

Experts Speak

THE RISE OF ‘THE OTHER’: BEYOND GENDER STEREOTYPE

Concept Note

Earlier this year, a lesbian couple jumped to their death. In their notes left behind, they are reported to have written: “We have left this world to live with each other. The world did not allow us to stay together.” In September 2018, the Supreme Court of India gave a verdict ruling that section 377 is unconstitutional essentially legalising homosexuality in India. The judgment makes it possible that people may no longer see fear in the future, but hope.

There are no official demographics for the LGBTQ (lesbian, gay, bisexual, transgender and queer) population in India, but reports from 2012 suggest the government pegged that around 2.5 million people in India were homosexual. These figures are only based on individuals who have spoken about belonging to the community to the Ministry of Health. The actual statistics may be vastly different since many have so far feared discrimination and social stigma.



“Section 377 rests on deep-rooted gender stereotypes,” Justice DY Chandrachud said, adding that Bennett Capers’ binary gender system was based on ‘hetero-sexism’ defined as the ‘institutionalised valorization. The Supreme Court, while partially striking down Section 377 of the IPC, has said that the law was based on gender stereotypes that reinforce sexism and hence the effort to end discrimination against homosexuals should be seen as a part of the effort to end inequality of the sexes. ”The sexual orientation of an individual is natural and discrimination on the basis of sexual orientation is a violation of freedom of expression. The LGBT Community has the same rights as any ordinary citizen. Criminalizing gay sex is irrational and indefensible. The provision of IPC had resulted in collateral effect in that consensual sex between LGBTQ people is criminalized and is violative of Article 14.”

“The Supreme Court’s decision to decriminalize homosexual behavior is the first step towards providing equal status and rights to the LGBT community in India. It further opens doors for the community to claim their right to marry, adopt and have a family. As the judgment only dealt with the criminalisation aspect of Section 377, it can be expected that the laws on same-sex marriage, adoption and inheritance of LGBT community may soon follow,” says Rohan Mahajan, founder of LawRato.com.

The LGBTQ can chant slogans calling for *azaadi* (freedom) as much as they want, but we wonder whether it will make even a dent on the discrimination, oppression and humiliation based on socio-economic conditions, caste, creed or faith. Will it ameliorate the cries of pain of those of the community who haven’t been able to keep pace, who have been left behind? We could change the law, will we be able to change the society? Remember, the LGBT movement talks of a tomorrow free from all forms of collective oppression and kindles the dream of an equal society. How much will the court’s judgment help in realising that dream?

In essence, the passage of this verdict decriminalises homosexuality and rules that consensual adult gay sex is not a crime. The lives of the LGBTQ community may drastically change in a variety of ways. The expert speak section aims to look into the psycho-socio-economic implications that the LGBT community may face with respect to Article 377.

Liberal Studies journal invited three eminent experts in this domain to ponder over the multifarious gender-related issues confronted by women in the contemporary times. **Gopa Bhardwaj** examines the denial and negative policing of same-sex intimacy in our society from socio-religious-legal perspective. She rightly identifies the dearth of mental health intervention to deal with

homosexuality along with legal and social awareness. **Shachi Patel**, while pointing to the brighter side, thinks that today's era, as some people have started identifying themselves as neither gender, or both (neither 'he', nor 'she' but 'they' or 'ze') is the dawn of a new era which can be marked as the era rise of 'the other'. She analyzes how India has taken the first step towards becoming socially liberal; but it must take the next step to legalize all issues involved. On the other hand, as an extension of this debate, social activist **Harsh Kinger** who has devoted several years for the uplift of *Adivasi* community, observes both, at macro and micro level, how the *Adivasi* women, who have been central in the local economy as food producers and knowledge-bearers, are being marginalized with the introduction of modern agriculture and forestry. Interestingly, their plights do not find any space in the contemporary feminist movements in India.