

*Less than*

*Gay*

A  
CITIZENS'  
REPORT ON  
THE STATUS  
OF  
HOMOSEXUALITY  
IN  
INDIA

**AIDS BHEDBHAV VIRODHI ANDOLAN**

(AIDS Anti-Discrimination Movement)

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## Dedication

This report is dedicated to the numerous gaymen and lesbians who shared their intimate experiences, fears, and longings with us. The faith and trust they reposed in members of the group made our study possible.

"The victim who is able to articulate the situation of the victim has ceased to be a victim, he or she has become a threat."

James Baldwin, Black gay, American *writer*, *The Devil Finds Work* (1978).

# 1. WHY THIS REPORT?

Many people deny that homosexuality exists in India, dismissing it as a phenomenon of the industrialised world. Others acknowledge its presence but condemn it as a capitalist aberration, a concern too individualistic to warrant attention in a poor country like ours. Still others label it a disease to be cured, an abnormality to be set right, a crime to be punished. The present report has been prepared with a view to showing how none of these views can stand the test of empirical reality or plain and simple common sense.

The emergence of AIDS as a major public health crisis has had a devastating effect on gay people in most parts of the world. Gay people have been blamed for the spread of the disease, condemned as sinners deserving to die, and denied safer sex information vital to their survival. Like women in prostitution, professional blood donors, and intravenous drug users, gay men and lesbians stand already marginalised in relation to the law, the medical establishment and the police. As a result, they are easily scapegoated and blamed for the advent and spread of AIDS. Though there is no Inherent link between AIDS and homosexuality, It has become more necessary than ever before to understand the status of homosexuality in our society.

What is homosexuality? Is it a distinct sexual experience confined to a small minority of the population? Is "gay" a Western concept, an upper class obsession? How is homosexuality linked to heterosexuality, to the institutions of marriage and family? Why does it become a cause for ridicule? What do Indian culture, heritage, religion and literature say about it? How does the modern Indian state attempt to regulate homosexuality? What is its status in law and medical science? in the eyes of the police? Can a right to privacy be read into the Indian Constitution and deployed to protect homosexual sexual acts? What are the human rights violations experienced by gay men and lesbians? What is gay life like for different strata of people in Indian society?

Few coherent answers exist to these questions. The deep stigma that attaches to homosexuality keeps these issues from being publicly discussed in any meaningful way. Our report is an attempt to define an agenda for- a public debate around homosexuality in India.

## **Brief background of ABVA**

The members of AIDS BHEDBHAV VIRODHI ANDOLAN (ABVA) have been running a free dispensary amongst women in 'prostitution at G.B.Road, Delhi's red-light district, for the last three years. The team includes Dr. J.P.Jain (Nagrik Mahamari Janch Samiti), Lalitha S.A. (Joint Women's Programme), Shalini SCN (Indian Social Institute), Jagdish Bhardwaje, founder Secretary, Blood Donors Welfare Association (India), a professional blood donor of ten years' standing, involved fee: the last six years in the struggle of professional blood donors, Siddhartha Gautam, advocate, Delhi High Court, Arun Bhandari (Ankur), and Dr. P.S.Sahni (Jagat Mata Kusht Ashram).

ABVA got involved in AIDS activism in 1989 on hearing from women in the red-light area that doctors from the All India Institute of Medical Sciences (AIIMS) and the Indian Council of Medical Research (ICMR) had forcibly tested them for HIV (the virus thought to cause AIDS) with the help of the police. ABVA protested this action, asking that good quality condoms, humane treatment and rehabilitation schemes for HIV positive people be made a prerequisite for any government screening for HIV.

Our group was instrumental in stalling the draconian AIDS (Prevention) Bill, 1989 through petitions in Parliament, public meetings, protest actions and networking both in India and abroad. As a result, the Bill now lies for review before a Joint Parliamentary Committee.

ABVA has organised several protests against the government's policies on testing, confidentiality, and discrimination linked to AIDS:

- On 28 February 1990, a demonstration was organised at the ICMR headquarters, New Delhi, to protest against the refusal of doctors at AIIMS to operate upon an African envoy with AIDS.
- On 30 November 1990, we staged a protest demonstration at the head office of the Medical Council of India (MCI), urging it to remove from its Medical Register the names of doctors who refused to treat people with HIV/AIDS.
- On 18 March 1991, ABVA protested outside the head office of the New Delhi Municipal Committee (NDMC) following the refusal by the NDMC Hospital at Moti Bagh, New Delhi, to treat children with thalassaemia who had contracted HIV through blood transfusions.
- On 7 August 1991, a 500-strong sit-in was organised at AIIMS following refusal by doctor at the premier medical institute in the country to conduct a delivery on an HIV-positive pregnant woman. Solidarity for this action was shown by independent activist groups abroad who staged protests at Indian foreign offices in five different cities in Europe and America on 13 and 15 August 1991.

All throughout, ABVA has tried hard to broad base its work by mobilising other voluntary groups and community people including people with leprosy, women in prostitution, women from slums around Delhi, and gay people. We have also regularly met with concerned officials of Delhi Administration and the Union Government, and submitted memos to relevant authorities. With the help of Shobha Aggarwal, an activist lawyer, we have been able to offer free legal assistance to women in prostitution who were arrested in 1990 under the Juvenile Justice Act.

ABVA has also brought out two "citizens' reports to date-- "Women and AIDS--Denial and Blame, A Citizens' Report on AIDS in India," November 1990 (in English and Hindi) and "Blood of the Professionals--a report on the situation of professional blood donors in India," July 1991, (in English).

## **The present report**

While preparing this report, our group went through a long educational process, reading, interviewing, discussing, and arguing about homosexuality. This was an area about which many of us were ill informed and even prejudiced to begin with. Our conversations with a number of gay men and lesbians from different backgrounds revealed the richness and variety of gay life as also the fear and vulnerability around it. We worked systematically to bring to the surface our own discomfort, myths and queries about sexuality in general and homosexuality in particular. In a short time, we found, the myths were easily demolished. If this report can expose the silly lie that homosexuality does not exist in India, or that gay people are a species from a different planet, we will feel our efforts rewarded.

Professionals hold the key to social change and their views and interventions can influence ordinary citizens. Accordingly, we tried to elicit a response on homosexuality from academicians, doctors, lawyers, women's groups, human rights organisations, politicians, bureaucrats, police personnel, and others through letters and personal meetings.

While gathering printed material on the subject, we found little definitive information available on the Indian situation. At most libraries, we would reach a dead end and suspect the operation of some sort of 'censorship'! For example, the copy of the original Kamasutra, which has a chapter on homosexuality, was discovered to be loaned out for the last four years by the Delhi Public Library to none other than the Union Health Ministry. Library staff at several places showed great embarrassment at our requests for material pertaining to homosexuality. Dr. Gulab Khan, librarian at the Information Centre, Connaught Place, New Delhi gave us much support and encouragement. Malini Ghosh, Kai Friese, and Parveen Sikand provided invaluable assistance on the computer.

ABVA views homosexuality (and heterosexuality) as a political issue. We will strive to get consensual, adult homosexual acts decriminalised and fight for the right of gay men, lesbians and

other "sexual minorities", like hijras, to enjoy equal benefits of the laws on marriage, inheritance, adoption, and privacy, among others. We feel that a clear and unambiguous stand should be taken by political parties and civil rights organisations on the human rights of gay men and lesbians. This alone can root out police harassment, blackmail, violence and other forms of discrimination from their daily lives. Gay and non-gay people alike also urgently need relevant, non-moralistic safer sex education in the context of AIDS.

How much longer will the British-framed law on sodomy be tolerated by us? The Indian Lepers' Act, which virtually criminalised leprosy patients, was enacted by the British in 1898 and eventually removed from the statute book in 1984. When will the Indian State recognize the equal rights of "sexual minorities"? Given the traditional acceptance and even celebration of same-sex eroticism in Indian culture, shouldn't India be the focal point of a world-wide gay movement in the future?

## 2. GAY LIFE IN INDIA

Much has recently appeared in the media about the "new assertiveness" of gay life in our society. It is widely assumed that "gay" is a phenomenon new to India. The following chapters will document some of the prejudices embedded in law, medicine and religions, and social responses of intolerance and indifference to homosexuality. However, it cannot be assumed that just because homosexual behaviour has been proscribed or considered undesirable, it does not occur or that homosexuality only in hidden, guilty ways. The story of homosexuality in India is certainly not an unrelenting tale of repression and woe. Numerous gay men and lesbians reveal varied, often rich forms of gay life have long existed, and continue to flourish in this country. A gay writer in Calcutta, who finds distasteful the sudden shrill "discovery" of homosexuality, even observes that, "it is the pervasive norm in our culture."

It is easy to find the existence of the entire gamut of same-sex intimacies in India--intense friendship, romance, and companionship between people of the same sex; sexual interactions not perceived by the partners as a basis for defining their identity in terms of sexual-orientation; and homosexual sex and emotional involvement self-consciously recognized as a gay identity. When we employ the word "gay" we do not mean to reduce these rich and varied erotic spaces into a medical model of "heterosexual," "homosexual" and "bisexual" behaviour. We use it consciously both as a description of people who see themselves as gay and as a sensibility encompassing the entire area of same-sex eroticism. We feel that "gay" should be used as a politically desirable intervention in a context of state (legal and medical) regulation of homo/sexuality.

Gay people, like non-gay people, vary enormously in shape, size, appearance, occupation, viewpoint and self-perception. There cannot be said to be any single Homosexuality, as gay men and lesbians are not a coherent, easily definable group. Differences in region (including rural/urban ones), religion, and economic class make for widely divergent experiences and attitudes regarding marriage, same-sex eroticism and individual identity. There is, therefore, no such thing as "a gay". Certainly, also, there are vast differences between gay man and lesbians in the way they experience and think about their sexuality. No consensus exists (as yet) among gay people on issues such as the desirability of marriage, cross-dressing, social roles, sexual roles, necessity of being public about their sexuality, etc.

Given below are some life-stories of gay men and lesbians as told to members of ABVA or excerpted from magazines. We were able to document more stories about men than women, an inequality which reflects the continued invisibility of lesbian (and, in general, women's) experiences, something we have been only partially successful in rectifying. These stories are not necessarily representative of the vast realm of same-sex eroticism in India. They may however provide some glimpses into the kinds of gay life lead by some of our citizens.

### 1. Till death do us part

"We met nearly ten years ago. She was working as our acting hostel warden while I was training as a paramedic in a medical college hospital in Delhi. Initially, she was affectionate towards me and would often call me to her room after the day's work was over. I was about ten years her junior. I had heard that she was lesbian and had a steady girlfriend who had since left her. She stood out from the others because of her "male" appearance--jeans, short haircut and mannerisms.

"I developed a liking for her and we eventually became good friends. At her suggestion I started to cook meals for both of us in her room itself. This ensured us the privacy we badly wanted, as we did not now have to go to the hostel dining room. She expected me to do the household work - room-making, cooking, cleaning, and washing clothes for her. She would insist that I keep things ready for her when she returned from her official work in the late evening hours. I readily complied because we developed mutual love. She would however always boss around like the men do in our society. I was over-worked because as a student I also had my studies to pursue.

"We had developed physical intimacy in the form of kissing, petting, hugging, breast-sucking, fingering, and cunnilingus. She would also attempt to have penetrative sex with her erect clitoris. Our

lovemaking would continue till she got an orgasm. We would go out together for movies and dinner parties and make love in the night. Sometimes we would smoke and drink alcohol. She would however resent it if I as much as made attempts to be friendly to males in a healthy way. She was very possessive of me.

"After I graduated and started to look for a job, we decided to get married since we could not live apart any longer. But would our family members, friends and co-workers accept our decision? Would our relationship get social and legal sanction? We were riddled with doubts and I lacked the confidence and courage to take such a step. Yet we felt we should declare to each other that we were married. One evening we went to a mandir and got the blessings of the deity. When we returned to the hostel, she applied 'sindhoor' on my 'mang'. It was the happiest day for us. We never informed anyone else about our mutual pact.

"Things went on well for a year. I got a job and became economically independent. One day, on my return from work, I found her in a compromising posture with a young girl in her room. She had been drinking liquor but was otherwise quite conscious. When I protested, she rebuked me and turned me out of her room.

"From then on, our relationship soured. I felt cheated. I even attempted suicide, leaving a note written in my own blood to the effect that I loved her and she had ditched me. I was unconscious for three days following the suicide attempt. But I revived. My parents had to bribe the police to get the medico-legal case "withdrawn." Luckily, the press did not come to know of this incident. I left my job to work in another set-up. My family members were very supportive and that provided me with the strength to go on. The pain and agony of it will always linger on in my memory.

"I must add that every year there are at least three to four lesbians who can be counted in the batch of freshers at my alma mater. I have suffered a great deal but still have no answers to some crucial questions:

Why can't two girls get married? Why does society not recognize, support and sanction lesbian relationships? A heterosexual relationship may also sour like ours did. But there at least society is aware of marriage and break-ups. In our case, the most traumatic thing is that the world is neither aware of our 'marriage' or of the end. I had to face the pain more or less by myself. Many other women like me must have attempted suicide and even succumbed to such attempts. How many more must undergo this trauma silently? And why?"

(The writer adds: "I recently became aware of ABVA's activities and read its two documents "Women and AIDS" and "Blood of the Professionals". I could muster up the courage to write my experience because I know an ABVA member well and respect the member's involvement in voluntary work.)

## **2. A tag like any other**

Barry John, 42, a well-known theatre personality in New Delhi speaks about being gay in the capital. An Englishman, he came to India 20 years ago and after a stint in the south settled down in the capital, where he runs an amateur theatre group (Theatre Action Group, TAG) that stages English plays. We present an extract from his account, as told to Sunday ("The Love that Dare not Speak its Name", 31 July, 1988), because few people of his class in India have spoken publicly and so candidly about being gay:

"At school in England, I was popular with the girls, was called a Casanova and even had a steady girlfriend. Initiation into gay life came through a drama teacher who was heading a three-year course I took. I was very green then and he began to take me for excursions to Leeds where there are a number of gay pubs. It was there I met one or two attractive, nice men and spent weekends with them. This is the period that the duality in my life began.

"In 1968, I came to Bangalore to teach English on a salary of Re 250 a month. When I was down south, I had relationships with both men and women. I suppose I was officially heterosexual till the

time I came to Delhi in 1970. The gay life in Delhi is very different from what I had seen in England. There are various levels of homosexuality here. There are the unofficial clubs for the upper echelons as the one in the house of a famous fashion designer. It is a world of superficiality, all hyped up - I would describe it as frantic. Then, there are those who like to dress outrageously and indulge in exhibitionism. I am very different from all these people and don't like attracting attention through flashy clothes.

"As far as I am concerned. I have reached an age when sex no longer remains a major part of my life. As for my preferences, I suppose that I would not go in for a partner older than me. I have never preferred older men. The youngest boy who lived with me in Delhi was 17 years old.

"All my friends are Indians and I find their acceptance of my sexuality really nice. They all know that I am a homosexual--I don't care to hide it or keep it secret from them. Perhaps, acceptance is one of the facets of Hinduism, which is all embracing. The fact that I am homosexual has never affected either my personal or working relationships."

### **3. Rahul's story**

"In my tenth class, I fell hopelessly-in love with a boy one year my senior with an incredible body and classic Rajput good looks. We were buddies for, a long time and then started flirting and making jokes about how attractive we found each other. The jokes started getting serious. One evening we were at his house and were lying on his bed and talking. The next thing I knew we were hugging madly. We took each other's clothes off and touched for hours. Our affair continued for a year. He always felt guilty after sex and would go to his family mandir to pray. I would feel a little guilty on seeing his guilt, but felt largely happy. Emotionally we were close as any lovers. We wrote love letters, had passionate telephone conversations much to the astonishment of our families. In recent years he got married. When he talked to me about it, what came through was his terror of social disgrace. Right now he is being a good Rajput son with a wife and maybe kids--goes to the mandir for Gita readings--in short, living the classic life of the closet gay. His family will probably never know how scared he is of their rejection. (Trikone, May-June 1989)

### **4. The marriage trap**

Once upon a time I had a close physical friend. We loved each other at many levels. A change came over him as it became more and more apparent that he could not avoid an arranged marriage. The end result of it is that he has a life that is crushing him mentally. His wife, who is a great person, feels the strain and does not understand why. He never drank, until yesterday, and the day before, and the day before. And all of the tomorrows, too, I fear.

"I got over our break-up and adjusted. About the only joy I see on his face is when he comes to visit us and sees that I am happy. Hard, cruel realities. I should have had the guts as the older, wise one, to have said "Let's put our faith in each other and move, get away from the relatives and make a new life." What are we going to do to help others escape from the same trap?

"On a different note, gays love a green India. We must each be able to plant a few trees. (A.P., Vizianagaram, Trikone, Nov-Dec 1989)

### **5. Life is gay**

"I live in a small district of eastern Madhya Pradesh. I teach at a government polytechnic. Whenever, I disclose my gay identity in front of others, I get a tremendous response from them, even offers of sexual flings! The boys in my neighbourhood have a big crush on me. I think they like my style and way of conversation. I have decided not to hide my gayness. I have become frank enough to express my thoughts openly in front of my non-gay friends. (Aseem Tiwari, Trikone, Nov-Dec 1989)



## **6. Alone in Mizoram**

"After a lot of thinking, I have come to a conclusion. I have been alone and single in the love, sex, etc., department for 20 years. I can see that I am living a bloody big lie but I can't really come out because of various factors. So I am going to ignore my love, sex areas and I will put all my energies into my work. If I could have lived for 20 years without a lover or boyfriend, I know I can live for another 20. I have my yoga, exercises, and work to keep me busy. Until last year I was desperate to have a lover or boyfriend for both emotional and physical support, but I have reformed from this year. I am going to be gay forever but I am so very discouraged by the environment around me that I have decided not to worry anymore. I have found a strange peace and a deep sense of satisfaction knowing that other gays are going to be shown the right path (accepted by society, even if partly, free from AIDS, etc.). As for me, I want to discontinue my correspondence with you all, and I hope you will understand. I may find someone very special somewhere in the future and with this I end my letter. Goodbye. (G.H., Mizoram, Trikone, January 1988)

## **7. Anamika**

"Referring to your question in the editorial about why women who have some choice do not resist marriage. The answer is isolation and loneliness. Conditions in India being what they are, you feel you are fighting a battle in isolation. Any cause, whatever its worth, is not worth fighting in isolation. Many of us enter into relationships with women in hostels during student days. Once these break up, and most do for the obvious reason of marriage, then how are we to sustain ourselves? In fact nearing the forties, I no longer feel anything is worth the loneliness and isolation I have faced in the last twenty years. (M.A., letter to Anamika, June 1987)

## **8. Against nature?**

Ishwar Kale, a 32-year old industrial worker from Virar, Bombay, narrated his situation in Marathi to The Sunday Observer: "They think we are enemies of prakruti (nature) and of sanskruti (culture) ... people refuse to believe that IT can work between man and man. After I started working in a factory, one man was so attracted to me that every morning in the crowded Virar-churchgate train, he would sit or stand close to me and make love. It went on for two years and ended abruptly when he changed jobs. I have never met him again. I have had many such relationships, with the rich as well as the poor, with many strangers and some regulars. But I never felt there was anything wrong with me ... I have two children now but I have not let my wife or any other relative know that I lead an energetic gay life outside my family. Initially, my dual life caused me untold trauma but now I have got used to it." (July 29, 1990)

## **9. Love against all odds**

"One early winter afternoon I had come home with my friend Kuni. Mother was next door chatting as usual. The servant woman said that there was a pot of extra hot water on the stove if I wanted a bath. When she turned back to her cooking, I looked at Kuni. Between us we lifted the brass pot off the fire and poured it into the tank of cold water in the bathroom.

"I slid the little bolt on the door and we took our clothes off. For a few minutes we stood fondling each other and then my friend poured some of the hot water still in the brass pot over the floor. We lay down and did what I now know was the number 69. It was fantastic. It was not the first time, but maybe the hundredth time, and every single time was different, good, positive, and exciting, both physically and mentally.

"We were still on the floor in that position when a terrible noise erupted as the door came crashing down and nearly smashed Kuni's head. We both jumped and looked with horror and total fear at my elder brother. The servant woman appeared next to him and, after a few minutes of his screaming, my mother came rushing in. He turned and bolted the door....

"My mother and the servant woman stood in total silence as my brother cursed and cursed. The words he used I hardly knew the meaning of. My friend handed me my clothes and I put on what I could. My brother then stepped forward and grabbed her by the arm and dragged her out of the bathroom, and, opening the back door, shoved her outside. He then returned and grabbed me and like a wild animal beat me until I fell on the floor. My mother tried to stop him, as did the servant woman, but they only got shoved out of the way. He picked me up by the hair and beat so on the stomach, by the crotch, and the breasts. I fainted." (P.Parivaraj, Shakti Khabar)

## **10. Well of loneliness**

The following letter was written in Bengali by a girl living in Siliguri, North Bengal to a columnist in a Bengali weekly. For the last 3 years I've been in love with a girl. She also loves me a lot. When we first met, it appeared like a friendship, but one day, things went wrong - she hugged me tight and a tingling sensation ran all over my body. I tried to keep a safe distance from her but she wouldn't let me. She came closer and closer. When we spent nights together, she would lie on my breasts and I would be lost in ecstasy. We began to find each other irresistible and craved for more. Incidentally, I'd like to state that I had had lesbian relationships with a lot of other girls before and all of them found me irresistible but for one reason or another I had to ditch them. Krishna is different from the others. When she comes to me, all my worldly worries end. She fills with me joy. The idea of separation pains a lot. We would like to settle down.... but the question is, how? Since we are both girls, society would look down on us as perverts. The thought drives me crazy, sometimes I think of suicide. Shall we pass the rest of our lives in such helpless agony? Our relatives don't like the way we mix with each other..." (Gay Scene, Nov-Dec, 1980)

## **11. Married and gay**

"As I see things now, most gay men in India get married off and fool themselves (besides their wives) then try to give the impression of living happily ever after. Then they advise other bachelor friends to marry. No small wonder, more than half the gays who cruise in my area are married. I know of at least 4 who married less than a year ago and are back on the cruising scene, almost every night. Seriously, no laughing matter, at least for the wives.

"Being born in India, with a penis between the thighs, is being a male, so to say. I find so many cruisers, insisting that they are "men" (giving the impression of being heterosexual) who would prefer to shove their hands behind their backs or in their pockets, and expect you to do the rest. But the fact that he prefers male sexual delights is something he will never admit. To me that doesn't make him a "mard". For him, being on top is being the achiever, the real man. Frankly, I am on top as many times as I am on my back and enjoying every minute of it. Yet I am no less a man.

In the West you call them married, bisexual men who lead secret, double lives. Over here they are called Indian married men. Give them the opportunity of staying away from the family (they won't).

Living and making it alone (they can't). Standing on your own feet and making your own decisions (not preferable). They would rather live in daddy's house, mummy's shadow (ask their wives) or run to grandpa for support and advice. That's being independent for them and they will still call themselves a "man" without batting an eyelash.

