

## “The Future of Queer Movement in India”

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### **Abstract**

*This research papers deals with the scope and the importance of the Indian queer movement. I have bifurcated this research paper into different subtopics. The first subtopic deals with the socio cultural history of the queer movement in India. The reason that I laid so much emphasis on discussing the socio cultural history of the queers in India is just because India is one of those countries where the culture and history plays a very important role in a normal person’s life. Hence the idea behind linking the queer movement with the socio cultural history is to show that Queerness or having same sex desires is not something which was unknown to India and it is not something which Indians are trying to adopt from the west.*

*The second sub topic that I dealt with in this research paper is, how the queer movement is relevant in contemporary India? Here I went on to discuss how various scholars and writers came up to discuss the sensitive issue like that of queer movement. I have also discussed some instances which lead to the development of queer movement in India.*

*At last I discussed about the central issues and the legal aspect of the Indian queer movement. In which I went on to discuss how section 377 of the Indian Penal Code is the biggest hurdle in the success of the Queer movement. This part of the research paper deals with the two of the biggest judgments over the legality of section 377. So the scope of this research paper is to determine what the future of the Indian queer movement is going to be and what all new efforts can be made by the queer community to get the support of the non queer people so that they gain the popular support of the Indian community and it all boils down to, how to make the Indian community acquainted with the idea of homosexuality so that it won’t remain something that’s unknown to the upcoming generation.*

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## I. Introduction

The term “queer” is an umbrella term for sexual and gender minorities who are not heterosexual and/or not cisgender. The Indian Queer movement is the struggle for legalizing the relations b/w the fellow queers, the relation which according to the Indian society is immoral and according to the law of the land queer relation is against the law of the nature. The queer movement is not something that is very new it has its links which delve deep in the pre-colonial and ancient Indian history.

## II. Objectives

The research questions or the objectives of the paper that I am going to examine are

- Which scholars and activists influence the queer ideologies?
- The socio historical context behind the queer movement in India.
- Contemporary relevance of the Indian queer movement.
- Legal Stand over the queer relation in India and the near future of queer movement in India.

## III. History of the Indian Queer Movement

If we delve deep in the history to know from where did the Indian queer movement started. Then we have to look for our ancient Indian history, Temples constructed in Puri and Tanjore between the 6th and 14th centuries had some pretty explicit depictions of queer couples. As mythologist Devdutt Pattanaik writes, “*One invariably finds erotic images including those that modern law deems unnatural and society considers obscene.*”

In the modern era the first step was taken in the year 1977 with the publication of Shakuntala Devi’s book “*The world of Homosexuals*” It can be said to have inaugurated social-reformist hemophiliac Indian writing in English. She concluded her book by calling not only for the decriminalization of homosexuality in India, but also its ‘full and complete acceptance’ by the heterosexual population so that the Indian homosexual may lead a dignified and secure life.<sup>2</sup>

After this a lot of writers and scholars devoted their time in writing in favor of the Indian queer movement. Since then a lot of progress has been made in this area. Optimistic LGBT

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<sup>2</sup> Shakuntala Devi, *The World of Homosexuals*, Delhi: Vikas, 1977, p. 155

advocates and marginal groups look into changing, and seemingly liberalizing, political regimes and expanding civil society as sites for possible leverage or gains, while pride marches, lesbian and gay cultural events, and booming queer Internet communities corroborate the impression that queer India may be much more than a concept.<sup>3</sup>

#### **IV. Contemporary Relevance of Queer Movement in India**

The shared sense of common identity, and the emergence of Increasingly visible communities that openly name themselves as gay, Lesbian, bisexual, kothi, hijra and transgendered, has in effect become The foundation of a young queer movement.

—*Arvind Narrain and Gautam Bhan, Because I Have A Voice: Queer Politics in India*

The reason that one of the very objective of my research paper is to know “what is the influence of the writers and scholars” because “Indian scholars who wrote on the topic of queer identities in India are also heavily involved in queer political organizing in the major urban centers, their discussions are heavily influential in shaping queer ideologies and movements throughout the country. Their influence also extends beyond queer communities to affect general socio-cultural knowledge and understanding about queer people in Indian society; mainly through media exposure of political movements and as information about queer identities spreads through queer blogs, magazines, meetings and books”<sup>4</sup>

The queer movement in India is both a political movement that focuses on the rights of lesbian, bisexual, gay, transgendered, *kothi* and *hijra* individuals, as well as an ideological movement that challenges the larger structures of *heteropatriarchy*.<sup>5</sup> This is one of the most important reasons that even after such a long time queer movement is still very effective and is very relevant in contemporary India. Various Indian and foreign scholars and writers wrote

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<sup>3</sup> Josephine Ho, *Is Global Governance Bad For East Asian Queers?*, 14 (4) GLQ 457-479 (2008)

<sup>4</sup> Althen, Kaitlin. *Queer ideology, political practice, and the Indian queer movement: a discourse on the inclusion and exclusion of gender variant identities within contemporary Indian queer politics*. Diss. 2011.

