

We, teachers, researchers and academics from all over India, welcome the Delhi High Court judgement reading down Section 377 of the Indian Penal Code to decriminalize consensual sex among adults in private. The judgement held that “Section 377 IPC, insofar as it criminalises consensual sexual acts of adults in private, is violative of Articles 21, 14 and 15 of the Constitution.” In other words, the court believes that continuing to criminalize citizens on the grounds of their sexual preference violates the Fundamental Rights to life and personal liberty, to equality, and the right not to be discriminated against on non-relevant grounds.

We in the academic community have had a hitherto silent engagement with the pain, harassment, fear and discrimination that comes with being non-heterosexual/queer. We know students, colleagues, friends and family members who are queer, or may be queer ourselves.

But sexual preference and identification is only one part of people’s identities. We believe that a modern democracy must respect diversity regardless of whether consensus exists in society on the desirability of each such practice, provided such practices respect the personhood of others. There need not be consensus in society, for instance, on either meat-eating or vegetarianism as desirable, provided both groups are free to follow their dietary preference. Similarly if “religious leaders” believe that homosexuality is not sanctioned by the scriptures, they have the right to propagate their views, provided that these views are not taken as having the final sanction on the issue for society as a whole.

At the same time, religious identity is as important for many homosexuals as for heterosexuals. Homosexual people who are practicing Hindus, Muslims, Sikhs and Christians have fully participated in this challenge and supported the decision.

We state emphatically that Section 377 as it exists is anti-democratic, and reiterate our support for the Delhi High Court judgement.

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