Section 377 is rarely invoked. But one estimate still stands, that prosecutors have used it only about 200 times since it came into effect in 1861.

Prime Minister Narendra Modi often says that, "The Government has no business being in Business. It has even less business being in the Bedroom". It's time for India to junk the awful Section 377 and keep up with changes in its own Society.

Mr. Dhume said that, "Of all the cruelties that we as human beings can visit on one another, one of the most cruel is to say: "You shall not Love or make love with the person you Love, not because of excessive youth or because of unwillingness but, because he or she comes from a different religion, a different caste, the same village, the same gender. You may say you Love each other, that you are happy with each other, that you give each other solace and courage and delight. But your Love disgusts me. It runs counter to Custom, it is an offence in Law, it is against the order of nature, it brings dishonour to our family, it will dilute our blood, and it will bring about Kaliyuga. It will corrupt everyone around you. It is an abomination in the sight of the Lord, "This must be forbidden".

The above views are mere opinions of an Individual and that whether it should be accepted or not is also left to an Individuals perspective on the issue and as to Law the Supreme Court's decision stands final as of now. Any further change need to be awaited with due patience.

BOOK REFERENCE:

1. Caramagno, T. C. (2002). *Irreconcilable differences?: Intellectual stalemate in the gay rights debate*. ABC-CLIO.
2. Craig, S. C., Martinez, M. D., Kane, J. G., & Gainous, J. (2005). Core values, value conflict, and citizens' ambivalence about gay rights. *Political Research Quarterly*, 58(1), 5-17.
3. Eaklor, V. L. (2008). "Queer America: A GLBT History of the 20th Century", Greenwood Press.
4. Martha, C. (2010). Nussbaum, "From Disgust to Humanity: Sexual Orientation and Constitutional Law", Oxford University Press.
5. Mucciaroni, G. (2008). *Same sex, different politics: Success and failure in the struggles over gay rights*. University of Chicago Press.
6. Murdoch, J. (2001). "Courting Justice: Gay Men and Lesbians v. the Supreme Court", Deb Price Basic Books.
7. Pierceson, J. T. (2005). "Courts, Liberalism, and Rights: Gay Law and Politics in the United States and Canada", University Press.
8. Raeburn, N. C. (2004). *Changing corporate America from inside out: Lesbian and gay workplace rights* (Vol. 20). U of Minnesota Press.

PEER-REVIEWED PERIODICAL

9. Adler, L. (2010). Appending Transgender Equal Rights to Gay, Lesbian and Bisexual Equal Rights. *Colum. J. Gender & L.*, 19, 595.
10. Attorney, D. C., Doskow, E., Attorney & Mediator., & Attorney, F. H. (2014, June). "A Legal Guide for Lesbian & Gay Couples Protect and exercise your rights", 17th Edition.
11. Brammer, J. B. (2006). Religious groups and the gay rights movement: recognizing common ground. *BYU L. Rev.*, 995.
12. Dekker, W. S. M. (2004). "Handbook of Gay, Lesbian, Bisexual and Transgender Administration and Policy".
13. Haider-Markel, D. P. (2010). *Out and running: Gay and lesbian candidates, elections, and policy representation*. Georgetown University Press.
14. IH, J. H. W. (2006). Gay Rights And American Constitutionalism: What's A Constitution For?. *DUKE LJ.*, 56, 545-568.
15. Mohr, R. D., & Mohr, R. (2005). *The long arc of justice: Lesbian and gay marriage, equality, and rights*. Columbia University Press.