<sup>5</sup> Id.

about the relevance of the queer movement in India. Arvind Narrain and Gautam Bhan, both leading Indian queer scholar-activists, express, the term *queer*, although borrowed from English, is strongly rooted in Indian conceptions of non-normative gender and sexual identities ; a point well documented by Ruth Vanita and Saleem Kidwai.<sup>6</sup> According to research by the Gay and Lesbian Vaishnava Association (GALVA), it was around 3102 B.C. (during the Vedic Age) that homosexuality or non-normative sexual identity was recognised as “*tritiya prakriti*”, or the third nature.<sup>7</sup>

One of the most important reason behind the Indian queer movement being very influential in the contemporary Indian society is because of it's clash with the Indian legal system. There is also a moral backlash whenever it comes to the queer movement, as the Indian society still considers same sex relations or queer relations as blasphemous and sinful. It is ironical how India being a country where everybody feels proud about the historical and cultural wealth of the country and on the same side the Indian society condemns the same sex relations knowing that in ancient times queer relation were not looked down upon in India as it is being now.

“Veteran journalist Ashok Kavi Row penned what is arguably the first coming out story of modern India. His narrative, explaining for the first time the meaning of the word “gay,” was published in the February issue of a magazine called Savvy”<sup>8</sup> In 1990 he started India’s first gay magazine “Bombay Dost”

In her book “Queer Activism in India,” anthropologist Naisargi N. Dave notes that during an international conference on AIDS in 1992 in New Delhi, 200 delegates staged a walk-out “*to protest the government’s stance on homosexuality.*” In 1996 a movie named “Fire” by Deepa Mehta was released the plot of the movie was based on the forbidden sexual relations between the two protagonists of the movie “Radha” and “Sita” conveniently choosing these two names which holds a very important and sacred role in the Indian mythology.

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<sup>6</sup> Id.

<sup>7</sup> Youth Ki awaz, *How many of these 93 things do you know about the India’s LGBTQ movement?* March 8, 2018 available at - <https://www.youthkiawaaz.com/2017/07/lgbtq-movement-in-india-91-facts/> Last visited March 8, 2018

<sup>8</sup> Youth Ki Awaaz, 9 Moments that shaped the queer movement in India. March 18, 2018 available at- <https://www.youthkiawaaz.com/2016/11/lgbtq-rights-movement-in-india/> m Last Visited- March 10, 2018

“Even if the Indian queer community was following a standard set by its Western counterparts, the first LGBT Pride March held in 1999 in Calcutta. It was a tiny group, no more than 15 people, but it was undeniably a moment of arrival for a vibrantly visible queer politics in the country. The very act of walking through public streets, and claiming one’s queerness was enough to make people pay attention.”<sup>9</sup> In 2012 around 1500 people took part in the Pride march.

Now these pride marches are so famous and is now able to garner great popular support of the society. One of the best example is the recently held pride walk in Kolkata where “Hundreds of people along with the members of the LGBTQIA communities participated in the 16th Kolkata Rainbow Pride Walk 2017 on Sunday, December 10. People from all across the city joined in demanding revocation of Section 377, implementation of the NALSA judgement and withdrawal of the Transgender Persons (Protection of Rights) Bill, 2016. The march was preceded by a protest as members of the community observed the Transgender Day of Rage against the proposed Transgender Persons Bill, 2016.”<sup>10</sup>

One sector where the Indian Queer movement is flourishing and has made a huge development is that of the Queer blogging community. In this era where a normal persons devotes more than 4 hours surfing the Internet and where there are social networking websites like Facebook and Twitter which serves as the best platform for the Indian queer community to express their feelings and their grievances to the Indian society and to the world at large. Internet proved to be the biggest boon to the queer community. “Queering and trans gendering practices have been visible across the Internet since the time of multiuser domains (MUDs), MUD object oriented domains (MOOs), e-mail lists, and Web bulletins.”<sup>11</sup>

#### V. Central Issues and Legal aspect of the Indian Queer movement.

“The biggest campaign of the queer movement has been the legal one, involving the reading down of Section 377 of the Indian Penal Code. The first question to be asked here is why this

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<sup>9</sup> Id.

