

## **Just the first step: LGBTIQ+ communities welcome the Supreme Court verdict of 6-9-18**

As members and allies of the lesbian, gay, bi, trans, intersex and other queer (LGBTIQ+) communities, we welcome the unanimous verdict of the Supreme Court of India that has decriminalized consensual relationships among adults of any gender, effectively reinstating the Delhi High Court's verdict in 2009.

For too long, Section 377 has remained an obstacle for the LGBTIQ+ communities, used as a tool for blackmail and harassment, as an affront to dignity, and treating the community as second class citizens. Even though it was originally framed to cover all sexual acts of the non-peno vaginal variety, in practice in mostly targeted lesbian, gay, bi and transgender persons. Further, the 2013 rape law amendment effectively decriminalised consensual oral and anal sex between men and women, leaving 377 as applicable primarily to the queer and transgender communities.

We, as a community, are deeply moved by Justice Indu Malhotra's statement: "History owes an apology to those people persecuted by #Section377 for the social ostracism caused by the section". It is our hope that - with Section 377 out of the way - we can pursue our struggle for ending discrimination and violence, and advancing civil rights and inclusion for all LGBTIQ+ citizens.

At this juncture we must not forget that - of the diverse groups that make up the LGBTIQ+ spectrum - working class transgender women and same-gender attracted men bear the brunt of violence on the streets, and decriminalization of Section 377 will not render them immune to being rounded up under "public nuisance", "immoral trafficking", and other laws. Also, lesbian, bisexual, and pansexual women and trans men continue to face family violence, house arrest, corrective rape, and charges of kidnapping and abduction filed by parents against partners of their daughters. These need to be addressed on a war footing.

As noted by trans activists Akkai Padmashali and others in their current constitutional

challenge, Section 377 also posed an obstacle to realising the full benefits of the 2014 NALSA verdict on transgender rights. We hope that the current verdict, in reiterating a the core principle of self-identity present in the NALSA verdict, will enable transgender persons change name and gender without being subjected to humiliating medical exams and being asked for proof of surgery.

As stated by Justice Chandrachud, 377 is the first step. Our work must go on... to make sure that families embrace their LGBTIQ+ and gender-nonconforming children fully and not regard them with shame and embarrassment; that gender-nonconforming children do not get bullied in school; to enable everyone complete education and gain employment; to ensure workplaces are inclusive and safe; to ensure the healthcare establishment no longer regards community members as mentally ill, prevent unethical and unscientific “conversion therapy” attempts by unscrupulous medical practitioners and quacks; to recognize same-gender relationships and those of transgender persons on par with the cisman-ciswoman relationships.

Laws such as the Protection of Women Against Domestic Violence need to address family violence faced by lesbian, bisexual and transgender women forced into marriages; the Juvenile Justice Act needs to be amended to include gender-nonconforming children in need of care and protection. Full appreciation of the verdict and its implications have to flow through all ranks of law and law enforcement, as the Bench has noted.

With Section 377 out of the way, we anticipate being able to work on these issues with less systemic resistance.