

Karnataka Police Act Amendment's Criminalisation of Gender Minorities

30 June, 2011

BANGALORE, KARNATAKA — It is exactly two years since the Delhi High Court, in a historic judgement, decriminalized homosexuality, and recognised the constitutional right to equality, liberty, dignity and privacy of sexual minorities in India. We would like to use this opportunity to celebrate this landmark decision, and at the same time highlight recent developments related to gender minorities in the state.

The Karnataka Repealing and Amending (Regional Laws) Bill, 2009, was approved by the Karnataka Legislative Assembly in March 2011 to repeal defunct or old laws from the former States of Bombay, Coorg, Hyderabad, Madras and Mysore in the respective Areas of those States that are now part of Karnataka. Acts repealed by this bill include the *Hyderabad Eunuchs Act*: a regressive law that endorses draconian police measures against an already marginalized and vulnerable community. The *Hyderabad Eunuchs Act* was directly derived from the colonial-era *Criminal Tribes Act*, which notified all members of certain tribes, castes and social groups as criminal at birth.

The amendment to the *Karnataka Police Act of 1964* was proposed by a One-Man Committee (Chamayya Committee) in the same bill and passed the Karnataka Legislature without democratic discussion. The resulting Amendment, entitled “36A Power to regulate eunuchs,” empowers the Commissioner, “in order to prevent or suppress or control undesirable activities of eunuchs,” to make orders for: the preparation and maintenance of a register of the names and places of residence of all eunuchs reasonably suspected of committing “unnatural offences” or “any other offences,” or abetting the commission of such offences, and prohibiting a registered eunuch from doing such activities as may be stated in the order and “any other matter [the Commissioner] may consider necessary.”

The use of vague language and “catchall” provisions in this amendment grants the Karnataka Police broad powers to violate the human rights of hijras and potentially other sexual minorities according to the Commissioner’s unlimited discretion. This amendment is in direct violation of the Delhi High Court’s ruling that clearly keeps consenting adults out of the purview of “unnatural offences”. This amendment contradicts the state government’s own efforts to provide gender minorities with socio-economic benefits. The government’s order last year based on the Backward Classes Commission Report provides for a range of educational and economic benefits for gender minorities. This order, however, has not yet been implemented across the state.

The Campaign for Sexworkers and Sexual Minorities Rights (CSMR) is holding a public event on the July 1st from 3 pm to 6 pm in celebration of the second anniversary of the Delhi High Court’s Naz Foundation judgement. This opportunity will be used to highlight the potential danger of this law and the government’s overall treatment of Karnataka’s gender minority communities. We urge the government to amend the relevant provision of the Karnataka Police Act, and to implement the provisions of the Government Order related to gender minorities.

Yours Sincerely- [Nagalakshmi](#), Sowmya, Khushboo, [Umesh](#), & B.T. Venkatesh, (for CSMR)