<sup>10</sup> The Indian Express, Kolkata RInbow Pride Walk: Hundreds march for LGBTQIA rights. March 8, 2018 available at- <http://indianexpress.com/photos/lifestyle-gallery/16th-kolkata-rainbow-pride-walk-2017-hundreds-march-for-lgbtqiqa-rights-4976902/> Last Visited- March 8,2018.

<sup>11</sup> Mitra, R. and Gajjala, R., 2008. Queer blogging in Indian digital diasporas: A dialogic encounter. *Journal of Communication Inquiry*, 32(4), pp.400-423.

privileging of the law? Why is the legal terrain the most important terrain for a movement which claims to concern itself with the most marginalised populations, with populations that defy all categories and identity formations”?<sup>12</sup>

The section 377 states that “Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to 10 years, and shall also be liable to fine.”<sup>13</sup> “Is the criminal proscription under Section 377 of the Indian Penal Code, 1860 confined to certain sexual acts or homo sexuality in general? This question is inspired by the dismissal of a petition challenging the constitutionality of this the anti-sodomy provision of the Indian Penal Code, 1860 (hereafter S 377). The challenge to the law was brought by Naz India, an NGO working on health-related issues of men who have sex with men (MSM)”<sup>14</sup>

One of the major successes of the movement, and one of the foci of my research, is the Queer community’s collective efforts to overturn Section 377 of the Indian Penal Code.<sup>15</sup> This law was first introduced under colonial British rule and was primarily used by the Indian government to criminally punish same-sex sexual relations.<sup>16</sup>

“The fight against the obsolete, vaguely-worded, colonial-era anti-sodomy law that criminalizes sexual acts “against the order of nature” began way back in 2001. In 2009, the Delhi High Court struck down Section 377. The petition was taken up to the Supreme Court, in the hopes of scrapping the law nationwide. But this judgment didn’t last very long and in a severe blow to the community, the apex court overturned the Delhi verdict in 2013, effectively re-criminalising homosexuality. This is the very reason that the queer movement

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<sup>12</sup> Tellis, A., 2012. Disrupting the dinner table: re-thinking the ‘queer movement’ in contemporary India. *Jindal Global Law Review*, 4(1), pp.142-56.

<sup>13</sup> The Indian Express, Supreme court to review section 377: Here’s what you need to know. March 8, 2018 available at- <http://indianexpress.com/article/india/supreme-court-to-review-section-377-homosexuality-gay-lesbians-all-your-questions-answered-5016319/> Last visited- March 10, 2018

<sup>14</sup> Id

<sup>15</sup> Althen, Kaitlin. *Queer ideology, political practice, and the Indian queer movement: a discourse on the inclusion and exclusion of gender variant identities within contemporary Indian queer politics*. Diss. 2011.

<sup>16</sup> Id

is very effective in contemporary India and hence every new decision on Section 377 has spurred the community into action.”<sup>17</sup>

“What The proscription of "carnal intercourse against the order of nature" under Section 377 of the Indian Penal Code, 1860 makes criminals out of homosexuals. Section 377 is not merely a law about anal sex alone, but applies to homosexuality in general. The lack of a consent based distinction in the offence has made homosexual sex synonymous to rape and equated homosexuality with sexual perversity. Section 377 is the biggest affront to the dignity and humanity of a substantial minority of Indian citizens.”<sup>18</sup>

“Justice GS Singhvi and Justice S J Mukhopadhyaya, who pronounced the verdict of the 2013 judgment, justified its order by saying, “The High Court overlooked that a minuscule fraction of the country’s population constitute lesbians, gays, bisexuals or transgenders and in last more than 150 years, less than 200 persons have been prosecuted for committing offence under Section 377.”<sup>19</sup> The lack of a consent-based distinction in the offence has made homosexual sex synonymous to rape and equated homosexuality with sexual perversity. This was one of the biggest reason that the decision of the Delhi high court was overturned by the Supreme Court and still the queer relations are considered to be against the law of the nature.

While the government point-blank refuses to entertain the idea of homosexuality in India, various recent attempts to mainstream the transgender community have been made. The Transgender Rights Bill of 2016 was a watershed moment in LGBTQ rights, for bringing the issue of trans self-determination into public discourse. But it was also a massive disappointment, built on a largely incomplete understanding of self-determination. And this has only compelled the trans community to fight harder.<sup>20</sup>

<sup>17</sup> Youth Ki awaz, *How many of these 93 things do you know about the India's LGBTQ movement?* March 8, 2018 available at - <https://www.youthkiawaaz.com/2016/11/lgbtq-rights-movement-in-india/> Last Visited-March 10, 2018

<sup>18</sup> Gupta, Alok. “Section 377 and the Dignity of Indian Homosexuals.” *Economic and Political Weekly*, vol. 41, no. 46, 2006, pp. 4815–4823. JSTOR, JSTOR, www.jstor.org/stable/4418926.