"This is directed mainly to married gays in joint families. I am sure 90 per cent of those I have met fit the bill. Prove me wrong and I'll call you a man (since it pleases you!). (By "Jason" from Nagpur, Shakti Khabar, Jun-Jul 1990)

## **12. Men who have sex with men**

Prem is 26, married with a young son. He works in a large family business in Calcutta, where the family are prominent members of Calcutta society. He remembers his first sexual experience with another boy at the age of 13 fondly. He has continued to have sex with another men, even after his marriage, albeit less frequently because of the lack of opportunity. His sexual interactions with other

men have always been fleeting, "pick-ups." He has never wanted to form a relationship with another man because this would be disastrous for him in terms of his family and his social standing. He would prefer not to be married. He doesn't love his wife, but performs his duty. (Courtesy : Shakti Khabar)

Indu is an auto-rickshaw driver in Poona where he lives in one of the small shanty villages on the outskirts of the industrial area. He is married with four children. He says that sometimes he just has to go out and find a man to have sex with, although he is happy with his wife. This usually happens about once every two months, and he feels that he can't control his desire. He finds men at the many contact points around the city. He doesn't call himself a homosexual; the word gay he doesn't understand, not having access to English; nor does he see anything wrong with what he does. He is "just messing about". The terms homosexual or the bisexual cannot refer to him, he believes because he is married with children. He remembers his first sexual experience with his uncle back in his home village. He was 12. (Shakti Khabar)

Arijit is a student in New Delhi, 19 years old, from a well-to-do family in the Diplomatic Service. He calls himself gay, and would like to "come out" to his family, but is deeply concerned about their possible reaction and rejection of him. They might cut him out of the family and he would lose everything. He has always known about himself ever since he can remember, always attracted to other boys. His first experience with another boy was when he was 11. Now he visits the various "gay" haunts around New Delhi where he can find "plenty of action". (Shakti Khabar)

Ranjan is a male prostitute, a young man of 16 who plies his "business" in central Madras near the railway station. He has done this ever since he was 13, when he ran away from home because of the beatings of his father. He never wants to go back home. He says that he enjoys his "work" because it gives him lots of money; even though sometimes his clients can be rough. He is saving money to buy a small business. He doesn't call himself a homosexual, even though he enjoys the sex. It is only business. (Shakti Khabar)

### **13. Sweeping statement**

Arun lives with his lover Kamal near Dadar station in Bombay. They have lived together as lovers for the last five years. Both work as municipal sweepers. That is how they met. Both had had sex with other men prior to meeting. They say they want to stay together as lovers. They don't consider themselves as different. They don't play husband and wife roles thinking that rather silly as both are men. Neither reads English nor speaks it, having left school at 13. (Shakti Khabar)

### **14. Intimacy without orgasm**

Chandrakant, 22, lives in Shahdara and works with a voluntary group in New Delhi. The following is his account, told in Hindi to a member of ABVA: "I have often felt an attraction towards boys and have even experienced some sexual relations with them. But I don't think of myself as a homosexual. Actually, I don't agree with what the word means. Tell me, if I have an intense, psychic friendship with a girl, would I be called a heterosexual? If you mean by the word homosexual a certain sensibility (bhav), then I would agree I am one. I have many intense, intimate friendships with boys. I like being with them, touching them, sleeping next to them. But perhaps I still have a hang-up about accepting myself as gay in sexual sense.

"I have just returned from Chhapra, Bihar. There I came across poor, young boys who earn their living by dancing like girls at weddings. Many of them also have sex for money. Because of the feudal environment in Bihar, there is a lot of coercive sex, including forced homosexuality. While I was there, I also befriended an 18-year old boy who was always being teased by his friends as chhakka. One day I asked him why people called him that. It was only when I told him that I was one too that he opened up; he was surprised that I was one. "You are from Delhi, there is no dearth of girls there, how come you are a homosexual?" he asked. Now married, he admitted that he would still prefer homosexual sex. "Even now I feel an intense urge to see the friend with whom I had a long relationship before I got married, to touch him. But I try not to approach him, If I go to him, maybe

he will feel that I am unmanly (namard) and that I am not happy with my wife. I even don't try to have anal sex with my wife for she will taunt me, that I am a ladka baaj (homosexual)."

"There is a boy in my colony who is very girlish in his mannerisms. Once, a group of girls were teasing him - you have all the qualities of a girl! I asked them, "Why do you hate yourself so much? Instead, you should feel happy that a boy has come into your category."

"For me, friendships are the most important thing. When my - friends get interested in girls, they have no time for friendship, even if we have known each other since childhood and they have known the girls only for a week. Marriage will surely be worse! How can it be called normal then? I think that relations between boys are more stable than those between a boy and girl. Homosexual friends can understand each other better. A friend of mine, Dilshad, recently attempted suicide because he could not marry the girl he loved. She belonged to a different religion. Poor boy, he was in such a bad state. I tried to console him and told him not to be so dejected. What is there in sex? One can do that with anyone; real love, on the other hand, can only be homosexual."

## **15. Black and white**

"For most of us, our gay and straight lives are laid out like a chess board (after all the queen is all powerful). Black and white never mix. Each has its own square. The only problem is, in chess the pieces belong to two players. For me they are both mine. I don't know if the strain of leading double lives tears me at the seams. One gets used to everything, especially when one has no alternative. Our gay identities are taken out of our closets and taken out for an airing (on Saturday night perhaps) and then lust satiated, tucked away. Because we must seek our orgasms in darkness, secretly, too often our sexual 'life never extends beyond our zippers. Sex is a big-shot biological force, and the fact that society curbs our natural outlets for it - the frustration makes it loom so large in our lives. (Sandip, Calcutta, Shakti Khabar, Feb-Mar 1991)

## **16. Women and women**

"When I was in college in Himachal Pradesh, my classmates found me crazy; they would laugh and mock at me. I was one of the few who did not boast of having a boyfriend. It was at that time, when I was drowned in complexes, that she came up and hugged me. Nobody had hugged me like that for many years. Her embrace somehow gave an outlet to my suppressed emotions. I started crying. We got very close to each other as if we were children. She became my patient listener. For hours I would keep lying in her lap and she would stroke my hair....

"For me being lesbian is a matter of emotional, intellectual and political dignity. I have had very bad experiences with social organisations about my sexuality. There is so much repression. I once worked for a few years with a voluntary group in Delhi where, during one of our soul-searching sessions, I spoke about women-women relationships, the need to strengthen them, the need to resist marriage, the joys of being lesbian. Everyone was very sympathetic - they thought I had a problem and harassed me for the entire year with suggestions for cure. In fact, their badgering made me fall sick for a long period of time.

"Women have been friends to each other since the world began. They have been emotional, economic, and intellectual supporters of each other. Women have always had strong attractions for each other, feelings of complete identification and empathy. But heterosexual marriage forces female friendships to compete for a meaningful or equal place in a woman's life. Despite the enormous pressures put on women to exist for men, they have still been and are struggling to be friends. (from a long piece written for AM by a young woman currently based in Western India)

## **17. On my son being gay**

Mrs B., from South Delhi, whose son last year told his parents he was gay, wants to take up gay issues and help other gay youngsters deal with their sexuality. In her fifties, she spoke to an ABVA member about her initial response: "My first reaction was, "UM will happen to my gold bangles!" I

asked my son lots of questions, like whether he was active or passive. He was terribly upset by this question and said I was being insulting. My husband kept saying, "No, no, he must be going through a phase." Disgusted, when my son got up to leave, I called him to me and gave him a hug and he burst into tears. I said to him, "Nothing has changed. You are more loveable than ever before." When I saw the relief on his face, I suddenly realised what agony he must have been going through, preparing to tell us. Until that moment, I had been thinking only about myself, and what our family would say.

"No, I don't feel disappointed that my son is gay. I have started to feel proud of it. I do think he would have made such a good husband and father - he is the most considerate person you can know. But I don't feel sad that there may be no grandchildren. In fact, I have come to the conclusion that you are guaranteed to be unhappy if you marry. I also think that men cannot respect women until they come to terms with the feminine in themselves.

"I make it a point to tell all our relatives about his being gay. I don't say it in a hush-hush fashion as if it is shameful or confidential. This way, they don't get the opportunity to respond in any way other than what I want. One afternoon, friend of mine brought a marriage proposal for my son. I said bar, without a trace of shams, "But, bahenji, that is out of question, the boy is gay!"

"I feel worried for my son because he is worried about finding a partner to settle down with. I know it is difficult but I keep telling him that pair bonding is not necessary. There is far greater potential to a person is he or she remains single." (At and of the conversation, Mrs B. took out her address book to show scores of addresses of gay people in Delhi - friends of her son. They were all listed under "G", for Gay.)

### **"Dangerous" women**

How many of us have heard men call a woman who is competent, "tough", not available, "a bloody lesbian" as a way of dismissing bar? The following reflection was written by an Indian woman studying at a university in Britain: "When I heard that a female student whom I had bought a drink in our college bar was subsequently cornered by two sale students eager to warn her that I was a lesbian and therefore a "dangerous woman", my reaction was of both indignation (on her behalf) and amusement. Their arrogance shouldn't have surprised me, given my experience of young men in Cambridge.

"Being a "dangerous woman", however, appealed to me - though not in the sense I believe they intended. (For my part, I have never whistled at, touched up, sexually harassed, assaulted or otherwise abused a woman, will never expect a woman to bear my name or my children, take harmful contraceptives, or abandon her career to cater for me). But perhaps it was subversion they wished to charge me with? To this I must plead, "Well, it depends..."

"I have known of my lesbianism for several years and it has always seemed to me a cause for celebration - even though other people have often made it extremely difficult for me to "celebrate" my sexuality openly without great risk to myself and my lovers. To the extent that lesbians attack the status quo and present an alternative to other women, the charge of subversion is justified - with two qualifications: firstly, women are not poor impressionable little creatures; we are certainly best placed to judge for ourselves what is and is not in our interests. Secondly, what is this "normal heterosexuality" that is so fragile as to warrant the alarmism that underlies anti-lesbianism? If heterosexuality in "natural", why do we need severe social and legal sanctions to enforce it? Why are parents so paranoid about their children adopting the "appropriate" sex-roles? And why should two men I don't know be so presumptions as to warn another woman of the danger of associating with me?

"It seems clear that most people are somehow aware that heterosexuality is a rather flimsy social construct requiring inordinate efforts to maintain it "uncontaminated", in the face of the alternatives. I do not, however, see different sexualities in the context of this society as a range of equally weighted alternatives. Your sexuality is political precisely because it isn't God given and can

therefore be altered by choice and circumstance (I certainly thought I was heterosexual once). If I am a "danger" to heterosexist society in some small way, by tendering transparent the political (i.e. contingent rather than inevitable) nature of sexuality, then I'm glad. To the charge of feminism I plead guilty: lesbians may be a danger to the social order, but this "order" is a constant, actual and potential, danger to the female population. It rests upon the sexual and economic exploitation of women - in ways, moreover, that reinforce the racism and class inequalities, which are also fundamental to this society. Cases of sexual violence perpetrated by men against women are innumerable and widespread, pervading our lives in detail and encouraged by pornography's distortion of female sexuality. They cannot be divorced from aggressive heterosexuality. Male violence against women is not a homogenous phenomenon: Women of different "races" and classes experience it in different ways and with varying types of social response. But compared with the danger all women face, particularly from men known to them, the danger we face from lesbianism looks thin indeed.

"Hence the "danger" I posed for my unsuspecting acquaintance in the college bar was in the form of an invitation, not - as the two honourable gentlemen suggested - to get into bed with so, but rather - far more ambitious and subversive - to question and be most critical of those things we are brought up to take most for granted." (R.A.)

## **Group action**

Several attempts have been made by gay people in India to organise themselves into formal groups, for social or political purposes. As far back as 1978, a gay newsletter called Gay Scene was started from Calcutta. It ran monthly numbers, until it folded up in 1980. In 1981, an attempt was made to run weekly Saturday meetings at the Indian Coffee House in New Delhi but it did not survive the summer. Reports from Calcutta reveal that a gay men's group met every Saturday during 1982-83 at the local Cafe 82.

The publication in January 1986 of TriKone, a newsletter for South Asian gay men and lesbians brought out by two Indian graduates in California, USA, were a major event for gay people in India who could read English. Sympathetic coverage goes in magazines like Society and India Today brought its address to hundreds of people in cities and small towns across the country. The avalanche of mail received by its editors, Ashok and Arvin, showed how badly needed such a network was in India. Shakti Khabar, the newsletter of a south asian lesbian and gay network, started several years later from London and, like TriKone, was circulated free of charge in the sub-continent. Both these newsletters are currently thriving.

In August 1989, advertisements appeared in Calcutta newspapers inviting memberships for the Club de Messieurs (Gentle Man's Club). However, this effort proved short-lived as the files with the names, addresses etc. of applicants mysteriously disappeared from the office of the coordinator. Calcutta now boasts a Fun Club, which in early October 1991 held its first musical evening at the -St Paul's Cathedral.

In January 1990 a gay group started to meet regularly at a central public spot in New Delhi. All through that year, the weekly meetings draw scores of gay men and a few lesbians. Men visiting from Lucknow, Aligarh, Moradabad, even Darjeeling would attend. By the beginning of 1991, however, these meetings had fizzled out and the group became defunct partly for want of a safe place to meet. Freedom, "an Indian Gay News Letter" was launched from Gulbarga, Karnataka in August 1990 and publishes monthly. The Garden City Club of Bangalore was formed in March 1991 "to provide for a non-judgemental forum for like-minded people to meet, and also to work for an amendment to the Indian Constitution which is at present hostile to us."

Anamika, a South Asian lesbian magazine ran for a few years starting May 1985 but then became defunct. Shamakami, a newsletter for South Asian "feminist lesbian-identified women" made its debut from the US in June 1990. In July 1991, Sakhi was announced as a lesbian network coordinated from Delhi. Many other lesbian networks exist but not as formal groups and no contact

addresses are available. -

By far the most momentous gay event of 1990 was the appearance of Bombay Dost, a quarterly gay magazine edited by Ashok Row Kavi, an openly gay journalist, and others. Dost received widespread sympathetic coverage in the Indian media, including video news magazines. Brought out simultaneously in English and Hindi, the magazine has taken a lead role in condom distribution and AIDS education, particularly for gay men in Bombay. Bombay Dost has already received over 500 letters (mostly from men) from all states in India except four--Arunachal Pradesh, Manipur, Tripura and the Andaman and Nicobar Islands.

Given below are the addresses of some gay groups that we Have collated from newsletters and magazines:

Bombay Dost, 105 Veena Beena Shopping Centre, opp. Bandra Station, Bandra (West), Bombay 400 050.

Sakhi, P.O.Box 7032, Srinivas Puri, New Delhi 110 065.

Freedom, P.O.Box 80, Gulbarga 585 102.

Garden City Club, c/o S.Baranidharan, E 59 Indian Institute of Science, Bangalore 560 012.

Fun Club, c/o Pawan Dhall, 79/18A Palm Avenue, Calcutta 700 019.

Friends-India, c/o Shivendra, A-2 Indira Nagar, Lucknow 226 016.

Trikone, P.O.Box 21354, San Jose, California 95151, USA.

Shakti Khabar, BM Box 3167, London WC1M 3XX, UK.

Shamakami, P.O.Box 643, Cambridge, MA 02238, USA.

### 3. TO LABEL OR NOT TO LABEL—DEFINITIONS AND MYTH

As the previous chapter has shown, there is no clear-cut definition of homosexuality. There is a great deal of confusion, in medicine, law and criminology about who exactly "homosexuals" are, where they come from, what they do, and how often they do it. The idea of a sexual identity is itself an ambiguous one. To identify someone on the basis of his/her sexual orientation is only one of many ways of defining that person. The world of humans could just as easily be divided into people who are left-handed and those who are not, or according to the colour of people's eyes or hair. The idea that it is useful or relevant in some way to label a person gay or non-gay is therefore an arbitrary one, though it has a specific, very recent history in medicine and law.

Is there a necessary connection between a person's sexual behaviour and his/her sexual identity? Many homosexually inclined persons may not perceive themselves as "homosexual. This may be the result of sexual repression and fear of social ridicule. Or it may be a conscious choice. Many women, for instance, may engage in meaningful sexual and emotional relationships with other women. However, they may prefer to stress their social bonds with these women rather than their sexual links with them. Given these complexities in labelling, can there be any coherent definition of homosexuality at all?

#### What's in a name?

The simplest definition of a "homosexual person" is one who engages in a sexual act with a person of the same sex. This definition causes immediate problems. Do we label a person "a homosexual" if s/he behaves in this manner once? Twice? How often does same-sex behaviour have to occur for the person to earn the label? Does it matter when one engages in this type of conduct? During puberty? While heterosexually married? What kind of behaviour are we talking about? Strong emotional attachment to a person of the same sex? Holding hands and hugging? Kissing? Fantasies? Mutual masturbation? Fellatio? Cunnilingus? Sodomy? Is a person who announces his/her status but never engages in any same-sex sexual behaviour considered "homosexual?" Can a person be celibate and be "a homosexual?" Is there something called psychic homosexuality?

Labelling a person "a homosexual" is obviously a complex matter, medically, legally and in terms of social perception. Given below is a list of terms with clarifications about where they came from, what they mean and how they are employed in this report.

**HOMOSEXUAL:** A clinical and pseudo-medical term meaning "of one sex"; coined as recently as 1869 by Hungarian psychologist, Benkert von Kertbeny; entered English usage only work of British sexologist, Havelock Ellis; adequate as a description of a sexual relation involving two persons "of one sex" but incoherent when describing a "homosexual person"; considered derogatory, like "negro" for Blacks; has a clinical ring to it as it was coined in the context of pathology; erroneously implies that the primary distinguishing characteristic of such people is their sexuality; preferred term is "gay people" or "gay men and lesbians."

**HETEROSEXUAL:** That which is not "homosexual"; medical term invented as a complement to "homosexual"; originally used to describe what we now call bisexuality; gradually rose to eminence, through the services of medical science in early 20th century, as "the norm," the "healthy" way to live and love.

**HOMOSEXUALITY:** A broad category which refers to the general phenomenon of same-sex eroticism; comprises all sexual phenomena between persons of the same sex, whether the result of conscious preference, subliminal desire or circumstance.

**HETEROSEXUALITY:** All sexual phenomena between persons of different sex, whether preferential, circumstantial or subliminal; different from mere heterosexual sexual behaviour in that it has acquired the status of an institution in modern times; social usage, for instance, conflates it variously with marriage, procreative sex, family, and all that is not overtly homosexual.



**GAY:** Refers to persons who are conscious of erotic inclination toward their own sex as a distinguishing characteristic; a self-assigned category; not every person engaging in homosexual sexual behaviour is gay--in a prison or same-sex boarding school,. for example, many persons may be involved in homosexual acts or even relationships without thinking of themselves as gay; the word itself antedates "homosexual" by several centuries; originally referred to sexual looseness and was used in reference to prostitute women or the lifestyle of men who resorted to them; used as a sort of password or code in the English homosexual sub-culture in the early 20th century; first public use in U.S. in 1939 movie "Bringing Up Baby" in which Cary Grant, wearing a dress, exclaimed that he had "gone gay"; also traced to Gertrude Stein's story "Miss Ferr and Miss Skeen"; preferred word as it connotes both a sensibility and a desirable political identity instead of merely sexual interest in a person of the same sex.

**LESBIAN:** Refers to women who have a sexual orientation toward other women; does not have the same negative connotation as "homosexual" female does; also a conscious identity as different from mere same-sex behaviour; term allegedly derived from the island of Lesbos, home of the famous Greek poetess Sappho who was widely believed to have been a "homosexual" woman; even though "gay" includes both women and men, "lesbian" specifies the experience of women which may otherwise remain invisible; in this report, "gay men and lesbians" will be used wherever possible, otherwise "gay people."

**STRAIGHT:** The opposite of gay in common parlance; derived from "straight arrow," a slang term suggesting adherence to conventional values; has a negative connotation; the word "non-gay" will be used instead to refer to a "heterosexual person."

**FAGGOTS:** An offensive term for gay men; allegedly arose from the bundle of sticks used to burn homosexual persons alive during the Middle Ages in Europe; similar offensive terms are chhakka (used as an abuse for both gay men and hijras), gaandu (equivalent to sodomiser), pansy (used for "effeminate" (gay) men; some of these terms erroneously imply that all gay all have what is socially perceived to be a feminine appearance; also suggests that there is something undesirable about things "feminine," which is more a reflection of social contempt for women than of prejudice against gay men per se)

**DYKE:** Term of abuse for lesbians; "nigger, which is offensive only when used by non-black persons, the words "faggots," "chhakka" and "dyke" are offensive when used by non-gay persons but permitted and even used affectionately among some gay individuals.

**HETEROSEXISM:** The assumption--accepted by individuals and perpetuated by and enforced through institutions--that heterosexuality is superior to other sexualities and is the, only natural kind of sexuality.

**HOMOPHOBIA:** Designates an irrational fear of gay people their sexuality; most obviously seen in constant, vigorous efforts by many men to appear and behave "masculine," to constantly ridicule and put down all things that are not "masculine," be they women, gay men or hijras.

**SEXUAL ORIENTATION:** Designates a preference for heterosexuality, homosexuality, bisexuality or asexuality, having a history of such preference, or being identified with such a preference; synonymous with "sexual preference".

**URANIAN:** Late 19th century term, popular among gay male writers in Europe and those sympathetic to them; derived from the speech of Phaedrus, in Plato's Symposium in which gay love is described as "heavenly" and heterosexual passions "vulgar"; similarly, "urning," "inversion," "third sex," etc were all used for homosexuality before the latter became acceptable in England by the 1930s.

**TRANSSEXUAL:** An individual anatomically of one sex who firmly believes s/he belongs to the other sex. This belief is so strong that the transsexual is obsessed with the desire to save his/her body, appearance, and social status altered to conform to that of his/her "rightful" gender. The popular

description of this situation is that the transsexual male feels like a woman trapped in a man's body; not synonymous with "gay" though some gay persons may fit this description.

**TRANVESTITE:** A person who likes to dress in the clothing which has been socially assigned to the opposite sex; some, but not all, gay people may fall into this category; nor are all transvestites gay; in the West, for instance, the vast majority of transvestite men have been documented to be heterosexual in sexual orientation.

**ACTIVE AND PASSIVE:** "Active" refers to the individual in a male homosexual liaison who inserts his penis into his partner, either orally or anally; "passive" refers to the party so entered; sometimes these terms are also used in reference to women--a woman who takes the "active" part enters her partner, either with some portion of her body or with an object; her "passive" partner is entered; however, such comments about women may be more a projection of male sexual feelings than observations of female ones.

It must be stressed that these terms suggest nothing about the psychological aspects either of the acts involved or of the relationship; "passive" does not coincide with "coerced," "unwilling," "effeminate"; and people who prefer "passive" sexual acts can be socially dominant and aggressive; should not be assumed that all gay persons think of themselves as, or are either "active" or "passive"; these terms assume that gay sexual interactions parallel or imitate heterosexual ones; not all gay people have penetrative sex; moreover, can the muscular contractions of the anus or vagina during sexual cohabitation not be considered an "active" agent?; activity or passivity in sexual feelings may exist independently of a person's sex, gender or sexual orientation.

The strict division of all sexual behaviour into active or passive categories serves as a convenient guide for those terrified of being confused (in their own minds) about the proper role to assume, which acts to perform (or not) in order to win the certification as male.

**SODOMY:** Derives from Old Testament account of Sodom in Genesis 19 where Sodomites were destroyed for their love wickedness, including alleged attempts to "engage in I as homosexual intercourse with angels"; the city of Sodom gave etc, its name to homosexual relations in Latin--"sodomite" was the word in use before "homosexual" was-invented;

A vague and ambiguous term, used in both Christian religious law and in civil law; has connoted at various times and places everything from masturbation to ordinary heterosexual intercourse in an atypical position to oral sexual contact with animals; at times it has referred almost exclusively to male homosexuality and at others almost exclusively to heterosexual excess; in medieval Europe, the term referred to any emission of semen not directed exclusively toward the procreation of a legitimate child within matrimony, and included most heterosexual activity.

The Indian Penal Code defines it in terms of penetration, presumably anal, but for centuries any mutual non-procreative contact in an effort to achieve orgasm was enough to constitute the "crime"; the sodomite was one who sinned by performing a deviant social act; during the 18th century, it became increasingly necessary to prove penetration (into the anal passage) for a conviction in law; Cannot be assumed that all gay men practice sodomy or that non-gay persons do not.

The above list clearly shows the need to distinguish between behaviour, role and identity when talking of homosexuality. Homosexual, or heterosexual activity has always been present in all societies at all times. However, the social definitions and subjective meanings assigned to it have varied enormously. The perception of "homosexuality" as a medical problem in need of a cure, and of a "homosexual person" as a pervert or public nuisance is a modern phenomenon, originating in the late 19th century. Whereas earlier, sodomites were persons who had sinned or committed a crime by performing an act, now "homosexuals" were a species apart, a type of person with distinguishing physical aspects and psychological traits exhaustively elaborated in medical textbooks and criminological treatises.

## Myths and realities

Not surprisingly, numerous myths have come into being about gay men and lesbians. Most of these are rooted in ill-founded hostility and indifference toward gay people. A bit of commonsense and logic, and they are easily debunked. Some of the more common myths are exposed below:

### \* HOMOSEXUALITY IS UNNATURAL

This argument is a highly confused one and can mean one of several things, each of which is untenable:

A. If it means that homosexuality is simply "artificial," then so are many other things that do not elicit the same hostility, for example, synthetics, processed food, dams, condoms, or social institutions like marriage.

B. If the idea is that homosexuality is non-procreative, not related to reproduction, then this too is an illogical ground for rejection as even celibacy, masturbation and contraception have identical reproductive consequences with those of homosexual activity.

C. If homosexuality among humans is shunned because it does not occur in animals, then this is easily proved false. Homosexual behaviour, including pair-bonding, has been observed among many animal species in the wild as well as in captivity, for example, among gull. Moreover, even if homosexuality does not occur in animals, so what of it? Is all uniquely human behaviour "unnatural"? Much of human behaviour that is admired is unique to humans. For many philosophers, human behaviour is inherently superior to that of animals. To put it another way, so what if lions are not homosexual? They are not philosophers either!

### \* HETEROSEXUALITY IS NORMAL

Is heterosexuality a sufficient definition of normality? Why do we ask questions about "deviance" and assume "normality" to be unproblematic? Violent, heterosexual men, for instance, are not "normal" even though they may be assumed to be if they are married and bringing up a family. That sexual unhappiness is widespread in non-gay situations is no secret except for those who are determined to assert the superiority of heterosexuality over homosexuality. Dr. Sudhir Kakar, eminent psychoanalyst, found from interviews with women from a Delhi locality that sexuality was "pervaded by hostility and indifference rather than affection and tenderness ... The sexual act was an experience to be submitted to, often from a fear of beating... The act itself was seen as a prerogative and need of the male. Sexual intercourse for these women (and men) seemed to be structured in terms of contractual and personal exchange relations, with the ever-present possibility of one party exploiting or cheating the other." (Intimate Relations, Exploring Indian Sexuality (1989).

### \* HOMOSEXUALITY IS A WESTERNISED, UPPER CLASS PHENOMENON

It is not difficult to demonstrate that homosexual behaviour, sexual and emotional, occurs in all societies. In their classic work "Patterns of Sexual Behaviour", Ford and Beach more than two decades ago, revealed that 64 % (49 of 76) of the societies they surveyed regarded homosexuality as a normal sexual adaptation. The 49 cultures varied considerably in the kind of homosexual behaviour sanctioned, the degree to which it is formally institutionalized, merely encouraged or actively prescribed.

Certainly, the modern concepts of a gay identity (as different from "homosexual") and gay liberation (the demand by gay people for recognition and equal rights) have historical roots in the modern West. But so do some of the phobias about homosexuality, which have been imported into our medical theories, penal code and bourgeois morality. Moreover, just because something is "Western" does not make it undesirable.

Some examples of things "foreign" which detractors of homosexuality are rather less quick to condemn - parliamentary democracy, trade-unionism, modern medicine, women's issues, Pepsi Cola, IMF loan, Union Carbide, large dams.

There is also no evidence to show that homosexuality does not exist in lower classes. There can of course be upper-class lifestyles organised around homosexuality. Gays are not a coherent, easily identifiable group. Neither, for that matter, are women. Women's experiences do not automatically

translate into explicit political identities; there are ways of raising women's issues that can be confined to an upper-class perspective. But that does not make women or women's experiences per se upper class. The need to develop ways at linking sexuality with other issues should not be confused with what may be upper class concerns about sexuality.

Not all people involved in same-sex sexual behaviour will automatically become, or even want to become, political revolutionaries. But the question to ask is whether, given that homosexual behaviour stands in opposition to the regulatory apparatus of the State, it can be the basis for a political perspective? Instead of finding dishonest justifications for avoiding the issue of homosexuality, should there not at least be a public debate on this question?

#### \* HOMOSEXUALITY IS CAUSED BY TRAUMATIC CHILDHOOD EXPERIENCE

What "causes" homosexuality becomes an issue of importance only if gay people are regarded as bizarre or abnormal. There cannot be said to be any single cause of homosexuality; its presence and development is a complex mix of natural, social and individual factors. Most non-gays would find it ridiculous and offensive to be asked "What is the cause of heterosexuality?" Yet the "causes" which make heterosexuality the norm, against which homosexuality is seen as deviant, merit investigation. Surely, what passes off as normal behaviour in some men--pinching women, burning wives, making sexist jokes, raps - must have some "cause"? Could it not be that socialisation into heterosexuality is a traumatic childhood experience? Surely, it is the norm of aggressive heterosexuality that needs to be questioned, not individual variations from it.

A study on the development of sexual preference in men and women, released in 1981 by the Kinsey Institute (USA) concludes: "No particular phenomenon of family life can be singled out, on the basis of our findings, as especially, consequential for either homosexual or heterosexual development... Some sociologists attribute homosexuality "blocked opportunities", believing that people become homosexual because heterosexual partners are unavailable. But if heterosexuality is so deeply ingrained, how could it readily be extinguished by such social circumstances?

"Our findings suggest that homosexuality is as deeply ingrained as heterosexuality, so that the differences in behaviours or social experiences of pre-homosexual boys and girls and their pre-heterosexual counterparts reflect or express, rather than cause, their eventual homosexual preferences. There are also individuals who become homosexual in adulthood without the history of any pre-adult homosexual feelings and behaviours. In short, theories that tie homosexuality to an isolated social experience cannot be expected to account well for such a basic part of one's being as sexual preference appears to be....

"So, you may supply your sons with footballs and your daughters with dolls, but no one can guarantee that they will enjoy them. We seem to have identified a pattern of feelings and reactions within the child that cannot be traced back to a single social or psychological root; indeed, homosexuality may arise from a biological precursor (as do left-handedness and allergies, for example) that parents cannot control. In short, to concerned parents we cannot recommend anything beyond the care, sympathy and devotion that good parents presumably lavish on all their children anyway."

#### \*IF HOMOSEXUALITY IS OPENLY EMBRACED, THE POPULATION WILL DIE OUT

This specious argument implies that all humans would become homosexual, and exclusively so if given half a chance. However, there is no basis for this assumption. In the absence of social sanctions, the incidence of overt homosexual behaviour might increase but so would the exploration and acceptance of bisexuality. Moreover, it cannot be assumed that homosexual desire leads to non-reproductivity in a person. Both heterosexual and homosexual behaviour are known to be easily compatible. Secondly, there is hardly any proof that sexual desire is a prerequisite for successful reproduction. People who prefer same-sex erotic contacts, therefore, need not be unproductive though they, as anyone else, may choose to be. Similarly, being non-gay is no guarantee that populations will not die out. A look at orphanages will show that it is generally heterosexually inclined people who abandon children. If celibacy can be advocated as a desirable practise without conjuring up fears of the population dying out, why can't homosexuality? In fact, of all the Catholics

in India, 65,000 women and 18,000 men are presumably celibate, being members of the clergy. Yet the Christian population has been registering an increase in recent years. One gay writer remarks, "I sometimes think that the family system is a mistake and everyone would be much happier if the heterosexuals restricted themselves to begetting children and the homosexuals brought them up." (Martin Duberman)

#### \* HOMOSEXUALS ARE CHILD MOLESTORS

The vast majority of child molesters in the West have been documented to be non-gay men. In India, adult men are commonly known to marry underage girls and young girls are sometimes pushed into prostitution. Gay men and lesbians are not inherently inclined to molest children any more than others. Most gay people themselves condemn relationships that are not adult, consensual ones. Moreover, phenomena such as rape and molestation seem to be connected less with sexual desire per se than with the dominant position of power that someone is in, over someone else. There may be a small minority of gay men who fall into this category, but not because they are gay. Instead of clubbing all gay men as child molesters, those people should be criminalised who like boys so much that they will kill girls, even in the womb, to suit their preference.

#### \*GAY MEN ARE EFFEMINATE, LESBIANS ARE MANLY

This myth is problematic because 1) gay people vary enormously in appearance, one from the other and 2) even if they are "effeminate" or "manly", so what? Such stereotypes presume that culturally defined social roles of masculinity and femininity do and should correspond with a person's biological sex. Males are assumed to be attracted to what is regarded as feminine and vice versa. Therefore, males who wish to attract other males will be "feminine" and females "masculine". However, nonconformity to gender expectations is probably randomly distributed in the population, completely independent of sexual preference. But if a small percentage of gay men are feminine or lesbians masculine, they are seen to corroborate the stereotype. The existence of "effeminate" non-gay men, or "masculine" heterosexual women is conveniently ignored. The derisiveness with which "effeminate" men are viewed reflects the widespread contempt for the "feminine" in our society.

#### \*GAY MEN ARE HIJRAS

There is no anatomical ambiguity about gay men or lesbians. Attraction to persons of the same sex doesn't make them inter-sexed. Hermaphrodites on the other hand are born with genitals that do not have an unambiguous male or female, appearance at infancy or in childhood. Hijras however are not, necessarily all inter-sexed persons. They may be hermaphroditic but most are born males and subsequently voluntarily castrated. As Indian culture does not accept homosexuality as a viable alternative lifestyle, many men with a variety of gender identity confusions might opt to join the community of hijras. Some hijras might enjoy or opt for homosexual sex but not all do. Similarly, some but not all or even most hijras use prostitution as a source of income.

#### \*HOMOSEXUALITY LOWERS DISCIPLINE AND MORALE

This argument is often put forward with reference to the Forces. However, there is nothing to suggest that gay men or lesbians are any more or less efficient and committed members of these Forces than non-gay persons. Like other minority groups that demand recognition and equal rights, sexual minorities too are sometimes labeled anti-national, security hazards, and threat to defence discipline. However, it is a strange law which outlaws sodomy as a threat to military morale but not kissing, fondling or sucking between two men or two women.

#### \*GAY MEN ARE NOTORIOUSLY PROMISCUOUS, UNSTABLE

The term promiscuity assumes, may insists that monogamy is an intrinsic and absolute good; this is essentially a theological concept, deriving from the Christian attitude to the sanctity of marriage as a sacramental act. British historian, Simon Watney, points out that "it is the exclusive equation of monogamy with morality which privileges enforced fidelity above all questions of consent." It is the sex-negativism characteristic of Indian society today that equals homosexuality with promiscuity and promiscuity with irresponsibility. But why should this label be automatically applied to all non-monogamous sexual activity, irrespective of consent and honesty?

There is no evidence to show that gay people, as a uniform category, are any more or less promiscuous or sexed than others. Those who do have multiple intimacies either consciously reject the ideal of heterosexual monogamy within marriage or find the option unavailable to them. The noted writer, Firdaus Kanga, asks, "Why does this kind of sexual jungle prevail? Think. If men and women were forbidden to love each other, how much time it would be before their romantic urges "degenerated" into a frenetic hour in the park." (Sunday Observer, 29 July 1990)

Another gay man summed it up thus: "We won't make it criminal for you to have sex or build stable relationships, just refuse to acknowledge you exist, close down all the places where you can meet each other, threaten to throw you out of your job, your home, the country if we catch you, watch you die and tell you deserve it, steal your books, your children, reject you as friends, drag you into court, into hospital, into prisons, into asylums...Then when you come whining to us that you're badly treated, we'll tell you there's something unstable, sick and abnormal about you, that we have other priorities and you're lucky to have any rights at all."

### References

The following have been relied upon for this chapter:

\*Christianity, Social Tolerance and Homosexuality (1981), by John Boswell.

\*"Our Straight-Laced Judges: The Legal Status of Homosexual Persons in the United States," Hastings Law Journal (1979), by Rhonda R. Rivera.

## 4. HOMOSEXUALITY AND THE LAW

"Criminals come in handy." Michel Foucault, Prison Talk.

Homosexuality is not a crime in India; the act of sodomy is. A person cannot be arrested for being homosexual. There has to be proof of a particular act. Though no distinction has been made between sodomy between man and woman, man and beast, and man and man, the vast majority of prosecutions have been directed at men for homosexual offences. Such a legal classification reflects the centuries old misconception that sodomy and homosexuality are one and the same thing. Public nuisance laws, like those relating to loitering, soliciting, indecency etc. have also been recruited to regulate gay people. Even when gay people have not suffered the full punishment permitted under these laws, their existence has imposed the stigma of criminality upon same-sex eroticism. Lesbian acts, interestingly, are not outlawed. This reflects the secondary position accorded to female sexuality in general. It is not so much lesbianism as female sexuality which society denies. (Jeffrey Weeks, *Against Nature*, 1991)

It is worth asking: Is there more homosexuality in countries where there are no laws against it than in those where it is proscribed? Does legislation influence the frequency of homosexual acts? The answer is no. What purpose, then, do these laws serve? Can there be a constitutionally justifiable rationale for distinguishing between heterosexual and homosexual forms of sexual activity?

### Position in Britain

The theologically influenced English buggery statute of 1533 prescribed death for sodomy and in several instances courts directed the execution of men found guilty of this act. The 1861 Offences Against the Person Act removed the death penalty for buggery, replacing it by sentences of between 10 years and life. In 1885, the famous Labouchere Amendment to the criminal Law Amendment Act made all male homosexual activities illegal (acts of "gross indecency"), punishable by up to 2 years hard labour. In 1898 the laws on soliciting for "immoral purposes" were tightened and made to apply to male homosexuals. Lesbian activities were not acknowledged to exist and therefore not proscribed. Efforts to apply these laws to women in 1921 failed on the grounds that publicity would only serve to make more women aware of homosexuality. (Jeffrey Weeks, *ibid*) Interestingly, all the enactments concerning male homosexuality were drawn from Acts designed to control female prostitution.

In 1957, the British Committee on homosexual offences and under the chairmanship of Sir John Wolfenden recommended that adult, consensual, homosexual acts be decriminalised. Such a change had been recommended more than 50 years before by Havelock Ellis, eminent British sexologist and author of the path-breaking *Studies in the psychology of Sex*. Since 1958 the Homosexual Law Reform Society of Great Britain had campaigned for such a step. National debates centred around the questions: Should the State regulate morality? Why should it have a say in private, consensual behaviour between adults? This long campaign resulted decriminalization of private, adult homosexual consensual in England and Wales, through the Sexual Offences 'Act, 1967. The age of consent provided for in the Act was 21 years. However homosexual acts were to remain illegal with mental patients, members of the Armed Forces and merchant seamen. The Criminal Justice (Scotland) Act of 1980 brought the Scottish law in line with the above mentioned one.

However, this reform was accompanied by more effective policing of public behaviour. Even today, gay people in Britain face serious onslaughts on their rights from an increasingly hostile and moralistic legal system. In 1986, for instance, the British government enacted the notorious Clause 28, banning the "promotion of homosexuality" as a "pretended family relationship". Clause 25 of the Criminal Justice Bill, currently being debated in Parliament, includes provisions for higher sentences for the illegal but entirely consensual acts of soliciting, procurement and indecency by gay men. Also unveiled in 1991 is the Children's Bill, part of which seeks to bar lesbians and gay men from fostering children. These changes in law have been accompanied by an unprecedented increase in the level of police harassment and entrapment of gay men.

## Position in the USA

In the US too 'the law stipulated harsh punishments for homosexual acts. Colonial codes prescribed the death penalty for sodomy and statutes prohibiting lewd behaviour were used to prosecute other homosexual behaviour by men and women. Although most states abolished the death penalty for sodomy in the half century after independence, all but two in the 1950 still classified it as a felony. Only murder, kidnapping and rape elicited heavier sentences. Erotic activity between women and oral sex between men also fell within the domain of sodomy and "crime against nature" offences. (John D'Emilio, Sexual Politics, Sexual Communities)

Though lesbianism was ignored by English law, it was considered a capital crime in the American colonies in the 1600s. This followed the tradition of other Protestant countries like Switzerland, where a woman was put to death by drowning in 1568 for indulging in "sapphism". (Louis Crompton, "The Myth of Lesbian Impunity: Capital Laws from 1270 to 1791") In Germany and other European countries, an enlarged clitoris was enough to establish a presumption of guilt and justify torture for lesbianism. According to one European anatomist, "women who penetrate men or other women with such unusual organs should be burned." (Luigi-Maria Sinistrari, 1700)

In 1955, the American Law Institute released the draft of a new model penal code that eliminated the sodomy statutes. In 1973, the American Psychiatric Association changed a century old position by removing homosexuality from its list of mental disorders. Finally, during the 1970s, more than the states repealed their sodomy laws. 23 states still them and of these only 5 apply exclusively to homosexual acts. As recently as 1986, however, the US Supreme Court ruled on behalf of the constitutionality of the state of Georgia's sodomy statute which makes it illegal for any person engage in "any sexual act involving the sex organs of one person and the mouth or anus of another." However, Harry Blackmun, one of the dissenting judges, opined: "the right of an individual to conduct intimate relationships in the privacy of his or her own home seems to me to be the heart of the constitution's protection of privacy." (Bowers vs Hardwick)

In contrast to these developments abroad, the Indian state has yet to stir from its century old position on sodomy.

## Sodomy and the Indian Law

Indian culture tolerated same-sex eroticism for centuries. But the erstwhile British rulers found this to be repugnant, and declared it a crime in the Indian Penal Code (IPC), which was enacted in 1861. Section 377, originally drafted by Lord Macaulay in the early 1830s, reads: "OF UNNATURAL OFFENCES: Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished imprisonment for life or imprisonment of either description for a term which may extend to ten years and shall liable to fine.

*Explanation:* Penetration is sufficient to constitute carnal intercourse necessary to the offence described in this section."

Lesbianism has been rarely brought before a court of law in India and this is not covered by section 377. Sexual intercourse by a human being with a lower animal--termed bestiality; and anal intercourse between man and man or between man and woman--sodomy, are covered under this section. The offences under this section are cognizable, non-bailable ones and are triable by a Magistrate of the first class.

The age of consent for a woman, defined in the section on rape, is 16 years. Marriage is taken as an implied consent by the wife for "normal" intercourse and not for anal intercourse. If the wife consented, both are guilty under section 377; if she did not, the husband alone is. Under section 13 of the Hindu Marriage Act, 1955, a wife can apply for annulment of marriage if the husband has been guilty of sodomy/bestiality.

Analyzing the outdated section 377, Shrikant Bhat, criminal lawyer from Bombay, writes: "What is meant by Macaulay when he postulates the order of nature? What is Order? What is nature? Would



the male genital to female mouth (fellatio) and female genital to male mouth (cunnilingus) position be against the order of nature? Nature conceived by whom? Order perceived by whom?" ("Indian Law and the Homosexual," Bombay Dost, No.2, 1990)

We have argued at length in chapter 3 about the incoherence of the natural/unnatural argument relating to homosexuality. It is interesting that there is no reported judgment of any High Court or the Supreme Court declaring cunnilingus or fellatio, between persons of the same or of the opposite sex, an offence punishable under section 377 IPC.

### **Enforcement of Section 377**

Newspapers sometimes report sensational snippets about "BARBER ARRESTED ON SODOMY CHARGE - The Rajouri Garden Police have arrested a barber, Kailash Chand, on charges of committing sodomy. The police described this as unnatural lust." (TOI, 17 Sept. 1989) Again, "HELD FOR SODOMY - The Chandi Mahal Police have arrested an 18-year old boy, Mohammad Atrish, of Turkman Gate for allegedly sodomising a person the same area in an akhara." (TOI, 10 May 1990)

It is true that the government has a consistently poor record for the enforcement of the sodomy law. However because of its existence, gay men are subjected to systematic harassment, blackmail and extortion at the hands of the enforcement agencies and the public. It is clear that the law exists solely to criminalise and terrorise a section of society. (See chapter 8)

ABVA's work with women in prostitution has taught us how SITA (Suppression of Immoral Traffic Act) and PITA (Prevent of Immoral Traffic Act) have been used, and continue to be used by the police to harass these already stigmatised women. Money is regularly extracted from them--the so-called "hafta" which has become institutionalized. Similarly, one sees the Anti-Begging Act being used in Delhi to round up poor people to whom the State fails to provide jobs or social security in the first place. The arrested beggars are made to go through the motions of court proceedings mechanically. An ABVA member, who has been working amongst leprosy patients for seven years, has timed the convictions - about 30 beggars convicted by a Magistrate in one-and-a-half hours time, the sentences ranging from six months to two years or more. At the remand homes, the beggars are made to disappear after money is extracted from them. In effect, laws such as section 377, PITA, the Anti-Begging Act and others are used simply criminalise already marginalized people.

### **Homosexuality in the Indian Armed Forces**

The legal status of homosexuality in the Indian Armed Forces follows the model set by section 377. Section 46 of Chapter VI offences, of the Army Act, 1950 states: "Any person subject to this Act who is guilty of any of the following offences, that is to say--(a) is guilty of any disgraceful conduct of a crude, indecent or unnatural kind--shall on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned."

Similar provisions exist in the Air Force Act, 1950.

It is unfortunate that Indian legislators, even after Independence, borrowed verbatim the anti-gay provisions of corresponding British laws. Why should homosexuality ("unnatural conduct") be clubbed together with "disgraceful" conduct? Has any study been done to show the correlation between the two?

An American soldier who served in the Vietnam War was convicted by court martial for homosexuality long after he had returned home a hero. His remark - for killing men the government conferred a bravery award on me; for loving them, I got a jail term - has great judicial irony.

## Case law in India

CASE 1: This case raises the question whether the judge's prejudices about homosexuality irrationally influenced the judgement.