<sup>19</sup> The Indian Express, Supreme Court to review Section 377: Here’s what you need to know. Available at- <http://indianexpress.com/article/india/supreme-court-to-review-section-377-homosexuality-gay-lesbians-all-your-questions-answered-5016319/> Last Visited- March 19, 2018

<sup>20</sup> Youth Ki awaz, *How many of these 93 things do you know about the India's LGBTQ movement?* March 8, 2018 available at - <https://www.youthkiawaaz.com/2016/11/lgbtq-rights-movement-in-india/> Last Visited-March 10, 2018

These shifts in popular perceptions, claims to self-hood, and significant legal advancements or regressions are all indicative of an ever-growing, queer politics unique to India. And while not all of these are cause for celebration, they create a sense of lineage, a community, and a collective history, and that's something to be proud of.<sup>21</sup>

So analyzing the whole situation we can construe one thing that there the fate of the Indian queer movement has been through a lot of twist and turns and as the Supreme court overturned the decision of the Delhi high court it was a severe blow to the hopes of the Indian queer community as well as the queer supporters. "On January 8, 2018 the Supreme Court decided to revisit its judgment. So there's a renewed hope among the members of the LGBT community."

## **VI. Conclusion**

While the repercussions of the homonationalism or the Queer movement in India hasn't been as catastrophic as it has been in the West, given the history and growing presence of violence against the minorities, we should well to be cautious against any such turn that the queer movement might take. The possibility for that is quite high as the movement is not immune to racist, casteist, sexist or religious prejudice.<sup>22</sup>

So now keeping this in mind what can be construed is that the Queer movement in India has reached a limit where now it can't be seen to be as a movement of a minority who have different sexual desires. It's a widespread movement which has the support of not only the queer community but also of the rationale non queer people of the society.

If we look for the instances which led to the development of the Indian queer movement then we'll get to know that the Indian queer movement is a movement which is very widespread and also gathers a lot of attention from the people. Quite a number of ways have been tried by the scholars and the social activists to make a mark on the society and to get the popular support of the people. But if we inspect closely these works were not just for making a mark but it was more of a way in which the queer community of India gets to express themselves

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<sup>21</sup> Id.

<sup>22</sup> Infochange, Homonationalism: Queer tales of queer prides.  
Availbale at- <http://infochangeindia.org/governance/373-human-rights/rights-and-resistance/9222-homonationalism-queer-tales-of-queer-prides> Last visited March 15,2018

and also the very purpose of these efforts was to make the Indian society acquainted with idea of homosexuality which is kind of a Martian idea for a quite a number of people in our Indian community.

The queer movement has been heavily supported by the non queers, this can be easily construed by the inclusion of so many non queers in the pride marches as well as the support that the queer community gets on the internet. But it's not that there's no hurdles now in the way of the queer movement, still the Indian society believes that queer relations or having sexual desires for the same sex is something which is against "the law of the nature" Queer relations are still considered to be blasphemous and sinful.

There's always a part of the Indian society which considers queer relations to be against the religious faith and against the will of the god. Which is a very big thing considering a country like India where religion holds a very important place in everyone's daily life. So what it all boils down to is that if there has to be a future for the Queers in India then the Law needs to support them, until and unless the court comes up with a law which accepts the queer relations there's a very little hope that the queer movement will survive in this country. Now for that the very first thing that is needed to be done is the scrapping up of section 377 of the Indian Penal Code. This can be argued that even after the law decriminalizes queer relations what is the surety that it marks an end to the hardships of the queer community, to be honest it won't because India being a country with all its complexities won't be able to accept the sudden transition but what can be done is that it can be a start for the long awaited positive end of the queer movement.

Till then the queer movements need the support of the rationale non queer public which believes in the rights of the queer community. The Indian queer movement is in dire need of people who can fight for the rights of the queer and give them the support which the queer community has a longing for. It has begun and now it needs to go with full pace so that the mentality of the Indian community changes and so that when the next generation comes Queer relations will no more be considered as something which the Indian community frowns upon.

*"My queerness is not a vice, is not deliberate, and harms no one."*

-Natalie Clifford Barney