"The Additional Sessions Judge of Pune, Mr. L. Deshpande, on 22 May, 1980, gave death sentence to Parvez Yusuf (22) who fatally stabbed D.G.Divakar (21), his factory colleague, because Divakar refused to have homosexual relations with him. According to the Prosecution, Parvez, being a gay man had made repeated advances which Divakar resented and had even scolded him to the point of hitting him with a slipper and kicking him out of his room. This had enraged Parvez and he got worked up.

"The judge observed that the "noxious and carnal desire" has been proved beyond doubt and that homosexuality and such a heinous murder in its pursuit were serious crimes against society and deserved a severe penalty. The accuser's plea that he had "defended" himself from Divakar's attack was not accepted by the Court."

Reporting this in *Gay Scene* (Nov-Dec 1980), a gay newsletter from Calcutta, the editor opined: "With all respect to Judge Deshpande one cannot fail to see a certain patch of prejudice in his remarks on homosexuality. We do condemn murder, but were not there murders of similar nature by heterosexuals? No doubt, the news will continue sending shock waves to gays all over the world, now and in times to come. Death penalty is already a taboo in many civilised nations as being more heinous than the crime and criminals. Perhaps a more humane approach than calling the whole thing a pathological sickness of "carnal desire" could do justice to Parvez. Judge Deshpande thought that Parvez was "beyond reformation" but did not analyze the point whether homosexuality or the murder or both were "beyond reformation."

CASE 2: Chittaranjan Das was convicted for the offence of sodomy by the trial court; conviction was upheld by the Allahabad High Court. The case came up before the Supreme Court in 1973. The judgement of the Court was delivered by Justice M.H.Beg:

"In view of the material which has been placed before us indicating that the appellant, a highly educated and cultured individual, was suffering from mental aberration when he committed the offence of sodomy, and that, as a result of this conviction, he will suffer loss of service and other serious consequences to his career, we confer the conviction but reduce the sentence to the period already undergone which said to be more than 2 months. The appellant, who is in jail, shall be released forthwith." (1974 (4) Supreme Court Cases 454)

CASE 3: Fazal Rab Choudhary was convicted for having committed an offence under section 377. The learned Magistrate convicted him for the aforementioned offence and sentenced him to 3 years rigorous imprisonment. While recording the order, the learned Magistrate observed:

"Although no previous conviction is proved against the accused but I think accused is not entitled to get any benefit of probation in this case because offence is serious and heinous."

The appellate court confirmed the conviction, but the learned judge did not discuss the question of adequacy or, otherwise of the sentence. The High Court dismissed the revision, considering it to be without merits. The case came up in the Supreme Court in 1982. Delivering the judgement, Justice D.A.Desai and Justice Baharul Islam opined:

"The offence is one under section 377, IPC, which implies sexual perversity. No force appears to have been used. Neither the notions of permissive society nor the fact that in some countries homosexuality has ceased to be an offence has influenced our thinking. However, in judging the depravity of the action for determining quantum of sentence, all aspects of the matter must be kept in view. We feel there is some scope for modification of sentence. Having examined all the relevant aspects bearing on the question of nature of offence and quantum of sentence, we reduce the substantive sentence to rigorous imprisonment for 6 months." (AIR1983Supreme Court323)

Though the learned judges have shown all the familiar prejudices about homosexuality (by naming gay people sexual perverts and their actions depraved), there is a recognition of consent as a

mitigating factor. This can be construed as a small step in the right direction.

**CASE 4:** Lesbianism is not covered by section 377, IPC, but the following case illustrates how literature portraying lesbianism comes under judicial scrutiny by invoking the other provisions of IPC.

In 1941, three months before her marriage, Ismat Chughtai, famous Urdu writer who recently died, wrote a story called *Lihaaf* (The Quilt). It deals with a lesbian relationship between two women, as seen through the eyes of a young girl. The author was charged by the Lahore government for obscenity. In her own words, reproduced from an interview with *Manushi*, she said: "We went to Lahore to fight the case. Lots of my supporters who knew me through my writing came to meet me. The obscenity law prohibited the use of four-letter words. *Lihaaf* does not contain any such words. In those days, the word "lesbianism" was not in use. I did not know exactly what it was. The story is a child's description of something which she cannot fully understand. It was based on my own experience as a child. I knew no more at that time than the child knew. My lawyer argued that the story could be understood only by those who already had some knowledge. I won the case." Ismat Chughtai was happy that the judges at least got a chance to read her story.

## **Homosexuality, privacy and the Indian Constitution**

India is one of the few countries that continue to keep an anachronistic sodomy law on its books. The British passed such laws in all their colonies. In July 1990, Hong Kong decriminalized adult consensual homosexual acts. India, Pakistan, Malaysia, and Singapore are the only Asian colonies that still have sodomy laws. (Trikone, Jul-Aug 1990)

Isn't such a law violative of Article 21 of the Constitution, which guarantees that no one can be deprived of his/her life or personal liberty except according to law that can be regarded as a reasonable restriction on a person's liberty? Does "life" as defined by the Supreme Court mean mere survival? Does it not mean life in all its manifestations including the environment for a person in whom s/he seeks out his/her destiny as s/he feels that destiny? (Shrikant Bhat)

Justice R.S.Sarkaria, chairman of the Press Council of India opines: "There is a school of thought which holds that this right is a fundamental right integral to "personal liberty" guaranteed by Article 21 of the Constitution and also as a derivative of the freedom guaranteed by Article 19(1)(a). In *Kharak Singh v State of Madhya Pradesh* (1964), while holding that the domiciliary visit by the police to the petitioner's house was without the authority of law, Justice Sabha Rao(as he then was) made the following observations on this topic:

" '...the said right is an essential ingredient of personal liberty...nothing is more deleterious to a man's physical happiness and health than a calculated interference with his privacy.' In *Govind Singh v State of Madhya Pradesh*; 1975) the Supreme Court observed: "the right to personal liberty ...and the freedom of speech create an independent right of privacy as an emanation from them which one can characterise a fundamental right..." Several other scholars including retired judges, K.K. Mathew ('the right to be left alone,'1979,4SCCJul.); V.R.Krishna Iyer ('Privacy is a Human Right, 'Press Council of India Journal, vol. 2, Jul. '90,p.15) are also inclined to favour the view expressed by Subba Rao J., in *Kharak Singh's case* *ibid*." (*Press Council of India Review*,voll2,no3,1991)

The right to privacy has also been recognized by the International Convention on Human Rights (1948). Article 12 of the Universal Declaration of Human Rights made by that convention, ratified in 1978, states: "No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks."

Article 8 of the European Convention on Human Rights (1953) as also the International Covenant on Civil and Political Rights, to which India is a signatory, make similar" declarations.

Isn't it time that Article 21 of the Indian Constitution is interpreted to include a right of adults to control their own homosexual activities?

### **Marriages - made in heaven?**

Through a sex-change operation in 1987, Tarunlata (33) became, a man named Tarun Kumar, and married Lila Chanda. (23) in December 1989. They were close friends for five years prior to this. Claiming it to be a lesbian relationship, Lila's father petitioned the Gujarat High Court praying that the marriage be annulled. (*India Today*, April 15, 1990)

The petitioner contended: "Tarun Kumar possesses neither the male organ nor any natural mechanism of cohabitation, sexual intercourse and procreation of children. Adoption of any unnatural mechanism does not create manhood and as such Tarun Kumar is not a male."

Oddly, section 377, IPC, was invoked for criminal action. It was argued that Tarun Kumar was not a Hindu male at the time of his birth. The High Court issued notice to the respondents including the doctor who conducted the surgery and the registrar of marriages. The same issue of *India Today* quoted the courageous couple: "There is nothing unusual about our relationship as we live like any other married couple does. Even if the Court declares our marriage null and void we shall continue to live together because we are emotionally attached to each other."

Does Tarun Kumar's father in the above case have any **locus standi** (standing) to approach the court? Does the law permit a third party, other than the two spouses, to agitate the question of divorce or annulment? Could the Supreme Court entertain a petition if tomorrow ABVA asked for a Chief Minister's marriage to be annulled on the charge that he had a defective male member? Could it be that Tarun Kumar's father's real concern was that his daughter-turned-son did not fetch any dowry?

What would the courts say to the marriage of someone like Ramakrishna, born in 1836, and his wife Sarada: "His wife Sarada lived with Paramahansa Sri Ramakrishna and their relationship developed into one of the most peculiar spiritual romances of all times. Ramakrishna adopted an attitude towards her which was shorn of all carnality and lust. This sealed the strange conjugal relationship between them. When once the pact of living the life of purely spiritual companionship was solemnly made between them, they adhered to it. Their anatomical differences sank into insignificance and their natural powerful biological attraction was sublimated, into a rare relationship." (Paramahansa Sri Ramakrishna, by R.R.Diwakar, Bharatiya Vidya Bhawan, Bombay, 1956) It is also known that Sri Ramakrishna claimed to have achieved such total identification with the Mother that he actually started to grow breasts and claimed even to have lactated.

Can such a marriage also be challenged in a court of law? What constitutes a complete man or woman? Is procreation or even intercourse a must in marriage? What about couples who choose not to have, or are physically incapable of bearing offspring? Is emotional attachment not enough? These are questions for which answers must be searched honestly. Existing laws and judicial practice in this area are inconsistent and discriminatory.

### **Sex transformation, marriage and the Law**

In her article "Legal Implications of Sex-Change surgery," (*Journal of the Indian Law Institute*: 1983, Jan-Mar, vol.25, no.1), Kusum argues that "there should be nothing in law to prevent the doctor or the transsexual from going ahead with the surgery or other treatment. Once the operation is performed and the person enters into the new world of the consequential changes in documents relating to birth, nationality and identity. Consequences of sex change on marital life should be made clear. Where the change had been undergone before marriage, without concealment or misrepresentation of the material fact, **the marriage should be regarded as valid.**"

Seen in this context, the marriage of Tarun Kumar and Lila should be recognised as valid in law. The above author cautions: "It should not be forgotten that a person who has had a sex-change has already gone through and possibly is going through an emotionally traumatic experience in life.

His/her assimilation into the new world should be facilitated by understanding, sympathy and societal acceptance. His/her looks and apparent sex should be the criteria for judging his/her sex for all practical purposes and there is no doubt that the legal recognition of the changed sex as the true sex of a person is the most important and essential factor in rehabilitating a transsexual emotionally, physically, socially and psychologically.'

### **Get your act together**

It is about time the Indian Supreme Court recognize the constitutional right of sexual freedom and equality for gay people. Section 377, IPC, should be repealed, else struck down as constitutionally invalid. If heterosexual intercourse between unmarried people is not proscribed, how can the Courts consistently hold that such a right does not extend to homosexual intercourse? If homosexual sex is thought depraved because of its non-reproductive consequences, then masturbation, celibacy, insertion of the finger into the anus, contraception, non-procreative sex within marriage must all be similarly proscribed. Can a distinction between heterosexual and homosexual forms of sexual activity be defended rationally? Is there any basis to believe that gay people, apart from their sexual orientation, are psychologically? Distinguishable from the rest of the population?

Could it be that male sodomy has been so heavily regulated because permitting it would be compromising male power over women. For can the law countenance men playing a social role-being penetrated - reserved for "civilly and sexually inferior women?" (*Andrea Dworkin, Intercourse*)

It is clear that Parliament and the Courts continue to employ imprecise, unquestioned notions of natural/unnatural and normal/abnormal when dealing with, or ignoring homosexuality. How did heterosexuality come to be seen as the "normal" sexuality? How did homosexuality, which was traditionally proscribed as a specific act, come to be viewed as a depraved condition? While the law gave juridical birth to the homosexual criminal, the apparatus of medical science contributed the underlying pathology. Both processes went hand in hand, inventing the idea of what, in modern times, is seen to be the "homosexual person".

*(Citizens and organisations, in India and abroad, are encouraged to send petitions urging the repeal of section 377 of the Indian Penal Code to the Chairman, Petitions Committee Lok Sabha, Parliament House, New Delhi 110 001, India.)*

## 5. THE ROLE OF THE MEDICAL ESTABLISHMENT

The medical profession has played a central role in conflating homosexuality with deviance, perversion, and abnormality. While the law categorised "the homosexual" as a sexual offender, medical science worked overtime to unearth, classify, and construct the physical traits characteristic of the "disease" of homosexuality. In fact, many historians suggest that the very concept of a homosexual," or for that matter, "a heterosexual," is a 19th - century European Invention. Certainly, there always existed people with an erotic interest in others of the same or of the opposite sex. But the idea that someone is a particular kind of person as a result of his/her sexual orientation is a uniquely modern concept, just a hundred years old. The end of the last century saw the "homosexual person", with a definite pathology and identifiable physical traits, created at the intersection of medicine, law and criminology. What was earlier considered a moral offense became, via medical diagnosis, a vice, an acquired form of insanity, or a congenital defect that indicated evolutionary degeneracy.

For instance, *The Criminals* (1890s), by British sexologist Havelock Ellis, describes sexual offenders as having "eyes nearly always bright." Similarly, an 1857 study of same-sex eroticism in France, claims to have discovered physical evidence for an inclination towards "pederasty": "Pederasts are depraved individuals and differ not only morally but also anatomically from other men. Active pederasts have an underdeveloped, tapered penis, resembling that of a dog; the anus of a passive pederast, even before any sexual activity, is naturally smooth, lacking in radial folds." (Erwin J. Haeberle, "Stigmata of Degeneration--Prisoner markings in Nazi Concentration Camps" in S. Licata, ed, *The Gay Past, A collection of Historical Essays*)

The medicalisation of homosexuality--a transition from notions of sin to concepts of sickness or mental illness--went hand in hand with the emergence of the medical profession itself as a new "priestly class" in Europe. With great fervor, sexologists went about classifying, and in the process, creating categories such as "the moral imbecile," "the sexual pervert," "the hysterical woman," "the exhibitionist," "the nymphomaniac," and so on. In England alone, between 1898 and 1908, more than a thousand publications on homosexuality saw the light of day. (Jeffrey Weeks, *Against Nature*) Surely this new vigour was not prompted by a sudden, drastic increase in the incidence of homosexual activity? Rather, medical science had begun to focus its attention on sexuality as an area of investigation, elaborating both "homosexuality" as a peculiar condition and, simultaneously, "heterosexuality" as the "norm."

### The "disease" of masturbation

Central to the above process was the ascription of procreative sexuality, preferably within marriage, as an attribute of normal, healthy males and females. People who did not fit this reproductive model of normalcy were labelled defective in need of cure through medicine and regulation through law. Women in general and women in prostitution in particular began to be associated with the signs of a specific disease - syphilis, and were subjected to demeaning medical check-ups. Masturbation merited an even more elaborate response. Ever since it was first classified as a disease in a book titled *Onania*, published in Holland in 1700, it was held to be the cause of a wide range of illnesses - dyspepsia, constrictions of the urethra, epilepsy, blindness, vertigo, loss of hearing headaches, impotency, rickets, leucorrhea in women and chronic catarrhal conjunctivitis. Nymphomania was found arise from masturbation, occurring more commonly in blondes than brunettes. Further, changes in the external genitalia were attributed to it: elongation of the clitoris, reddening and congestion of the labia majora, elongation of the labia minora, and a thinning and decrease in the size of the penis. Finally, masturbation was held also to cause hereditary insanity and a predisposition to consumption.

Interestingly, between 1874 and 1933, masturbation was variously classified under the following heads: Male Diseases of Generative Organs, Diseases of the Nervous System, Cerebral-Spinal Disease, Genito-Urinary System Disease. During the same period, it was routinely treated by performing vasectomy and castration on men and clitoridectomy on women. (H.T. Engelhardt, jr, "The Disease of Masturbation: values and the Concept of Disease," in Judith Leavitt, ed., *Sickness &*

The classification of masturbation as a disease shows how modern medicine began to equate concepts of good health with those of acceptable moral behaviour in 18th and 19th century Europe. It exposes too, the value-laden nature of medical science, which increasingly categorised sexual behaviour as either healthy or sick, arrogating to itself the authority once exercised by religion in such matters.

## **The medical model in the 20th century**

By the turn of this century there was a consensus within the medical profession about the hereditary origins of homosexuality. Not surprisingly, this medical model buttressed the most extreme form of anti-homosexual repression witnessed in the 20th century--the Nazi attempt in Germany between 1933 and 1945 to assure the male domination of society by strictly regulating masculine sexual behaviour. Medical theories were deployed to show the inherent racial inferiority of Jews, gay men, gypsies and other "undesirables." These groups were portrayed in medical propaganda as marked by physical deformities (misshapen heads, crooked noses, drooping lower lips, bent legs, and so on) in order to create an image of a sickly, sexually "perverse" enemy. Both abortion and homosexuality were proscribed by law in an effort to maintain purity. Even a kiss or an embrace between two men became a felony (lesbianism, in typically sexist manner, was passed over as being of no consequence) and nearly 10,000 gay men were convicted each year during the Nazi era. Along with thousands of gay men were rounded up and put in concentration camps. While Jews were made to wear yellow stars, gay men were marked for bureaucratic identification by pink triangles. The medical profession played a central role in this persecution.

The turn of this century also saw a shift, in medical investigations of sexuality, from the body to the psyche. Attention turned from the identification of physical stigma of degeneracy to homosexuality as mental health problem requiring psychiatric treatment. Some historians trace the rise to eminence of this psychoanalytical model to the psychiatric screening of inductees into the Armed Forces which was ordered by the U.S. government during World War II. This event enormously expanded the prestige and influence of the psychiatric profession and spawned many of the popular notions of homosexuality that persist to this day. (John D'Emilio, *Sexual Politics, Sexual Communities: The Making of a Homosexual Minority in the United States, 1940-1970*)

The modern notions of "masculinity" and "femininity," both in physical appearance and personality, of "mannishness" in lesbians and "effeminacy" in gay men, originated at this time. A "real" man was defined as a "heterosexual" man, one who penetrates and dominates. A woman, if she was not "physically corrupt," was weak and docile, a receptacle of male "desire" and confined to the reproductive function. Moreover, all sexual acts were defined as intrinsically "active" or "passive" in nature. This kind of sexual stereotyping gave rise to the idea that the penis and vagina have a "natural fit," a theory not unheard of even today.

All deviations, whether in the form of homosexual, or for that matter, non-reproductive heterosexual activity, came to be viewed as socially threatening "disease." Methods of medical diagnosis and elaborate therapies were developed to "cure" these new "types" of people: homosexuals, prostitutes, and single women.

## **No homosexuality please, we're British**

Modern-day Indian medical science, like its Western precursor, viewed homosexuality as a social threat and gay people as abnormal. In 1886, Dr. W.J. Moore, the British Surgeon-General of Bombay, expressed his fears about the irrepressible sexual instincts of men in the Indian Army thus: "For a young man who cannot marry and who cannot attain to the high moral standard required for the repression of physiological natural instincts, there are only two ways of satisfaction, viz., masturbation and mercenary love. The former, as is well known, leads to disorders of both body and mind; the latter, to the fearful dangers of venereal" (Kenneth Ballhatchet, *Race, Sex and Class under the Raj*)

The danger posed by this "mercenary love" to British soldiers prompted measures for registering women in prostitution, inspecting them, and detaining them in hospital if they caught venereal disease. Linked to this was the fear of homosexuality as a threat to military discipline. Generally viewed by army officers as unmanly, homosexuality was thought of as a danger to "our boy soldiers." By a perverted twist in logic, providing regulated access to women in prostitution was justified by medical officers as a way to fend off the seductions of homosexuality and protect soldiers' masculinity. Lord Curzon, who was Viceroy from 1899 to 1905, sent a young Indian prince "who had shown homosexual tendencies" to the Cadet Corps to learn self-discipline. Immediately, however, he began to fear that the young man might be corrupting other cadets. Surgeon-General Hamilton who was in charge of a cantonment general hospital, observed: "I have had a good deal of experience (in England) of schools, seminaries and colleges for boys, and, as I daresay you know, few of these institutions escape being infected with some immorality or other; but, once (the special Oriental vice) creeps in, it is most difficult to eradicate." Curzon's explanation for the persistence of homosexual tastes in India was Indian custom, specially "...early marriage. A boy gets tired of his wife, or of women, at an early age, and wants the stimulus of some more novel or exciting sensation." (Ballhatchet, Ibid)

### **No homosexuality please, we're Indian**

In contrast to the historical British view of homosexuality as a peculiar Oriental vice, India's top scientist in contemporary times, Dr. A.S. Paintal, until recently Director General of the Indian Council of Medical Research (ICMR) insists that homosexuality is alien to Indian culture.' Employing his own brand of logic, Dr. Paintal claims that, "there is no homosexuality in India because there is law against it." (Interview with ABVA, October 1989) We wonder then why the mere existence of laws against dowry does not automatically imply the absence of this evil in society? Or more pertinent to Dr. Paintal, whether the mere outlawing of adultery means that it does not still flourish with impunity

The Medical Council of India (MCI), the highest regulatory body for the medical profession, has an even more extraordinary view on the subject. When asked by ABVA to comment on the status of homosexuality in our society, their mysterious and helpless response was: "Please refer to the ICMR." (October 1991) Similarly, the Professor and Head of the Department of Medicine, Maulana Azad Medical College (MAMC), New Delhi, declared at a national symposium on "AIDS and the Surgeon" (19 April 1991) that "homosexuality, culturally, does not exist in India."

Yet another interesting view comes from the Directorate General of Health Services (DGHS). In their magazine *Swastha Hind* (December 1988) they claim with great authority that "a good percentage of our young people do not lead a loose sex life. Sexual promiscuity is a relatively unknown term for many. Many young persons come to know of homosexuality only after reading or seeing photos and pamphlets on AIDS. We should exercise caution that we do not over-educate them as instead of controlling, we may then arouse their curiosity and lead them on to unsafe sex practice." What, we wonder, is the justification for slipping from talking about sexual promiscuity to referring to homosexuality? Is it the scientific stand of the DGHS that the two are in some way inherently linked?

We would also like to ask the ICMR, MCI, MAMC, and DGHS if they have based their views on any scientific study of the incidence of homosexual behaviour in India? Have these studies been published in respectable medical journals or presented at any scientific gatherings, in India or abroad? If no such surveys exist, should not these apex scientific bodies retract their irresponsible statements?

Curiously, even Dr. Sudhir Kaker, a respected psychoanalyst based in Delhi, is almost completely silent on existence of homosexuality in India. His two books dealing with love, sex and romance in our culture - *Tales of Love, Sex and Danger and intimate Relations, Exploring Indian Sexuality* (1989) - find the entire realm of same-sex eroticism unworthy of comment or exploration. The latter book, for instance, which claims to be a look at "the construction of story of Indian love relations" refers to homosexuality only passingly, and even then as a "temptation" to which "men living in crowded slums of big cities and away from their women-folk are undoubtedly subject." Is such a



mechanical model of human behaviour - implying that men, like rats, resort to homosexual behaviour only when put in crowded environments-an accurate reflection of the range of sexual and emotional experiences that characterise same-sex eroticism in India?

### **An obsessive concern with the anus**

Yet another category of medical experts grudgingly acknowledges is the existence of homosexuality but conflate it, variously, with sodomy, perversion and hijras. Professor Opendra Narayan, an Indian doctor at the prestigious Johns Hopkins Medical School in the U.S., views gay men in two categories, "active" or "passive." He goes on to describe the rectum as an "unhygienic environment" and to elaborate homosexual behaviour in the following terms: "the active sexual partner injects infected semen into the anus of the passive partner... These people have sex twenty to thirty times a night ... A man comes along and goes from anus to anus and in a single night will act as a mosquito transferring infected cells on his penis. When this is practiced for a year, with a man having three thousand sexual intercourses, one can readily understand this massive epidemic that is currently upon us."

*(Simon Watney, Policing Desire: Pornography, AIDS and Media)*

It is noteworthy that the above theory of direct cell to cell infection assumes that the man being talked about can have thirty separate orgasms, with as 'many partners, in a single night! Biological reality is obviously no bar to Dr. Narayan's fantasies. Moreover, an extremely narrow education has permitted the learned doctor to imagine sex only in terms of the penetration of the male genital into something or the other. Is there any basis for assuming that sodomy, understood as anal sex, is the only sexual activity engaged in by gay men, or for that matter is an activity unknown to heterosexuals? Scientifically, at any rate, the rectum is as infected or uninfected as any other part of the human body; the mouth and nose have the same level of bacteria viruses. Shouldn't the mouth and anus too be defined sexual organs? Does it come as any surprise that Dr. Narayan specializes in veterinary medicine?

A similar disregard for simple physical truths is displayed by Dr. I.S.Gilada of the Indian Health Organization (IHO), Bombay, who claims that homosexuals are the same as hijras and that "60 % of them are engaged in prostitution." (Bombay Dost, vol 1, no 2, 1990) ABVA is constrained to ask if the MBBS programme in Indian medical colleges teaches students that gay males cannot be distinguished from heterosexual males on the basis of their genitalia? Or could it be that "homosexuals" matter so little that nobody in the medical profession has bothered to check out this detail?

Certainly, Dr. J.K.Maniar, STD specialist G.T.Hospital, Bombay has not. When a member of ABVA met him in March, 1991, Dr. Maniar introduced him to a young person with AIDS who, he said, was a hijra and, therefore, "not likely to use condoms or practise safe-sex." When our group member met the patient, he was surprised to learn from him that he was anatomically and psychologically male, though he earned money by having sex with men. Don't these comments betray contempt towards both gay men and hijras? Could it be that these experts of medical science view all sexual and emotional activity outside marriage as a blur, incapable of differentiation and equal respect?

The above attitudes all show that medical science in India has been quick to adopt some of the worst prejudices in the West about homosexuality. However, Indian doctors have been less eager to import some of the less noxious and more scientifically viable ideas on the subject developed abroad. Of these, three are of particular importance to note.

#### **1. The Kinsey study**

Alfred Kinsey, an American scientist, published two reports on male and female sexual behaviour, in 1948 and 1953, offering scientific evidence on homosexuality (among other things) which challenged all conventional wisdom. Among males he found that 50 percent admitted erotic responses to their own sex, 37 percent had at least one post-adolescent homosexual experience leading to orgasm, 4 percent were exclusively homosexual throughout adulthood, and, in one out of eight cases, same-sex eroticism predominated for at least a three-year period. For women the proportions, though lower, still revealed extensive lesbian activity. Twenty-eight percent responded erotically to their own sex,

and 13 percent had experienced orgasm with another woman, while the percentage of women either exclusively or primarily, homosexual in orientation was between one-third and one-half of the corresponding male figures. The data disputed the assumption that all adults were permanently and exclusively either homosexual or heterosexual and revealed instead a fluidity that belied medical theories about fixed orientations. To highlight these variations, Kinsey constructed a seven-point rating scale, ranging from exclusive heterosexuality at one end to exclusive homosexual behaviour at the other. (John D'Emilio,ibid)

Dismissing views of homosexual behaviour as unnatural, abnormal or neurotic, Kinsey concluded that, it represented instead an "inherent physiologic capacity." Moreover, he observed, "persons with homosexual histories are to be found in every age group, in every social level, in every conceivable occupation, in cities and on farms, and in the most remote areas of the country."

## **2. Stand taken by the American Psychiatric Association (APA)**

In 1973, the APA finally removed homosexuality from its list of mental illnesses, following years of lobbying by activists. Its statement is still significant today:

"Whereas homosexuality per se implies no impairment in judgement, stability, reliability, or general social or vocational capabilities, therefore, be it resolved that the American Psychiatric Association deplores all public and private discrimination against homosexuals in such areas as employment, housing, public accommodation, and licensing, and declares that no burden of proof of such judgement, capacity or reliability shall be placed upon homosexuals greater than that imposed on any other persons.

"Further, the APA supports and urges enactment of civil rights legislation at the local, state, and federal level that would offer homosexual citizens the same protections now guaranteed to others on the basis of race, creed, colour, etc.

"Further, the APA supports and urges the repeal of all discriminatory legislation singling out homosexual acts, by consenting adults in private." (December 15, 1973; TriKone,January 1987)

## **3. The 1979 study of homosexualities**

A ten year long study on homosexualities, authored by Alan Bell and Martin Weinberg, was released in 1979 by the Kinsey Institute in Indiana, USA. Its most important findings, based on face-to-face interviews with 1,500 men and women from divergent backgrounds, are summarised below:

"Gay people are "significantly more liberal", politically and notably less religious than the general population. Homosexual men have "more good, close friends" than heterosexual men do, tend to like their jobs better (and few are employed in stereotypically "gay" fields, like hairstyling), and have "work histories fully as stable."

"A large percentage of gay people - ranging from 64 % of white homosexual males to 88 % of black homosexual females - have had heterosexual coitus. Gay males place more premium on youthfulness than do lesbian women, and are more sexually active. But even for gay men, the data "fail to confirm the idea" of a "sex-ridden people" (40% of the males look for sex partners as little as once a month, or not at all). The data does confirm that it's "quite uncommon" for gay people to adhere strictly to traditional sex roles; they are also freer than non-gays in engaging in "many different forms of sexual contact" with their partners. Almost all the 1,500 respondents have had long-lasting relationships with a love partner involving "an emotional exchange and commitment similar to the kind that heterosexuals experience.

"Only a minority of the respondents expressed any regret about being gay; those who did, usually related it to not having children or social punishment. "It would appear that homosexual adults who have come to terms with their homosexuality ... are no more distressed than are heterosexual man and women." And they are less prone to making "objectionable sexual advances" to others. This is especially true as regards "the seduction of 'innocents'; there, the most common pattern by far involves "an older, heterosexual male, often a relative, and a pre- or post pubescent female." (Martin

Doberman, *About Time, Exploring the Gay Past*)

Isn't it time that the Indian medical and scientific establishment took it upon themselves to launch a massive study of sexual behaviour, in general, and homosexuality in particular in India? It is a shame that popular myths and harmful misconceptions continue to be perpetuated about homosexuality without any systematic understanding of sexual behaviour in our society. How much longer will India lag behind the rest of the world in this vital area?

### **Rays of hope**

Gay people may feel encouraged by the following positive medical views on homosexuality. Varahamihir, an astronomer/ayurvedic physician, who was one of the "nine gems" of the court of Vikramaditya wrote approvingly about lesbian love in his *Brihatjataka* (550A.D.)

According to Modi, whose Textbook of Medical Jurisprudence and Toxicology (1983, 3rd reprint) is a worldwide authority, "A homosexual component exists in everybody, so in this sense it is universal; but it varies qualitatively in different individuals. It exists among all callings and at all levels of society."

Professor M.P.S.Menon, Head, Department of Medicine (and other departments), University of Delhi, gave his views on homosexuality in a written communication to ABVA: "I do not think homosexuality is a cause of AIDS. Homosexuals and heterosexuals are both prone to developing sexually transmitted diseases equally. If homosexuality or heterosexuality degenerates into intimidation, coercion, and use of force, both become illegal. Sex act with mutual consent, with proper care to avoid receiving and transmitting diseases should not be considered a crime. Using minors as passive agents should be made punishable. Sex acts as a means for earning wealth, positions of power, etc. are reprehensible, whether they be heterosexual or homosexual."

Finally, G.Ratray Taylor, the famous psychologist, made the following observations in his book *Sex in History* (1953). "Passionate love between married people is impossible. The notion that marriage is the proper outcome of the close personal preoccupation which we ambiguously call "love" is of course a modern one.... this conception had never existed in any other period of history and that it was confined, for all practical purposes, to Britain and the US."

The conclusions of this eminent scientist and historian need to be considered by the peddlers of sexual "normalcy" in our medical establishment: "But the past influences us in a more far-reaching way through our basic assumptions, which change very slowly and almost unnoticeably. The best example of this is perhaps the assumption of monogamous marriage, which has become so much a part of our thinking that to challenge it does not come in question. So much so, that, we fondly suppose it always to have been the custom; this is by no means the case. It has taken about a thousand years to embed this assumption in our thinking, and no doubt a thousand years from now it will have vanished again. The idea may be shocking but the delightful illusion that social change culminates in us can no longer be sustained."

Individuals and organisations, in India and abroad, are encouraged to write to the President, Indian Medical Association, I.M.A. House, Indraprastha Marg, New Delhi 110 002, asking the apex medical body to take a clear stand that homosexuality is normal, it is no longer a physical or mental ailment, and laws criminalising homosexual acts, or persecuting gay people, should be repealed.

## 6. CULTURE, HERITAGE AND HOMOSEXUALITY

The religious backgrounds of a culture and its ancient religious codes are often important sources by which individuals live their sexual lives. The Kinsey report, quoted in the previous chapter, concluded that "nothing in American society has more influence upon present-day patterns of sexual behaviour than the religious backgrounds of that culture...ancient religious codes are still the prime source of the attitudes, the ideas, the ideals and the rationalisation by which most individuals pattern their sexual lives."

If this is so then the incidence of exclusive homosexual behaviour and of bisexuality in India is bound to be far more than the figures documented for the USA. In fact we do not need an Alfred Kinsey to discover the rich possibilities of same-sex eroticism and to appropriate these in the form of modern gay sexuality. It's all there in our art, culture, religion, philosophy and sculpture.

The medical profession, in particular, is oblivious of this rich heritage. For instance, Dr. K. Abhayambika, Professor of Medicine and State Aids Programme Officer, Medical College, Trivandrum, Kerala writes:

"Even at this end of the twentieth century, the Eastern culture is untinged in its tradition of high morality, monogamous marriage system and safe sex behaviour. Our younger generation and youth still practice virginity till their nuptial day. The religious customs and god-fearing living habits are a shield of protection against many social evils. It will be difficult even for the HIV to penetrate this shield, except in certain metropolitan populations." (Swasth Hind)

Typically this Professor of Medicine, like many others, has not cared to learn about indigenous texts, concepts and traditions, which revered and even celebrated sexual ambiguity, whether in the Kamasutra, through sexual dualism, in mysticism, or in female kingdoms.

### On oral congress

Kamasutra is the first literary classic in the world on matters of sex. It was written by the sage Vatsyayana in the 4th-5th century A.D. The author actually compiled verses from Sanskrit texts several centuries old. The work contains an entire chapter, Auparishtaka, on homosexual sex. Lesbian activity was stated to have been observed in the Anthapura (harem). According to the original Kamasutra, "Auparishtaka (oral congress) appears to have been prevalent in some parts of India from a very ancient time. The Shushruta, a treatise on medicine some two thousand years old describes the wounding of the lingam with the teeth as one of the causes of a disease treated upon in that work. Traces of the practice are found as far back as the eighth century, for various kinds of Auparishtaka are represented in the sculptures of many Shaivite temples of Bhuvaneshwar, Orissa, which were built about that period."

The Kamasutra records that Auparishtaka is practiced by the following--male citizens, who know each other well, among themselves; women, when they are amorous, do the acts of the mouth on the yonis of one another; some men do the same with women; male servants of some men carry on the mouth congress with their masters; eunuchs with males.

One of the original verses has been translated thus "Young masseurs usually wearing ear ornaments do allow their friends as well as some men to have mutual oral congress. Sometimes young actors or dandies allow undersexed or elder men to have oral sex with them. It is also practiced by young men who know each other well. Sometimes men who are effeminate indulge in oral sex with each other simultaneously by lying alongside one another inversely. When a man and a woman lie down in an inverted position with the head of the one towards the feet of the other and carry on oral sex with each other it is called Kakila; this term is also applicable to oral congress between two males as also two girls or women." (translation by Mulk Raj Anand)

Vatsyana insists that this practice is allowed by the orders of the Holy Writ (Dharam Shastras) with just a few exceptions.

## Of eunuchs, male and female

The Kamasutra refers to two kinds of eunuchs - those disguised as males and those as females. Eunuchs disguised as females imitate their dress, speech, gestures, tenderness, timidity, simplicity, softness and bashfulness; they derive their imaginative pleasure, and their livelihood from Auparishtaka and lead the life of courtesans.

Eunuchs disguised as males lead the life of shampooers and practice Auparishtaka with the males they shampoo. The following eight things are said to be done by the eunuch in sequence. At the end of each of these, the eunuch expresses his wish to stop; but when one of them is finished, the man desires him to do another and after that is done, the one that follows it, and so on:

- " 1. When, holding the man's lingam with his hand and placing it between his lips, the eunuch moves his mouth about it, it is called 'nominal congress.'
2. When, covering the end of the lingam with his fingers collected together like the bud of a plant or flower, the eunuch presses the sides of it with his lips, using his teeth also, it is called "biting the sides".
3. When being desired to proceed, the eunuch presses the end of the lingam with his lips closed together, and kisses it as if he were drawing it out, it is called the "outside pressing".
4. When, being asked to go on, he puts the lingam further into his mouth and presses it with his lips and then takes it out, it is called the "inside pressing".
5. When, holding the lingam in his hand, the eunuch kisses it as if he were kissing the lower lip, it is called "pressing".
6. When, after kissing it, he touches it with his tongue everywhere, and passes his tongue over the end of it, it is called "rubbing".
7. When, in the same way, he puts the half of it into his mouth, and forcibly kisses and sucks it, this is called "sucking a mango fruit".
8. And, lastly, when with the consent of the man the eunuch puts the whole lingam into his mouth, and presses it to the very end, as if he were going to swallow it up, it is called "swallowing up."

The methodology of the Kamasutra seems to have been modeled on Kautilya's Arthashastra. According to A.A. Macdonell, Emeritus Professor of Sanskrit, University of Oxford, " The contents of this work appear to us for the most part indecent, but it must be borne in mind that the Indian is much more outspoken on sexual matters than we are." (India's Past, A Survey of her Literatures, Religions, Languages). It is a shame that a Westerner has to remind us about our traditional sexual openness whereas we continue to vigorously deny it.

## Sexual dualism

What modern psychologists in the 20th century now acknowledge as sexual dualism in each individual was a principle enunciated in ancient traditions in India. Ardha-nari (half-woman) is a form in which Siva is represented as half-male and half-female, typifying the male and female energies. There are several stories accounting for this form, also called Ardhanarishvara and Pavanagada.

Siva is the third deity of the Hindu triad. He is described as the destroying principle. But destruction in Hindu belief implies reproduction; so he is the reproductive power, which is perpetually restoring that which has been dissolved. As a restorer he is represented by his symbol the Linga or phallus, typical of reproduction. It is under this form, alone or combined with the yoni, or female organ, the representative of his shakti or female energy, that he is worshipped everywhere.

The idea of sexual dualism is placed before 3000 B.C. In his book *The Religions of India* (1969), A. Barth, member of the Asiatic Society of Paris, states: "As many as an entire half of the Sivaite religions are in fact, characterized by the culture of an androgynous or female divinity. The Shakti, such as she appears in these systems of worship, is no longer derived from the metaphysics. It has its roots far away in those ideas, as old as India itself, of a sexual dualism, placed at the beginning of things (in a Brahmana of the Yajur Veda, for instance, Prajapati is androgynous) or a common womb in which beings are formed, which is also their tomb. It proceeds directly from the prakriti of

the pure Sankhays, from eternally fertile nature, whence issue both the sensible forms and the intellectual faculties and before which the mind or the male element, acts as a part that is featureless in character and barren of result. It is difficult to come to any precise conclusion in regard to the period when these ideas were translated into religious beliefs." The supremacy assigned to the female divinity is affirmed in certain Puranas and in the literature of the *Tantras*.

Giti Thadani, a young independent researcher from New Delhi, elucidates on the vision of such a feminine world, "pre- patriarchal" in structure: "Importance was not attached to the 'male-female couple', but on the notion of yoni which signifies 'the womb, the infinite source', the symbol of which was the triangle. The triangle consisted of two points of 'light' represented by female twins, symbols of fusion, and of a third point which was the earth. The notion of twins or jami also signifies, in various texts, "homosexuality". This triadic system goes back to a family structure in which importance is not attached to the notion of the 'social father' or the 'biological mother', but in which there is a notion of multiple mothers. So, for example, families did not have the name of the biological father, but the names of gods; and a child could have one mother for pleasure, one for knowledge, one for art and so on. Sexuality was based on pleasure and on fertility, but not on progeny (the practice of passing over the children to the man). Phallic discourse only appeared with progenic sexuality. So, the first notion of "heterosexuality" appeared under the terminology of a-jami that which is not jami, which is not paired, fused as it is in the notion of "homosexuality". (Shakti Khabbar, June-July 1990)

### **The Sivaite cult**

Excavations from the site of the Indus Valley civilization reveal huge stone phalli and rings corresponding to lingas and yonis, as also to prototypes of Siva. It has been suggested by some historians that this civilization was Dravidian and was destroyed by "barbarians," including at least invaders from northwest Iran. Some have boldly suggested their identification with the Vedic Aryans. Fierce conflicts occurred between the invaders and the Dravidians, whom the Aryans derogatorily called dasas. Indra, the chief of the Aryan gods, became the mighty destroyer of the forts of the dasas. However, some Dravidian gods and goddesses, ideas and customs, were absorbed by the Aryans.

The Vedas (1000-1500 B.C.) did not countenance the worship of the lingam but this was enjoined in the Mahabharata (written by Vyasa, around 500 B.C.), in two passages, which appear in later editions. In *Hinduism and Buddhism: An Historical Sketch*, volume 2, (1921) Sir Charles Eliot documents that phallic worship "forms part of the private devotions of the strictest Brahmans and is not connected with low-castes, with orgies, with obscene or blood thirsty rites or with anything which can be called un-Aryan."

The appropriation of Siva without Shakti was the selective borrowing of an Aryan culture, which was becoming increasingly brahmanical (some have suggested patriarchal) in structure.

What were the rituals connected with the Sivate cult which were surgically excised from the form of phallic worship that became part of mainstream Hinduism?

### **Tantric rituals**

Describing Tantra as a school of thought which evolved the idea of universal bisexuality in human personality, Subodh Mukherjee, a gay man from Calcutta writes: "Along with Tantra came the yogic ideas of six chakras, or nerve centres, within the human body. According to Tantra philosophy, the basal chakra lies in the perineum (between the anus and the phallus/vagina) of the human body where the kundalini, the serpentine power of enlightenment is said to lie (or sleep) in a coiled-up state. The sexo-yogic methods of Tantric discipline seek to arouse this power and make it shoot up the spine, through the six chakras, straight up to the cerebrum in the brain." (Trikone, Jan-Feb 1990) French Indologist Alain Danielou, in his book *Shiva and Dionysus*, explains the tantric rite of anal penetration thus: "There is a whole ritual connected with anal penetration through the narrow gate opening into the labyrinth (in the man the intestine). In Tantric yoga, the centre of Ganesha--the

guardian of the gates - is found in the region of the rectum. The male organ, in directly penetrating the area of coiled-up energy, may help its brutal awakening and thus provoke a state of enlightenment and sudden perception of realities of a transcendental order."

The objective of tantric rites is to harmonise and combine "the two polar principles, Shiva and Shakti in one's own body"; this conception of human bisexuality elevates the homosexual to the pedestal of great sanctity. (Mircea Eliade, *Mephistopheles et l' Androgyne*). "The hermaphrodite, the homosexual and the transvestite have a symbolic value and are considered privileged beings, images of Ardhanarishwara." (Danielou)

## **Ardha-Narishwara abroad**

In sharp contrast to such celebration of sexual dualism, the official position of the Indian government on the theme of Ardha-narishwara can be summed up by the following description by noted 'Hindi writer, Mrinal Pande: "A choreographic display of the traditional Ardha-narishwara theme sent one of our venerable Indian diplomats in Moscow into a paroxysm of rage. The theme of this proposed exhibition through dance and mime, illustrated beautifully how men and women house so many different capacities within male and female forms, the full range of which lies suppressed very frequently under societal taboos. But the diplomat's spluttering rage saw to it that the programme was cancelled. One wonders just how many musicians, dancers and craftsmen the country must have thus lost due to this curious and intolerant obsession with body image, genitals and "masculine" or "feminine" behaviour of a certain kind. Wouldn't it be far healthier to have a society where, without disfiguring the body, a man or a woman can if s/he feels like it, keep house, dance, take to music or embroidery or cooking or take on a tough job, play, go out when s/he feels like it, if only to bum around with his/her mates, without ever feeling freaky or apologetic." (The Independent, quoted in Bombay Dost, May 1990)

## **Mysticism**

Religious mysticism constitutes another tradition, which subverts rigid male/female, masculine/feminine distinctions. Gandhi, for instance, aspired "to become God's eunuchs; many Christians seek a union of their hearts with the Sacred Heart of Jesus and the sorrowful heart of the Virgin; and many Sikhs find the intimacy of spiritual love expressed in terms of the earthly bride's wedding with the transcendental Lord. Other mystics have included Mira, the queen of Udaipur, who found bar fulfillment in the love of Krishna; 16th century poets, zabir, Malik Mohamed Jiyasi, Tulsidas and Eknath, poet Chandidas; Abhiram Swami and Vikramangal; various other Sufi and Tantric mystic sects.

Radha Kamal Mukherjee in his book *The Theory and Art of mysticism* (1960) describes a type of mystical experience - "fervent mysticism, saturated with intense emotional satisfaction in which God appears in a concrete human pattern, and the mystic in his state of rapture can hardly distinguish between the apprehension of his unity with God and sensual and even sexually determined delight. Deep and delicate affections mere blossom forth into spiritual love of which the species and types are as different as the various human relationships and the moods and temperaments of individuals."

In a recent book *The Analyst and the Mystic* (1991), The Analyst and the Mystic, psychoanalyst Sudhir Kakar explains the mysticism of Ramakrishna, one of the greatest modern mystics, thus: "Ramakrishna felt that the classical disciplines of Yoga were very difficult to follow for most human beings since the identification of the self with the body, which these disciplines seek to undo, was too deeply embedded for any easy surrendering. For those who could not get rid of the feeling of "I," it was easier to travel on the devotional path where one could instead cherish the idea that "I am God's servant" (or child, friend, mother, or lover)...The *vairagya*, the renunciation (of the passions) can take place equally well by changing the object of these passions, directing them toward God rather than the objects of the world. "Lust for intercourse with the soul. Feel angry with those who stand in your way toward God. Be greedy to get Him. If there is attachment, then to Him: like *my Rama, my krishna*...

"The longing had to be so intense that it completely took over body and mind, eliminating any need for performing devotions, prayers, or rituals...Devotion (*bhakti*) matures into bhava, followed by *mahabhava*, *prema* and then attainment of God in the *unio mystic*...

"Practising the madhurya-bhava of Radha towards Krishna, (Ramakrishna) dressed, behaved, and lived as a girl for six months...When living in the motherly bhava of Yashoda towards Krishna, he had one disciple, who felt like a child toward him, lean against his lap as if suckling at his breast while the mystic talked or listened to the concerns of his other disciples." Ramakrishna once described how "the Divine Mother revealed to me in the Kali mother that it was She who had become everything."

## Female kingdoms

Strong lesbian feelings and activities are reputed to have existed in a female kingdom during the latter part of the 1<sup>st</sup> century B.C. Parts of northern India had plunged into darkness at this time because of a foreign invasion. King Amlat attacked and captured Pataliputra. Atrocities were committed on local inhabitants. The attack by the Huns resulted in mass-scale tragedies. According to available records of the time:

"In this dangerous war practically all men of the nation were killed; so women had to do all the work. They ploughed the land; protected the fields with bows and arrows. The women organized themselves. Men were so weak that on an average 10-20 women married the same man. All businesses in villages and cities was looked after by the women. (from the works of Gargacharya)

References to female kingdoms are also found elsewhere:

1. Kautilya (4th century B.C.), the Prime Minister of Chandra Gupta Maurya, has referred to such kingdoms in his monumental work Arthashastra. Stri rajya existed in various parts of India.
2. Kalidas (4th century), our national poet, refers to such a kingdom in his works.
3. Hsuan Tsang (7th century), the Chinese pilgrim, refers to two female kingdoms in his commentaries.
4. Mahabharata (800-500 B.C.), by Vyasa, contains references to two kingdoms, those of Alli and Pavazha Kodl, both female monarchs. A verse in the Mahabharata also refers to women stimulating each other's genitals and condemns them for using an artificial penis. Two references to hijras also occur in this work: a) Shikhandi (Sanskrit word for peacock, our national bird, which is a symbol of sexual energy) was a hermaphrodite or eunuch) b) During their last year in exile, Yudhishthira asks Arjuna, the hero of the Mahabharata, what disguise and profession he will take up for the thirteenth year in order to remain undiscovered. Arjuna answered that he would hide himself in the guise of a eunuch and serve the ladies of the court. Arjuna had been cursed with the loss of manhood in a previous encounter with the goddess Urvasi, but through the grace of god Indra the curse would only hold for one year. So, Arjuna, by living for one year as a eunuch would be fulfilling two duties at once. He describes how he shall spend the year, "...wearing bangles made of white conches, braiding my hair like a woman, and clothing myself in female attire, I shall engage myself in menial work in the inner apartments of the queen. I shall teach the women singing and dancing." (Serena Nanda, "The Hijras of India, A Preliminary Report," 1984) Arjun is said to have exclaimed in court, "Know me, O King of men to be Vrihannala, a son or daughter without father or mother." (Virata Parva, Section XI)

Many hijras, including one that an ABVA member spoke to in a slum in Delhi, point to this story as the story of their origin. They also narrate the story of Ram's return from exile whereupon he found a group of hijras at the entrance of the jungle; they had awaited his return for 14 years. Moved by their gesture, Ram is said to have promised that they would rule the world in the distant future.

In Valmiki's Ramayana, Hanuman sees women in passionate embrace in the palaces of Lanka "as if they were making love to their male lovers."



## Muslim culture

As the above will have shown, homosexuality, and specifically sodomy, were not introduced into India by Muslims. Under Muslim rulers, however, homosexuality entered Indian court life. Harems of young boys were kept by Muslim nawabs and Hindu aristocrats in the 16th century. Babar wrote romantically about his famous love affair with a boy, Baburi, at Andezan in the *Tuzuk-i-Babri*. Dargah Quli Khan, an important official in the principality of Hyderabad, observed homosexual activities and homosexual love in the life and culture of Delhi on the eve of Nadir Shah's invasion. His personal diary, *Muraqqa-e-Delhi, The Mughal Capital in Muhammad Shah's Time*, contains some glimpses of gay life during his three years stay in Delhi, between 1739 and 1741.

Azam Khan, one of the chief nobles of the Empire, is described in this memoir as "a pederast (who) is fond of beautiful girls as well...Whenever he is informed of the availability of a lad or a beautiful girl he endeavours to be the buyer." Similarly, Mirza Munnu, a man of noble birth "is also perfect in this art of sodomy. He acts as a guide to the novices who in turn feel proud to imbibe this trade from him. He organises *mehfils* where groups of lads are made available. His house is the palace of *Shaddad* (an impious king and founder of *Bagh-e-Iran* where all the beautiful whores get together), full of fairy-like lads and lasses...."

Again, "Sultana is a twelve year old, olive complexioned catamite, whose coquetry reflects itself in his dancing.... He is a bud who competes with flowers or the flame of the lamp facing the light of the sun. The audience wish to hear him repeatedly and their thirst for a vision of his beauty is not easily quenched." "Mien Hinge is a fair complexioned youth and in his white dress looks fresh as the jasmine flower. He holds an assembly outside the walls of the Imperial Fort...Many renowned people go for walks to the chowk and under the pretence of buying rare objects, watch him perform...he looks as fresh as dawn dipped in dew ....in spite of many invitations he never visits anyone at their residence. His fans have to visit his house if they wish to derive pleasure from his acts." (*Muraqqa-e-Delhi*, translated by C. Shekhar and S.Chenoy)

In Islamic Sufi literature homosexual eroticism was a major metaphorical expression of the spiritual relationship between god and man, and much Persian poetry and fiction used gay relationships as examples of moral love. Although the Quran and early religious writings of Islam display mildly negative attitudes toward homosexuality, Muslim cultures treated homosexuality with indifference, if not admiration. The classic works of Arabic poetry and prose, from Abu Nuwas to the Thousand and One Nights, treat gay people and their sexuality with respect or casual acceptance. The Arabic language contains a huge vocabulary of gay erotic terminology, with dozens of words just to describe types of male prostitutes. Erotic address by one male to another is the standard convention of Arabic love poetry; even poems really written for women frequently use male pronouns and metaphors of male beauty. The association of homosexual feelings with moral looseness appears to be a comparatively recent phenomenon. (John Boswell, *Christianity, Social Tolerance, and Homosexuality*).

## Christian attitudes

It is generally believed that Christianity has been unrelentingly hostile to gay people and their sexual activities. However, historian John Boswell, in his influential book *Christianity, Social Tolerance, and Homosexuality* (1981) argues that this is not so. The Early Christian Church, for instance, does not appear to have opposed homosexual behaviour *per se*. The most influential Christian literature was moot on this issue and no prominent writers considered homosexual attraction "unnatural". Those who objected to these feelings did so on the basis of considerations unrelated to the teachings of Jesus or his early followers. Gay saints and gay marriages were not unknown. Jesus himself did not say much about sexuality. He neither condemned sexuality among the unmarried nor say anything in relation to homosexuality. The only sexual issue which concerned him was fidelity. He regarded friendship as the highest form of human commitment.

The word "homosexual" does not occur in the Bible. The idea that homosexual behaviour is condemned in the Old Testament stems from the account in Genesis 19 in which the city of Sodom is

destroyed for its wickedness. However, Boswell argues, none of the passages which refer to Sodom's wickedness suggests any homosexual offences. The original moral impact of the passage had to do with hospitality. A purely homosexual interpretation of this story is relatively recent.

Neither Christian society nor theology as a whole evinced or supported any particular hostility to homosexuality, but both reflected and in the end retained positions adopted by some governments and theologians which could be used to derogate homosexual acts. Even then, neither these acts nor gay people were singled out as they subsequently were in the West as perverts, criminals or sick people. Homosexual acts when disapproved of were proscribed as part of a category of acts having to do with eroticism generally--infidelity, sexual excess, etc. Moral theology throughout the 12th century treated homosexuality as at worst comparable to heterosexual fornication but more often remained silent on the issue. Homosexual passions even became matters of public discussion and were celebrated in spiritual as well as carnal contexts.

Between 1250 and 1300, however, homosexual activity passed from being completely legal in most of Europe to incurring the death penalty almost everywhere. This sudden hostility was linked to a general increase of intolerance of minority groups in ecclesiastical and secular institutions throughout the 13th and 14th centuries. This was reflected in crusades against non-Christians and heretics and the expulsion of Jews from many areas of Europe, the rise of the Inquisition, efforts to stamp out sorcery and witchcraft, etc.

Boswell rebuts the idea that religious belief--Christian or other--has been the cause of intolerance in regard to gay people. Religious beliefs may cloak or incorporate intolerance but careful analysis can differentiate between conscientious application of religious ethics and the use of religious precepts as justification for personal animosity or prejudice. Biblical strictures, he contends, have been applied with great selectivity by all Christian states. As an example, the same religious book which is thought to condemn homosexual acts, also condemns hypocrisy and greed in the most strident terms. "Yet no medieval states burned the greedy - at the stake."

## 7. SOCIAL ATTITUDES

In a society such as ours, where notions of same-sex friendship, romance and love still suffuse the lives of ordinary men and women, why does homosexuality elicit responses of denial, hostility or ignorance from the intelligentsia? Some people are quick to point out that sexuality itself has become a taboo subject of discussion, so why single out homosexuality? This argument, however, smacks of dishonesty. Despite all the squeamishness about discussing it, heterosexual sexuality remains a pervasive norm. Whether through the institutions of marriage and the family, the stereotyped role models presented from childhood onward, or the aggressive marketing of images through films, literature, and advertising, heterosexuality is constantly thrust down everyone's throat.

Gay men and lesbians challenge deeply held assumptions about marriage and normality, the correct ways of living and loving. No surprise then that political leaders, police officers, social activists, health bureaucrats, doctors, lawyers, teachers, and other professionals, are near unanimous in sidetracking the issue of homosexuality. It is alien to our culture; it is not relevant in a poor country like ours; why use the word gay and spoil things, we should simply look at the rich same-sex social bonds in our society; it is all an excuse for upper middle-class people to have lots of sex; and so on.

These arguments against homosexuality as a valid area of experience, exploration and politics have exactly the same structure as those made 15 years ago by the opponents of "women's issues". Since that time, not only have hundreds of voluntary women's groups sprung up, but also every major political party, including the Left parties, has a separate women's wing. The arguments above deny the historical role of the medical sciences and of the modern Indian state--law, courts, police and Parliament in constructing, labeling, stigmatising and persecuting both gay people and same-sex eroticism. Hardly the cause of the prejudice and hypocrisy about homosexuality, such responses are the justifications for it.

ABVA, while preparing this report, wrote to eighty-odd prominent citizens and organizations from different walks of life in Delhi. We explained that we were involved with-AIDS activism and had brought out separate reports on the already marginalised status of women in prostitution and professional blood donors in India. We now wanted their assistance in developing a perspective for understanding homosexuality in our society, as this was not an area open to public discussion. Even if they did not consider themselves particularly informed about the subject, we requested a chance to meet them to discuss the issue. Reminders were also sent to several people. Nineteen replies were received. These merit special attention as they reveal the mind-set of the intelligentsia (both establishment and anti-establishment) in Delhi on this issue.

### **Dodging, dragging and lying**

None of the Members of Parliament we wrote to found homosexuality worthy of attention. The World Health Organization (WHO) was too busy to meet us till the time this report went to press, as was Madhu Kishwar (Manushi) despite our best efforts. The Medical Council of India (MCI), the highest regulatory body for the medical profession, expressed its sudden crisis of identity by saying: "I am directed to request you to kindly contact the authorities of the Indian Council of Medical Research (ICMR), New Delhi in this matter." Why the MCI should look towards ICMR, only a research body is not clear. The ICMR, in sharp contrast to its earlier vilification campaign blaming women for AIDS ("at least it will shock people and provoke a debate," the Directors had said), was either too shocked to respond or asleep. Also asleep were other leading lights from the struggle against AIDS in India--Directorate General of Health Services (DGHS), Central Health Education Bureau (CHEB), AIIMS, Maulana Azad Medical College (MAMC), Ministry of Health and Family Welfare, and Delhi Administration.

Dr. Onkar Mittel, medical officer in the Delhi Development authority (DDA) Slum Wing, wrote: "I have noted with a lot of interest the human rights issues your group has been raising in the context of AIDS. I must say that all concerned citizens should make their contribution towards this and that too first of all by educating themselves about it. I will appreciate if you continue to keep me informed

about the activities of your group as well as send me any literature published by you.

"As regards the issue of homosexuality, I am sorry to say that because of my other engagements and time constraints, I shall not be able to participate in this endeavour." It appears from this contemptuous comment that at least AIDS has become fashionable!

Some who were asleep did not mind being woken up. After conversations with ABVA members, they were honest and courageous enough to take a stand. Amiya Rao, who some years ago faced sedition charges for her report on Punjab, said she was aware of the fact that homosexuality had been decriminalised in England and in the US. Decriminalisation of sodomy will take a long, long time in India, was her view. "Here we do everything but are quiet about it." Amiya Rao, who is in her late sixties, was formerly associated with citizens for Democracy and had recently returned from Kashmir when we met her.

Inder Mohan, 71, veteran civil liberties activist, who recently returned the Padma Bhushan conferred upon him, said: 1) Homosexuality exists in Indian society. I am even aware of it among national-level leaders today. 2) It is wrong and mischievous to say that Muslim invaders introduced sodomy into India. 3) I am very frank about the issue of human sexuality and have no hesitation in standing for the human rights of homosexuals. Inder Mohan was imprisoned by the British for two and a half years during the freedom struggle and again during the Emergency under Defence of India rules.

Mulk Raj Anand, distinguished writer and co-editor of a modern English translation of the Kamasutra, when interviewed by ABVA, said that he believes in a "free society." He condemned a recent incident in which a male research scholar from Jawaharlal Nehru University (JNU) had raped a 5-year girl.

Those who could not be woken up from sleep, as they were dreaming about the "real" revolutionary issues, like Planning commission, foreign funding, political fame, more relevant issues, etc. include: Swami Agnivesh, Upendra Baxi (Vice Chancellor, Delhi University), Lokayan Sampradayikta Virodhi Andolan (SVA), Dr.A.S.Paintal, Dr.A.N.Kalviya, People's Union of Democratic Rights (PUDR), Prof. Veena Das (Delhi School of Sociology), professors of Maulana Azad Medical College (MAMC), senior advocates of the Supreme Court, MPs, and women's wings of political parties, among others.

Another category consisted of people who were indifferent Virendra Singh Chaudhri, Assistant Commissioner Police (ACP) (Crime), New Delhi referred to the matter as a personal one in an interview with ABVA. Why then, we wonder, do his officers harass gay men as documented in the chapter on human rights? The ACP was kind enough to show us the crime-registration record for section 377, IPC, in Delhi for 1990-91. Not surprisingly, this was zero. What then is this section used for? Is it acceptable for such a senior police officer to claim ignorance of the role of the police in the lives of so many gay people?

### **What was the question?**

Surgeon Vice Admiral Y.C. Sharma, of Director General Medical Services (Navy), completely ignored our request for a discussion on homosexuality. He, however, stated: "We as yet do not have a full blown case of AIDS in our organisation. We in the Defence Forces have a policy which does not discriminate against HIV positive/AIDS cases." What about gay people, Vice Admiral, what about gay people?

The strategy of "read but ignore" was further refined by the YWCA of India, whose national general secretary, Miss Sadhona Ganguli, wrote: "We are deeply concerned about the reports on AIDS appearing in newspapers and some of the misconceptions which lead to neglect by doctors of the AIDS affected patients. Our organisation would definitely like to be associated with the work undertaken by ABVA." Not a whisper about our main request - some views on homosexuality. The prestigious Centre for Women's Development Studies (CWDS) greatly furthered the work YWCA set out to do - ensuring the invisibility of lesbianism in the lives of women in India. Their short and evasive reply, in the name of Kumud Sharma, read like this: "Thank you for your letter. Good

wishes." Kamala Bhasin, prominent feminist in New Delhi, said: "I don't know what to say. I don't have any information on this issue." (Conversation with ABVA member)

The work of throttling the issue of lesbianism was completed by the other women's groups in the capital. All but two kept up a conspiracy of silence. One of the honourable exceptions, Joint Women's Programme, said: "We feel this matter needs to be taken up seriously as there is a lot of bias against this section of people. There is need to inform people more about the problems faced by the gay community, as they suffer a lot of harassment from society." (Jyotsna Chatterji, Associate Director).

Another women's group, Jagori, had this to say: "We received your letter regarding your work concerning homosexuals. It sounds interesting and there is definitely an important issue, which has not been given enough attention and needs to be.

"As far as we are concerned, we have not done any work or research in this area till now. But if you would still like to meet us, you could do so..." When we met with two members from Jagori, we were told that our discussion with them could not be quoted without first being cleared by the group as a whole.

## **Systematic denial**

We would like to raise the following questions for all the above groups and individuals: Is there any excuse for not yet having taken a stand on homosexuality and human rights? If a rape occurs somewhere, or an atrocity is committed on a person from a Scheduled Caste background, do these organisations wait to do research, ratify their views about the repugnance of what has happened, then swing into action? Even if there is a tacit consensus that "gay liberation" patterned on the western model is not relevant for the vast majority of Indians, then don't ideas about alternative ways to raise the issue of same-sex eroticism even merit public debate?

It is clear that the issue of homosexuality has never been acknowledged to exist, let alone discussed in most of these organisations. The response "why label it gay or lesbian" shows the extent to which medicine, law and criminology have succeeded in conditioning people to think that homosexuality is all about sex. The point that these labels exist in official, discourses, in law books, police records and medical texts is completely ignored. The hesitation to even discuss the issue reveals what a deep-rooted stigma homosexuality still remains, within the establishment and among the anti-establishment intelligentsia.

In early March 1991, ABVA was asked to informally speak on homosexuality to some members of an organisation working with disabled children in New Delhi. The upper-level staff was exerted about the homosexual activities of two male employees who were. "Caught red-handed in a compromising position in the kitchen." The fear was that these gay men, if not stopped, would molest the children on the premises. We pointed out that their homosexuality per se did not make them more likely to be child molesters. However, they should take whatever precautions they would otherwise take for the protection of the children in their charge. Interestingly, we were told that several molestation incidents had occurred in the past but these involved heterosexual male employees" molesting girls. We were also given to understand that the gay employees were not provided any accommodation on campus even though one of them worked through the night. Where then could they have sex except in the kitchen? When asked for our advice on the need for counselling these men, we suggested that they be told about condoms and safe sex.

Ankur, a voluntary group involved in education work in slums in Delhi shared the following incident with ABVA: "The wife of a gay man (who had three children) in one of the slums where Ankur works, recently complained to our group about her husband's homosexual activities. In our enthusiasm, some of our staff workers circulated this information among the young men of the area and got them to beat up this gay man. Later we learned to our horror that some of these young men had forced him to have sex with them. They had also started to taunt and harass the wife to such an

extent that she was forced to return to her village with her three children. Of course, we felt that her husband was not being fair to her. But now we realize that what we, did in haste was also not fair."

## **Heterosexuality - at what cost?**

The only "non-gay" voluntary group in the country to take an unambiguous stand on homosexuality is the Forum Against Oppression of Women (FAOW), Bombay. Its views, excerpted from an interview in Sunday Observer, (July 29, 1991), are given below:

"There is a basic difference between female and male homosexuality," says Flavia Agnes, a lawyer and activist of FAOW. "Lesbianism is an integral part of the women's movement for liberation. It constitutes an important area of their struggle against the exploitative principles and institutions of patriarchy. Lesbianism questions and threatens the existing male-dominated social order in a way that male homosexuality does not."

"Many women in the movement turn to lesbianism or bisexuality as a conscious political choice. For they cannot reconcile their radicalised understanding of themselves and of women in general with the inequality, exploitation, lack of respect and understanding, and often blatant physical force that characterise typical heterosexual relationships, whether in marriage or out of it."

"For women, sexuality does not begin and end with the physical. It embraces the emotional, intellectual and all other needs of a dignified individual. Most women seek and receive emotional strength and understanding not from their male partners but from other women. Now, with growing education, economic independence and social mobility among women, they have become even more aware of the shackles of the traditional heterosexual relationships, and also of their own power to create new relationships."

"Lesbianism should not be understood in the narrow sense of the actual sexual act. Physical intimacy comes very naturally to women. Thus, when one shares everything else with a close woman friend, sexual sharing becomes just a natural development of the total relationship."

FAOW had this to say about lesbian relationships in a book brought out last year to mark its tenth anniversary. "It is true that sexuality has a very important place in our lives and, so far, we have been taught to only think of heterosexual,' preferably monogamous, relationships, irrespective of what they may cost us. We all feel committed to challenge this as the 'only' view of our sexuality ... In the present society; individuals are moulded into accepting heterosexuality. Should not every individual be given the choice and the right to define his or her own sexuality?"

## **Gay people and the media**

The media has generally been far less tight-lipped about gay life in India than activists and bureaucrats. Sympathetic coverage has been provided over the years by such magazines as *Sunday*, *Society*, *Femina*, *Sunday Observer* and *Sunday Mail*. *Stardust*, August 1991, printed "the film industry's verdict on homosexuality" and *Gentleman* magazine, in the same month, carried a feature "GAY: Everything You Wanted to Know About homosexuality but were Afraid to Find Out." The latter article ended with a characteristic disclaimer from the author, Shridhar Raghavan: "the writer of this piece is not gay, neither does he have any relatives, friends, acquaintances or colleagues who are homosexual." This rider brings to naught an otherwise sympathetic article by revealing what a despised, shameful thing the author thinks being suspected to be gay is. Is the author aware that many gay people live through the agony of being assumed to be non-gay? His last comment is: "He cannot help it if they are nice people." It seems that if gay people are nice, it is certainly not with the help of disclaimers of this kind!

Even the *New York Times* recently carried a major article as gay life in India - "Coming Out in India, With a Nod From the Gods," (August 15, 1991) But our own *Times of India*, *Hindustan Times*, and *Statesman* have yet to find the subject worthy of serious comment. *Indian Express Magazine*, April 21, 1991, printed an in-depth review of *Mast Nalandar*, a Hindi film with Anupam Kher playing the

central character of a caricatured gay man:

"You can think of him as a new kind of vamp in Hindi cinema. The bumbling mohalla cop falls in love with his flaming man of orange hair and mincing walk. His own taste, however, runs to the brawny bad guys who keep running away from his fluttering eyelashes and eager fingers. It's a complicated kind of love triangle--an all-male one...

"In folk literature, like the stories collated by Vijay Tan Detha, the theme of homosexual love is not unknown. But it was Vijay Tendulkar's *Mitra ki Ghoshta* in the '80s, which first spoke of a young collegiate's lesbian experiences. The scandal that ensued, and her rustication from college, unfortunately only sensationalised the theme.

"A lot more complex in its treatment is the more recent play, *The Plural of One*, by Nasima Aziz, which the theatre group Ruchika successfully staged in Delhi. Developing the theme of the loss of innocence, the play depicts how a young girl stumbles upon a homosexual relationship between two men she is extremely fond of...

"Obviously, Indian homosexuals who are trying to come out through magazines like *Bombay Dost* are not going to like the Pinku brand of caricature. As Gore Vidal argues in his essay *Pink Triangle and Yellow Star*, like Jews, homosexuals are a minority that continues to suffer discrimination. Hindi cinema has also identified its own minorities: Christians, Parsis, Sardars, and Baniyas are the butt of innumerable jokes. With Pinku, no doubt, they will add gays to their bag of gags." ("Bollywood Goes Gay," by Gayatri Sinha)

*The Sunday Observer*, on 29 July 1990, carried a full-page, feature titled "A Quiet Assertiveness - The new homosexual movement in India," by Sudheendra Rulkarni and Prabha Jagannathan. It documents that "Firaq Gorakhpuri, an eminent Urdu poet who taught at Allahabad University, loved men. On his retirement, his students feted him at a public function in which one young man, his heart heavy at the departure of the much-loved teacher, stood up and asked, "Firaq Saab, you are now going, but what will happen to us boys?" The great poet replied nonchalantly, "Don't you worry. One Gorakhpuri may be going, but he has left behind many a Gorakhpuri amongst you"

"Among Hindi poets, references to homosexuality figure in the works of Gajanan Madhav Muktibodh and Suryakant Tripathi Nirala. One of Nirala's poems specifically mentions, "Maine uski ore stri bhav se dekha (I looked at him as a woman would.)"

## Un-parliamentary references

United News of India (UNI), on September 5, reported the following exchange from Parliament: "The bachelor status of the Bharatiya Janata Party leader, Mr. Atal Behari Vajpayee, became a source of humour in the Rajya Sabha again today when he accidentally addressed the chairman, Mr. Shankar Dayal Sharma, as mahodaya (madam).

"Mr. Vajpayee had been engaged in a verbal duel with Mrs Bijoya Chakravarty when he turned to address the chairman, and was caught unawares. When Dr Sharma remarked that Mr Vajpayee was addressing a woman "even in his dreams," the ebullient BJP member quipped that there was something of a woman in every man, and every man was ardh-narishwar (half man, half woman)

"Dr Sharma remarked amid laughter that he was surprised to know that even Mr Vajpayee was ardh-narishwar. "(Courtesy: Bombay Dost)

The only other known reference to this subject in Parliament was during Mrs Gandhi's last term as Prime Minister (1980-84). When questioned by a Member of Parliament whether homosexuality would ever be decriminalised in India, she replied, "Not in my lifetime." (Communication from a Delhi University lecturer)

## **Not abnormal**

Of all the replies received by ABVA to its circular, a few more truly inspiring as they confronted the issue head-on.

One, from Prof M.P.S.Kenon, Head, Department of Medicine, University of Delhi, has already been quoted in chapter 5. However, he adds: "Regarding AIDS, its prevention, treatment, protection to be offered to the victims, social and economic help to be extended to them by the state and withstanding and opposing the moves of the authorities to incarcerate them, I am one with your group. You can count on my support."

Another, from Dr Mathew Verghese, senior orthopaedic surgeon, St Stephen's Hospital, New Delhi, says: "People are scared to voice their opinion on homosexuality because of the fear of stigma. So far as people having sex, heterosexual or homosexual, are not harming each other or society, the State should have no role in their experience. If there, is injury, psychological or physical, or coercion, then it is a different matter. But I am against the view that homosexuality is abnormal. Psychiatrists define normalcy according to the numbers of people doing a particular thing. That way, even Einstein should be called a freak, because there were few like him. It is ridiculous to say that homosexuality does not exist in India. If after such heavy adverse social conditioning, gay people exist, then homosexuality is definitely present."

## **An acid test for the state**

Lastly, Paul G (sj), Acting Director of the Indian Social Institute, New Delhi, gave us this valuable comment:

"Each society creates its own 'public morality' expressed in laws and accepted norms of behaviour, even if not written. This is the way a society 'stabilises' itself. If one goes deeper into the matter however one would perhaps perceive that this "stability" is promoted and enforced by some dominant groups and vested interests. Public morality therefore also has a "political" aspect. In modern times, the "State" is the "protector" and the "promoter" of public morality.

"Since, however, this is a historical process, it often happens that laws and rules that had a ground at a certain period of human development and knowledge, continue in existence. This may be so even though the earlier grounds no longer exist or are greatly undermined by the expansion of new knowledge. Some social groups may have a vested interest in the perpetuation of such a situation. There is then likely to be fierce "controversy" between some groups holding on to traditions and other groups clamouring for new laws in line with the development of scientific knowledge. This is what is happening today in many societies as regards homosexuality.

"Religious groups, because of their special, almost professional interest in morality are entering the arena of debate. There is a clash between two groups of articulated theological schools. Traditionalists and innovators disagree about sex because they disagree about the universe, man and god. The opponents face each other on philosophical and scientific understandings of biology, anthropology, culture, and politics. This is a very complex phenomenon. Traditionalists may not challenge the "spirit of the age" but they ignore it only at heavy costs. In fact, a church that tells their faithful to live on traditional sexual life without helping them to find alternatives are failing in their responsibility.

"It is now widely accepted that genetics and hormonal influences are involved in homosexuality and that there is an interaction with the environment. It is interesting to note that some of the Christian churches have of late come to a new understanding of homosexuals. We quote a piece of information, which appeared in Star News, a semi-official news agency of the Roman Catholic Church in South Asia:

"The Evangelical Church in Berlin-Brandenburg is the first German Lutheran church to publicly affirm homosexuality as "neither sinful nor a sickness, but a different expression of human sexuality." In an Aug. 2 statement, the Church leadership called on their congregations to accept homosexual Christians as sisters and brothers who should not be made to conceal their sexual



orientation. The Berlin-Brandenburg church also set a precedent in openly acknowledging the substantial complicity of the churches in the social marginalisation of homosexuals. The statement, which was issued in response to an anti-homosexual attack by skinheads in Berlin on May 25, recalls the German churches' silence while thousands of homosexuals were being murdered in German concentration camps during Nazi rule. Declaring villeinage to be unacceptable in dealing with social issues, the statement said tolerance of social minorities such as homosexuals is needed."(Sar News, Oct.5-12,1991, p.14)

"Two points can be made here. First it is remarkable that a Roman Catholic semi-official organ judged it worthwhile to publish this piece of news, given the rather widespread adverse bias prevailing on this question among the readers. The second point, of greater importance, is the recognition of the rights of the homosexuals which is in line with the new awareness gaining ground in all cultures and societies. No open society or religious structure can afford to remain closed to the data of biology, psychology and anthropology. This recognition will have to find its expression in secular legislation as well as new rules enacted on religious grounds.

"Although this question seems to involve only a small minority group, it is a test case for the State. In recent history, the non-recognition of such small groups or their eventual persecution by the state has proved that this is a sure sign of an authoritarian regime bound to violate human rights in many other spheres."

## 8. RIGHTS AND WRONGS—THE HUMAN RIGHTS OF GAY PEOPLE

"Shall I say what strength you are -  
you, whom I see everywhere -  
in the faces of women on the street -  
you, imprisoned in our eyes,  
our madness and our pain -  
waiting for the world to grow. sane."  
(From "Two Women" by Ruth Vanita, Manushi)

Homosexuality challenges widely held assumptions about masculinity and femininity, about the way men and women relate to each other. Not surprisingly, its existence is either vigorously denied or subjected to abuse and ridicule. The fact that many gay men and lesbians feel obliged to conceal their sexual orientation makes it difficult for them to assert their civil, political and cultural rights, as individuals and as members of a sexual minority. Neither the government nor civil rights' groups even acknowledge that homosexuality exists, leave alone address gay people's experiences of discrimination.

Whether it is blackmail or physical violence, verbal abuse or police harassment, forced heterosexual marriage or denial of homosexual marriage, gay people, as gay people, live like second-class citizens, unable to obtain fair treatment because of their "wrong" sexuality. The question of the human rights of gay men and lesbians is not about whether or not people approve of homosexuality or the concept of gay identities. Rather, it is a question of equality under the law and under human rights covenants, like the International covenant on Civil and Political Rights, to which India is a signatory.

### The marriage of Lila and Urmila: a test case

"In December, 1987, policewomen Lila Namdeo and Urmila Srivastava of the 23rd Battalion stationed in the outskirts of Bhopal, capped their year long friendship by marrying each other. The wedding consisted of a simple ritual of exchanging garlands, a gandharva vivah, conducted by a Brahmin in a Hindu temple at Sagar. Their parents, who had consented to the wedding, were also present at the ceremony." (Trikone, Mar. 1988)

These constables became frontier women in the country's social landscape with their courageous unusual marriage. Their act provoked a sensational stir as the nation struggled to grasp the implications of a public lesbian marriage. The male psyche, with its belief about the power to penetrate and thus satisfy women, was dealt a hard blow. Activist organizations, including most women's groups, remained tightlipped. Yet, how could lesbianism in India still be denied? These women after all were not upper class, Westernized women. They belonged to a small town in Madhya Pradesh and chose to solemnize their companionship. "Joda bana liya (they are now a couple)," said one of their colleagues. (TOI, Feb.23, 1988)

Particularly shameful was the hypocritical silence of the intellectual class on the human rights of these women. Lila and Urmila were discharged without a show cause notice. "We were kept in isolation and not given food for 48 hours. We were coerced into signing papers, which we had not read. We were given some cash and our company commander, R.L.Auravanshi, accompanied by three havaldars deposited us at the railway station in the dead of night. They warned us against returning to the barracks." (TOI, ibid)

As if these human rights violations were not enough, the two women were subjected to a medical examination by Dr. S.K.Mukherjee, the- Director-General of Police (DGP), Madhya Pradesh. When questioned whether the women had "displayed any lesbian tendencies," the DGP responded: "No, this is absolutely false, we got them checked medically and found nothing." (Illustrated Weekly, Mar. 20, '88)

What exactly did Dr. Mukherjee hope to find? Do lesbian women grow something special to mark their identity? Further, can such demeaning check ups, under police and medical authority, be

considered ethical or legal?

The bureaucratic response to the lesbian marriage was a curious mixture of denial and hostility. R.L. Amravanshi, Commandant of the 23rd Battalion stated, "This sort of behaviour will not be tolerated by us." Narendra Virmani, Inspector General of Police (IGP), in charge of Special Armed Forces, Madhya Pradesh claimed, "Such women don't make good officers." Yet, he held, "that kind of physical relationship that could be between a man and a woman or even in a person with homosexual tendencies, that was absent here. There was not even touching, kissing, nothing." Once again, contradicting himself, the IGP said, "this has never happened before...it is the first time..." (Illustrated Weekly, ibid)

Did they or did they not touch and kiss? How does the IGP know one way or another? Is it any of his business to pronounce on such a private matter? How does being lesbian in any way affect a woman's performance as an officer of the Indian Armed Forces?

It is common knowledge that whatever happens between men and men, and women and women, emotionally and sexually, regularly happens between men and women also. Why then should gay marriages not be recognised as legally and socially valid? Marriage offers social prestige and substantial, legal benefits to citizens allowed access to it. How then can some citizens but not others be allowed this privilege? Is there any reason why gay marriage should not be permitted that does not equally apply to a heterosexual couple that is physically incapable of having children?

Further, why should the definition of marriage be confined to the legal solemnisation of a sexual relationship? Shouldn't friends not in a sexual relation to each other be allowed to marry, with the legal consequences the status brings?

Isn't it time that jurists, civil rights organisational and women's groups have a public debate on these questions?

### **Friendship agreements - a humane solution**

While the government, bureaucracy and citizens' groups gave yet to say anything in response to the above questions, two young village women from Baroda district have shown the way by entering into a "maitri karar" or friendship agreement.

"The women Aruna Sombhai Jaisinghbhai Gohil, 31, resident of Vadia village, of Savli Taluka and Sudha Amarsingh Mchansingh Ratanwadia, 29, of varsada village in Naswadi taluka entered into the agreement before a notary public here.

"This is the second maitri karar in Gujarat between two women. In a signed statement at the city court, the two declared that they had known each other since 1978 when they were together at a teachers' training school. Since then, they had been working as teachers in different parts of Baroda district, and were now based at Vadadhali village.

"During all these years, the two women had been living together. Since they did not wish to get married and wanted to continue living together, they decided to enter into this friendship contract, the statement signed by them said." (Indian Express, May 6, 1987)

#### *Not So Lucky*

Unfortunately, not all women are as lucky as the two women from Gujarat in finding the social support or economic independence to resist marriage with men. For instance, in October 1988, two nurses of a local hospital in Meghraj (population: 10,000) in north Gujarat committed suicide. "The reason: unable to bear the pangs of impending separation, Gita Darji and her spinster friend, Kishori Shah, both 24, ended their lives by hanging themselves from a ceiling fan in the hospital's staff quarters. It was the third lesbian relationship to surface in the state this year...

"When the police began their probe they found a diary containing suicides note signed by Kishori and Gita - in which they said they did not blame anybody for their action--and two sets of letters. Close friends since they did a nursing course together at the Ahmedabad Civil Hospital, the two stayed together at Meghraj though they were allotted separate flats. In a letter to Gita, Kishori writes: "I can't live and sleep without you." The letters also reveal that Gita's husband Manoj - whom she married last February - abhorred the relationship between Gita and Kishori. Some months ago, he complained to her brother Dashrathbhai, who made Gita apply for a transfer out of Meghraj." (India Today, October 15, 1988)

#### *Together, Always*

The following incident from Cochin was reported in *Gay Scene* (Nov-Dec 1980): "Mallika (20) and Lalitambika (20), both students of pre-degree course of Keralavarma college, were very much in love with each other. When the examination result came out, it was found that Mallika had failed and Lalita passed. This was too much for the girls to bear, for separation was inevitable. So they decided to commit suicide. On 29 June they tied themselves together and jumped into the strong currents of Cochin channel from a ferry but a sailor and a fisherman, somehow, managed to reach them in time and were able to save them after a long fight in the surging waters.

"The police charged then with attempted suicide and found among other things a letter and a greeting card. The front of the double-fold greeting card had a silhouette of a kissing couple with the backdrop of a flaming sunset--inside it had a note from Mallika: "Lali, After all everybody knows about our love, so here's a thousand kisses for you, in public..." Lalita scribbled back, "Come to me, I shall take you in my arms. I shall cover you with kisses. You shall sleep in my bosom and afterwards, maybe, we shall have a little quarrel."

"The letter dated 27 June was meant for the parents. Lalita wrote: "I cannot part with Mallika ...now we are destined to go to different directions. I am not persuaded by Mallika to do this ... bury us together." It is reported that relatives of the girls are still unable to grasp the implications of the relationship. Mallika's elder brother is reported to have said that the girls have agreed to 'try and forget each other.'"

The same issue of *Gay Scene* reports another incident "on 30 November 1979, in Ahmedabad, unable to live in separation after their marriage less than a year ago, two childhood friends, Jyotsna and Jayashree ended their lives together jumping in front of a running train. The police recovered the mutilated bodies of the two women near the Gandhigram station. A joint letter by the two shows that they had entered into a joint suicide pact."

#### *How Many More?*

How many more women coming from non-urban backgrounds have to die before Indian society acknowledges the existence of lesbianism in every social and economic strata and gives support to lesbian relationships as valid and healthy? Lesbian women often get married before they become aware of the true nature of their sexuality, some may marry in an effort to suppress it, and others marry for reasons unrelated to their sexual orientation--from economic necessity or for the social benefits brought by the appearance of married life. However, given that so many women (and some men) are driven to suicide at the prospect of marriage, and even after it, must we persist in peddling it as the only normal way imaginable to humans of living and loving?

#### *Biological Terrorism*

The "normality" assigned to marriage in our society is underpinned by a preconceived idea of what a man should do and be and what a woman should. Persons who deviate from these social roles, either in their refusal to marry or to reproduce, or in their failure to appear "masculine" or "feminine" are routinely ridiculed or presurised. The heaviest penalties are reserved for women who don't fit the "norm," gay men, and the economically poorer in both the previous categories. This cruel situation is reflected in the case of a young woman from Karimganj, Bihar:

"In 1979, an Indian girl aged 19 years was refused admission to a junior college at Karimganj unless she produced a medical certificate to confirm her sex. The girl had passed her higher secondary examination in 1978 and was an athlete. Later she developed masculine features like a moustache.

She was also then denied an opportunity to participate in a Kabaddi tournament, a game in which she had won laurels in the past. Her doctor was of the opinion that she was undergoing sex transformation and suggested surgery to complete the process." ("Legal Implications of Sex-Change Surgery," by Kusum, Journal of the Indian Law Institute, Jan-Mar.Vol.25 No.1)

Several questions need to be asked: Why should this woman be asked to undertake mutilating surgical procedures so as to conform to stereotypical gender expectations? Is it not an established scientific fact that there is no such thing as a pure biological sex, male or female? Is it ethical and legal for a medical professional to push sex-change surgery given that it is widely known that most such changes from female-to male are unsuccessful? Should the doctor not first resort to counselling the person about the normality of gender incongruity? When will the Indian Law Institute and Medical Council of India take a stand on this issue?

### **Blackmail, violence and police harassment**

Attacks against gay people in public places of urban areas are extremely common. Gay men and lesbians more often than not do not report crime against them. The reasons seem to be that violence, and other human rights violations against them, often results in intense feelings of shame, as if somehow they had brought the assault upon themselves. This sense of self-blame is, of course, not unique to gay victims of crime, but is exacerbated in that many gay men and lesbians have not arrived at an acceptance of their own sexuality, and often they have incurred assaults in places associated with sex--illicit or not. In addition, there is the fear of being identified as gay in describing assaults. These feelings generally deter gay persons from going to the police, civil rights organizations, even to close friends and family members for redressal and support.

In the absence of an option to live open, socially legitimate relationships, many gay men resort to "cruising" in parks, on certain streets, sometimes in public toilets, in search for sexual partners. This may be the search for an ideal partner, more honestly for one among many, or a "safer" option for a man who does not feel able to risk the degree of emotional commitment, or the possibility of social disgrace that may arise from a more "steady" relationship. Lesbian women in India don't generally resort to cruising in public places. This may be because men, even though they may be gay, have the privilege of a far higher degree of safety than unaccompanied women in public places. It may also be because lesbian women (and many gay men as well) don't find cruising, or a "search" for sex, a palatable or edifying option.

All gay persons however find themselves in a highly vulnerable situation because the hidden nature of their sexuality at work, school, place of residence, family home, and among friends makes them easy prey for blackmail, extortion, verbal and physical violence, and police harassment. ABVA came across numerous such instances, in print and in first-hand interviews. A few of these are given below. We would like to emphasize that the actual incidence of such crimes is at least hundred-fold higher than what any non-gay citizen may imagine.

#### *Help, Someone*

"I had a bad experience I would like to share with all readers. There was this man who tried to befriend me. Since I did not fancy him in any way, he made enquiries about me and along with two others started blackmailing me. They told me that if I did not go to bed with them they would inform my folks of what I was ... One fine night, at 12:30, these three men came to my house and started shouting to all the neighbours that I frequented Subhash Park in Cochin. Luckily, only an elder brother of mine was at home, and somehow I managed to escape by saying that these people had an axe to grind. Another time, the three tried the same tactics in a bus. It is four years since all this happened, but wherever they see me they still try and make trouble for me. I don't know whom to turn to. The police are of no help here in Cochin and it will only cause me trouble."

L.J. (Cochin) (Trikon, May'87)

#### *Harassment in Bombay*

"Since the last two months, Matunga police have been incessantly carrying on a drive against gays gathering in Maheshwari Gardens. Gay men are being arrested for no reason except that they "look"

like "homosexuals." The punishment is a Rs 25 fine and a beating with lathis.

"As an explanation for this sudden anti-gay drive, one constable has hinted at "complaints" from residents. Another has said, "Yeh gaandu log ko sikhaana chahiye (those homosexuals must be taught a lesson)."

"Gay men have been meeting here for a long time without creating any public nuisance. The presence of several colleges and an important technical institution nearby have brought in younger gay men. Other regular meeting places of gays were getting too commercialized; hence they needed a less-exploitative site.

"Instead of curbing the anti-social elements who prey on people visiting Maheshwari Udyan, the police are harrasing gays. It is observed that the police let go the richer gays (who wear expensive clothes and use imported after-shave lotions), and go after the poorly dressed boys. This shows a class bias in that the rich can get away with anything." (Ashok Row Kavi, Trikon, May-June 1990)

## Not so gay

- "His name was Avinash. He was not highly educated, and had a clerical job. We spoke in Hindi. He had reason to be cautious. He'd been blackmailed once by someone he met in the park, which threatened to expose him. Avinash lost a watch in the bargain. He also told me about plainclothesmen entrapping gay men in Central Park, New Delhi." (Trikon, sept.186)

- "A friend of mine gave "a well-spoken boy" his number at their first meeting. The guy asked for "a small loan" (Rs.100) at the second meeting. When my friend stated that he didn't think they knew each other well enough for a loan to be asked for or given, the answer he got was, "And what would you do if I came to your home and asked for it?" My friend panicked and reported the matter at the Police Station. A mistake. The Police, as always, will be on the side of the guy with the "better status." (J.K., Bombay, Trikon, Jan.'87)

- "Naturally gays come out only in the night, the only places they frequent are some railway platforms like Dadar, Bandra etc. Also the gays visiting these places fall easy prey to cheaters/robbers who sometimes pretend to be gays and later rob you. Gays going in railway loops are caught by, railway cops, whose only intention is to extract lots of money and leave you." (K.I., Bombay, Trikon, Sept.187)

- Prisoners in a Bangladesh jail cut off another convict's penis when he made "homosexual advances" towards his cellmate. (Evening Standard, 12.4.90, reported in Shakti Khabar)

- "Policemen are only a slightly lesser menace... They regularly exploit this legal provision (section 377 of the Indian Penal Code) to make a quick buck. In Madras' Marina, for instance, constables scour the beach to catch homosexuals in compromising positions. And in Bombay, members of the Railway Protection Force board the last suburban train at either Churchgate or Marine Lines every night to waylay gays. The approach is the same--to threaten to throw the book unless they cough up. Most gays argue that the only solution is to decriminalise..."Only then will the police refrain from whipping out their belts, flashing their credentials and then demanding money or a drink," one gay man says." ("The Love That Dare Not Speak Its Name," Sunday, 31st July, 1988)

- "He entered Connaught Park and my heart missed a beat. Moderately tall and handsome, he immediately attracted my attention. When he sat down, I started to talk to him. Jeff was a Belgian tourist. Initially, the conversation like the atmosphere in the park was strained. However, as soon as we both discovered each other to be gay, an unspoken bond developed and we started to talk in earnest, sitting on the wet grass, oblivious of everything else.

"Twice or thrice, Jeff told me while we talked that there was someone lurking behind us. I looked back and saw only the bushes. I finally got up to check more carefully. A man suddenly jumped out from behind the bushes and another one ran towards us from another side. The two men were

policemen and told us in a threatening, menacing tone that they had seen what we were doing and we would have to go to the police station with them.

"They separated the two of us and threatened us with dire consequences. Initially, I argued but soon felt scared to my bones at the thought of a scandal and what it would do to my career if I were arrested, and that too for a crime I did not commit. Nothing like this had ever happened to me. If this is the lot of gay men in India, then no wonder so many get married and lead a double life. It's safer.

"Being gay and being gay publicly in India are two different things. The latter entails endless social and professional retribution, which I was not prepared to withstand. The only way out was to pay up. Between the two of us, we paid the cops Rs. 400. I have never felt more humiliated in my life." (written for ABVA by Roshan (not his real name), 30; the incident occurred in early 1991)

- "In Calcutta, the biggest cruising spot is the area around Shahid Miner. Every evening, but specially on Sundays, this place becomes like a mini mela ground with magicians, medicine men and all kinds of performers and acrobats. Those who remain after sunset, sometimes hundreds of men, are there for a specific purpose, at least 90 per cent of them.

"The biggest menace while cruising here is the danger of the police. Many of them are in plainclothes. They generally lure you with a smile, to show they are interested. Then, after enjoying, they catch you by the neck, sometimes thrash you in front of everyone else, and always take all your money and valuables. Often they take people to the Hare Street police station nearby. At the thane, you are fined for public nuisance. If you cannot pay, you have to deposit your watch until you return with the money. I know at least ten people personally who have had to pay in this way, the last incident occurring as recently as August this year. I think the police must be catching ten to twelve every Sunday night.

"Another horrendous incident in Calcutta was the murder in January 1982 or 1983 of a 25-year old gay man. It was reported in the Statesman. This man would often cruise on Red Road and near Fort William, an army camp. We all knew of him. He had a steady friendship with a military man. I remember, around Republic Day, he mentioned to some friend that he was being pressurised to have sex with three other Army men who were in Calcutta. He was, however, not interested in anyone except his special friend. Soon after, his body was found at the nearby Mohammaden Sporting Ground, anally raped several times and murdered in a horrible manner." (told to ABVA by a gay man, 30, who works in a bank in Calcutta)

- "I have, been a homosexual for many years now. When I was an adolescent, I used to work as a waiter in a small cafe in central Calcutta. One night about seven years ago---it was Diwali night I remember---I was strolling through the Maiden and was accosted by four men. They beat me and then made me take off my clothes. And then they raped me brutally. I was badly injured and even needed to have stitches around my anus.

"Somehow, the experience changed my life and I have not been the same again. I don't like to call myself a prostitute - I don't like the word. But all kinds of men come to me - doctors, lawyers and those from the lower class. I know that I was forced into this. I don't like what I am doing and feel guilty about it. It is not safe and very humiliating." (Shyamal Sarkar, 24, in-Sunday, 31st July, 1988)

- "In January, 1991, I was in a toilet in Connaught Place, New Delhi. A man standing next to me at the urinal offered me a come-on smile and when I smiled back, he promptly caught me by the scruff of my neck and dragged me outside. I almost fainted, from fear as it was five-thirty in the evening, when all my acquaintances leave their offices in C.P. to return home. I felt so ashamed and kept cursing myself for having entered the toilet.

"By this time there were two policemen, both in plainclothes. They took Rs 100 from me and also made me write a confession that I had been in the urinal had touched the policeman's genitals and was admitting to it. I reached home in a feverish state. The policeman had taken my address from an

identity card in my pocket. What if they came to my house and threatened me, asking for more money? What if my parents found out that I was gay and looking for sex in public places? But where else could I look for it? I still feel terrified at when I think of the public humiliation I experienced that day." (Told to an ABVA member by Ranjan (not his real name), a young student.)

### **With you, for always**

What alternatives for safe and healthy expression does society provide the gay men whose experiences have been detailed above? Under what provisions of law are gay people harassed by the police? As discussed in chapter 4, section 377 of the Indian Penal Code criminalizes a particular act - sodomy (presumably penetrative anal sex). It cannot be used to arrest a gay man merely cruising in a park or toilet. Homosexuality per se is not a crime. Someone cannot be arrested merely for being homosexual. Even most gay people are not aware of this fact and continue to be charged illegally and exploited.

A recent report on ragging in Indian colleges says, "On many occasions, the humiliation may even extend to sexual molestation and, in the case of male students, sodomy." (Sunday, Oct.13'91) Neeraj Kumar, Deputy Commissioner of Police (DCP), (South), New Delhi agrees - "Ragging has definitely assumed a more vicious and sexually-oriented form." Is section 377 applied with as much enthusiasm in such cases as it is used against gay men, even where there has not been any sodomy?

In fact, Virendra Singh, the Assistant Commissioner of Police (ACP), Crime, New Delhi revealed to ABVA members during an interview on October 15, 1991, that the city crime records for 1990-91 show that not even one case was registered, in Delhi under section 377.

Does this law then continue to remain on the books merely to create a "class" of vulnerable People for the purpose of harassment and extorting money? Women in prostitution are similarly victimized under section 8 of the Immoral Traffic Prevention Act (ITPA), which does not criminalize prostitution as such, but only "soliciting" in public places. Clients, pimps and brothel-owners are predictably let off the hook.

If gay men in parks and public toilets have been trapped by the police for indecency, soliciting or public nuisance, exactly, what are the local laws on the basis of which such action is taken? Even if such laws exist, the police seem to show far greater zeal in catching gay men committing indecency offences and a corresponding lack of it in pursuing people who have blackmailed or assaulted gay men and lesbians. Have Station House Officers (SHOs) of various police stations explicitly authorized their officers to extort money from gay men in public places without following due procedure of law, like registering the crime, providing a receipt of fine money received, etc.? Are the SHOs aware that it has been the experience of numerous gay men that constables first have sex with them and then threaten them with a view to extracting money? What about the practice of using undercover cops, in plainclothes, to lure men and then trap them? Are policemen, say in New Delhi, specifically authorised to use such methods? What purpose do they serve?

- Instead of devoting such enormous resources on keeping public lavatories and parks under surveillance, and demolishing public toilets (three are reported by gay men to have been destroyed in Bombay due to the "homosexual menace"), ABVA suggests the police do the following:
- Invest resources in keeping streets well lighted and making them safer for women.
- Train members of the police force to get over their anti-"homosexual" feelings and to be sensitive to the particular vulnerability of gay people to threats of blackmail.
- Establish special police cells for receiving and acting upon complaints by gay men and lesbians of physical violence, harassment, verbal abuse and blackmail by other citizens, including members of the police force. Encourage gay people to report crimes against them. Send a stern signal to those who prey on gay people that anti-gay crime will not be tolerated.
- Take the initiative in providing safer and less controversial meeting places for gay men and lesbians. For a start, the police could lead the call to repeal section 377 by making public its records to show that it is almost never officially used.



- Acknowledge that the problem of 'public indecency' or 'public nuisance' has as much to do with the general public's prejudices and embarrassment about gay sexuality as with any real issue of harm or offence.

Unless the police authorities take these concrete steps, their slogan "With You, For Always!" will continue to remain an ominous Big-Brotherly warning for gay citizens.

#### *Amnesty International and Homosexuality*

After years of lobbying and negotiations by European gay rights organizations, Amnesty International (AI) has in recent years taken a stand on homosexuality. The main report of its research project, "AI and Homosexuality" was released on April 8, 1987. It summarizes Amnesty's exhaustive research into the persecution of gay people all over the world, but concentrates mainly on imprisonment of gay persons. This is because Amnesty remains a prisoner-oriented organization. The main conclusions of the report, given below, need to be noted and adopted by the Indian government and civil liberties organizations.

- The right to someone's (homo) sexuality can be interpreted as including both the (homo) sexual inclination as well as (homo) sexual conduct.
- A negation of the above would be similar to declaring that someone has the right to leave one's country for conscientious reasons but, if such a person is imprisoned for attempting to do so, to turn away stating that this is not within the mandate.
- The right to homosexual inclinations inalienably attached to homosexual conduct should be considered as the right to a confirmation of someone's personal and essential features and someone's convictions.
- These rights are to be considered as fundamental as can be seen both in the jurisprudential of the International Human Rights Instruments, as well as Amnesty International's recent mandate.
- There can be no justifiable ground for a limitation to these rights, because of an over-ruling interest, provided these rights are exercised:
  1. Between adults able to consent
  2. Who are consenting, and
  3. While in private.
- The principles of independence and impartiality upheld by Amnesty International so long and so firmly should prevent A.I. from being influenced in its decision about this matter by the (expected) reaction from outside.

### **Know your rights**

Gay people in India should know that wrongful restraint or confinement of any person is an offence under the Indian Penal Code (sections 341 and 342), punishable by imprisonment and fine. Under section 351, assault has been defined as follows: "Whoever makes any gesture, or preparation intending or knowing it to be likely that such gesture, or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault." Assault is punishable by imprisonment and/or fine.

So is Extortion, which is defined by section 383 as "Whoever intentionally puts any person in fear of any injury to that person, or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security, or anything signed or sealed which may be converted into a valuable security, commits "extortion". Moreover, putting a person in fear of injury or of death or grievous hurt is also an offence.

Most importantly, *it is a serious offence for a person to ask for money under the threat that he has caught you committing an offence under section 377 (sodomy, unnatural offences) and will accuse you if you don't pay up.* Section 389 says: "Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of an accusation, against that person or any other, of having committed or attempted to commit an offence punishable with death or with imprisonment for life, or with imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description, for a term which may extend to ten years, and shall also be liable

to fine; and, if the offence be punishable under section 377 of this Code, may be punished with imprisonment for life."

Any person, or any third person, can file a First Information Report (FIR), at the police station in the area to initiate action against an offence. You must insist that you be given a copy of the FIR.

Offences under section 377 are *cognizable, non-bailable offences*, triable by a Magistrate of the 1st class. This means that the police can arrest you on the spot without a warrant, and you can get bail only on the direction of the Magistrate. *However, whatever the offence, you cannot be kept in police custody for more than 24 hours without being produced before a Magistrate.* Special laws like TADA, etc., have been exempted from this requirement. You also have a constitutional right to be represented by a lawyer.

*Gay people, and others are urged to file FIRS and complaints in cases of blackmail, violence, and other harassment. Without this step, the machinery of the law cannot be set in motion.*

## **The Stonewall riots**

The following paragraphs, extracted from *Intimate Matters: A History of Sexuality in America*, by John D' Emilio and Estelle B. Freedman (1988) describe the Stonewall riots of 1969 in New York, USA, which mark the origin of the modern movement for gay rights:

Few social movements can trace their birth to an event as unexpected and dramatic as the one, which gave life to gay liberation. On Friday, June 27, 1969, a group of Manhattan police officers set off to close the Stonewall Inn, a gay bar in the heart of Greenwich Village. Raids of gay bars were common enough occurrences in the 1960s, and the police must save view their mission as a routine part of their weekend duties. But the patrons of the Stonewall Inn refused to behave according to script. As the officers hauled them one by one into police vans, a crowd of onlookers assembled on the street, taunting the cops. When a lesbian in the bar put up a struggle, the Village Voice reported:

"The scene became explosive. Limp wrists were forgotten. Beer cans and bottles were heaved at the windows and a rail of coins descended on the cops...Almost by signal the crowd erupted into cobblestone and bottle heaving...From nowhere came an uprooted parking meter--used as a battering ram on the Stonewall door. I heard several cries of "let's get some gas," but the blaze of flame which soon appeared in the window of the Stonewall was still a shock."

Although the police officers were rescued from the torched bar, their work had just begun. Rioting continued far into the night, as crowds of angry homosexuals battled the Police up and down the streets of Greenwich Village. (Working class lesbians and "queens" ("effeminate" homosexual men), were in the forefront of the confrontation.) The following day, graffiti proclaiming "Gay Power" was scribbled on walls and pavements in the area. The rioting that lasted throughout the weekend signalled the start of a major social movement. Within weeks, gay men and lesbians in New York had formed the Gay Liberation Front (GLF), a self-proclaimed revolutionary organization in the style of the New Left, seeking justice for homosexuals. As word of the Stonewall riots circulated among radical gay youth and other disaffected homosexuals, the gay liberation impulse took root across the country, spawning scores of similar groups.

Dramatic as the rioting was, it was not sufficient to spark a nationwide grass-roots movement. The speed with which gay liberation grew testified to equally profound changes in the structure of gay life and the consciousness of homosexuals; in the preceding years. Throughout the 1950s and 1960s, a gay subculture had been growing, providing the setting in which homosexuals might develop a group consciousness. The weakening of taboos against the public discussion of homosexuality, the pervasive police harassment of the era, and the persistent work by a small coterie of pre-Stonewall activists combined to make many lesbians and gay men receptive to the message of "gay power."

If harassment by the police and criminalisation in the law continue, how long will it be before Stonewall occurs in India? Will the authorities please mend their ways?

## 9. AIDS AND HOMOSEXUALITY

There is an intimate connection between the fear of AIDS and the fear of groups most affected by it. AIDS is a fatal, infectious illness for which there is now no cure. The fact that it was first documented in already stigmatised groups--urban gay man, poor Black intravenous-drug users, Haitians in the US--ensured that society's responses to it would be framed in terms of moralistic assignments of blame. Not surprisingly, AIDS has everywhere become a pretext for increasing the regulation and persecution of groups of people who already stand outside the moral or economic parameters of society. In particular, it has become a health and human rights crisis of major proportions for gay people all over the world. Even in countries where "gay liberation" had become deeply entrenched, AIDS has led to a re-medicalisation of homosexuality, with all the implications of surveillance, moralistic blame and discrimination.

### Situation in the US

In the US, AIDS was dubbed the "gay plague" and quickly declared God's judgement of a society that did not live by His rules. An influential columnist asked, "everyone detected with AIDS be tattooed in the upper forearm, to protect common needle users, and on the buttocks to prevent the victimization of other homosexuals." (William F. Buckley) A famous surgeon opined, "We used to hate faggots on an emotional basis. Now we have a good reason." A senator insisted that, "the logical outcome of testing is a quarantine of those infected." (Jesse Helms) A Member of the Presidential AIDS Commission declared, "It is patriotic to have the AIDS test and be negative." And a Texas judge, explaining why he gave a light sentence to men convicted of killing a gay man, said, "I put prostitutes and gays at about the same level... and I'd be hard-put to give somebody life (sentence) for killing a prostitute." (1989)

### What is AIDS?

AIDS, which stands for Acquired Immuno-Deficiency Syndrome, is a disease which can destroy the immune system in the body. This system is the body's main defence against infection. People with AIDS can get serious, and sometimes fatal diseases which do not usually affect people with healthy immune systems. The initial symptoms may be the occurrence over several months of weight loss, fever, night sweats, skin rashes, diarrhoea, tiredness or swollen nodes (in the neck, underarm or groin). Multiple infections such as shingles, thrush, herpes and tuberculosis may supervene. Some people may get pneumonia, caused by *Pneumocysti carinii*, or a formerly rare skin cancer, Kaposi's sarcoma. At a very advanced stage, HIV may also attack the nervous system and cause brain damage.

It is commonly believed that AIDS is caused by a virus called "HIV" which stands for "Human Immunodeficiency Virus." The virus is transmitted when an infected person's blood, semen or vaginal fluid enters another person's body. The most common way of spreading the virus is during unprotected, penetrative sex (ie. penetrative sex without a condom) or when people are given infected blood or share used needles to inject drugs. HIV can also be transmitted from an infected mother to her foetus during pregnancy.

There have been no recorded cases of HIV transmission by casual contact such as hugging, kissing, mutual masturbation, sharing household objects near a person with HIV infection who sneezes or coughs.

### What is the HIV test?

When HIV enters the body, the body produces antibodies in the blood in response to the virus. The HIV test simply looks at a small sample of blood to see whether these antibodies are present in the sample. The HIV test should not be called the AIDS test as it does not detect whether a person has AIDS -it can only tell whether the person who has provided that sample of blood has produced the antibodies in response to the virus that is believed to cause AIDS.

## **What does HIV positive mean?**

A person is HIV+ve if at some point in their lives they have been exposed to the virus and were infected by HIV.

Being HIV+ve does not mean that a person now has AIDS or that the person will definitely develop AIDS in the future. People have been found to have a wide range of responses to HIV infection. Some people may remain completely healthy for the rest of their lives. Other people may develop ARC (AIDS-Related Complex) which is a condition with some AIDS symptoms but without any of the major infections which are usually associated with an AIDS illness. Other people may develop AIDS anywhere from three years to more than ten years after they were infected. There is no way of knowing at present who will and who won't develop AIDS as a result of HIV infection.

Being HIV+ve does not mean that a person is immune to the virus. Unfortunately, antibodies to HIV, unlike most of the other antibodies that are produced, seem to provide no protection against HIV or AIDS.

In all cases of a person having a positive HIV test result, a second test (the Western Blot) will be performed to check the results of the first test (the ELISA test).

In a very small percentage of cases, people will test HIV+ even though they have not been infected with the virus. This is known as a "false positive" result, and it generally happens if there was a mistake in the way the test was performed, or if the person has recently taken certain drugs, including some types of birth control pills. In such circumstances, the second test will usually show that the person is HIV-. In a very small number of cases, the body does not produce antibodies at all. This is known as "silent infection". Consequently, a person may test negative for HIV antibodies, but still have the virus.

## **Why does HIV negative mean?**

A person is HIV- if their bodies have not developed antibodies to the virus. However, an HIV negative test result does not guarantee that a person is virus-free. The body can take between 6 weeks and a year after infection with the virus to produce these antibodies.

If a person takes an HIV test after they have been infected, but before the body has had enough time to produce antibodies, that person will test HIV-. Tests on recently infected persons can therefore give false negative results. A negative result therefore does not mean that a person cannot transmit the virus to someone else.

It is therefore vital that people who think that they are HIV-, as well as people who think (or know) that they are HIV+, practice safer sex in order to avoid the risk of infecting others.

## **Transmission issues**

It must be emphasized that there are no bio-medical or physiological factors which make some groups rather than others more prone to HIV infection. The Concept of "high risk groups" in the Context of AIDS irresponsibly suggests that AIDS affects only defined groups to which the majority of people do not belong. It is clearly what you do (and what blood banks and blood-product manufacturers and hospitals do) rather than who you are which constitutes the only meaningful risk factor.

In other words, it is not the number of previous partners you or your partner have had but the amount of unprotected sex either of you have had which needs to be considered. Consistent safer-sex with a number of partners may be less risky than unprotected sex with just one partner. If that person is infected.

## What is safer sex?

Safer sex includes kissing, (mutual) masturbation, massage, rubbing bodies together, and, other activities - for instance, penetration of the vagina or anus by the finger or the condom-covered penis--that do not allow blood, semen, or vaginal secretions to be exchanged among Partners. Blood and semen contain the highest concentration of HIV. Any amount of blood, even one so small that it is imperceptible, can contain enough HIV to cause infection. Pre-ejaculation fluid, like semen, poses a risk of HIV transmission. Vaginal secretions have a lower concentration of HIV, but high enough to create a risk of transmission. The transmission of these fluids can take place through the mouth, vagina, anus, cuts or other openings in the skin, for instance in the case of sores and ulcers due to any sexually transmitted diseases (STDs).

While very small amounts of the virus have been found in the saliva and tears of an infected person, there are absolutely no known cases of HIV transmission through contact with saliva or tears. HIV cannot be contracted by ordinary kissing and there is no conclusive evidence that it is transmitted by deep kissing.

During vaginal or anal intercourse, partners must use a latex condom (other condoms are porous and do not provide adequate protection against HIV). A condom should be placed on the erect penis and unwrapped carefully so that it does not tear. After sex, it should be removed carefully so that no semen spills out. A condom should never be re-used. Penetrative sex, anal or vaginal, without proper use of a condom, is the most risky activity from the point of view of HIV transmission. This is so both for the person penetrated and the person penetrating. Infected semen or blood can pass from one person to another through the lining of the anal or vaginal passage and through tiny cuts that may occur. The virus can also enter the penis through the opening at the tip or through cuts or scratches on the penis. On me, not in me is the safe-sex slogan devised by gay man in the US.

During oral sex--mouth-to-vulva contact (cunnilingus), mouth-to-penis contact (fellatio, blow job), or mouth-to-anus contact (analingus, rimming) - the susceptibility to HIV is influenced by how healthy the person doing the licking or sucking is from lips to stomach. For example, cold sores, bleeding gums, sore throats, and ulcers are opening that would permit HIV to enter a person's blood stream.

Ejaculation in the mouth and swallowing semen, during oral sex on can therefore substantially increase the risk of HIV transmission. Otherwise, fellatio poses a low risk of catching the virus though a theoretical risk does exist.

Cunnilingus is safe when a barrier is used to cover the vagina. Medical journals have documented the transmission of HIV to one heterosexual man and at least six lesbians who contracted HIV through vulva contact. In the West, latex squares called dental dams are already commonly used as a barrier to prevent such transmission. However, these are not available as such in India.

## Situation in India

According to Indian Council of Medical Research (ICMR) figures, around 6,000 persons have been documented to be HIV positive out of over 500,000 screened. 62 cases of AIDS are officially believed to exist in India. These figures are highly under-reported and non-representative as screening for HIV has been confined to certain groups presumed to be the "high risk" ones - women in prostitution, professional blood donors, and men who visit clinics for Sexually Transmitted Diseases (STDs). The World Health Organization (WHO) estimates that there are at least 400, 000 HIV-positive persons in this country. According to Prof. Ramachandran, biostatistician at the All Institute of Medical sciences (AIIMS), 2 million people will have from AIDS-related causes in India by the turn of the century. (Presentation at conference on AIDS organized by Christian Medical College, Vellore in Bombay, February, 1991)

In India, as elsewhere, the discussion around AIDS has been informed more by a sexist morality than by scientific facts. According to Dr. A. S. Paintal, until recently Director General of ICMR, "it is

women who are the lousy lot, because all the AIDS is being proud into them... If women had taken steps two years ago and stopped cohabiting with foreigners then the situation would not have become so dangerous." (Sunday, 26 Feb., '89)

The major target of blame have been women in prostitution who are everywhere represented as "vectors of infection," spreading AIDS to healthy men. It is well known that women stand a greater risk of acquiring HIV infection from a man if exposed to it during vaginal intercourse than the other way round. Needless to say, the health of women themselves is a low priority for policy makers who suggest measures like compulsory registration and HIV-testing with the objective of providing a "clean pool" of women for male clients. ("Plan to Amend Act for AIDS," Hindustan Times, 3 Oct 1991)

There is moreover no confidentiality around HIV testing in India and little likelihood of doctors and nurses treating people with HIV/AIDS in a humane manner. People with AIDS are routinely thrown out of government hospitals, including AIIMS which received a huge grant to run an AIDS unit. Legislation, like the AIDS Prevention Bill, 1989, which was successfully stalled by ABVA, has attempted to legitimise forcible testing, contact tracing and isolation and arrests of people even suspected to belong to perceived "high risk groups". Even without such laws, women in prostitution all over the country are screened for HIV with the help of the police and often confined in remand homes if they test positive merely on the basis of the first test. In the state of Manipur, hundreds of young intra-venous drug users with HIV are kept locked in jails, even in chains at some rehabilitation centres.

## **Gay people and AIDS in India**

Gay people in India have, so far, and for the most part, escaped the kind of scapegoating for AIDS that gay men and lesbians in some other countries have been subjected to. However, the fact that their government does not officially recognize them to exist makes them a highly vulnerable group. In the popular imagination, moreover, they have come to be perceived as synonymous with AIDS. For example, at an ICMR and Ministry of Health sponsored inter-university debate on AIDS, held in Delhi in September 1989, several students referred to "homosexual tendencies (as) one of the most predominant causes." (Report of the Association of Indian Universities, March, 1990) As a result, gay people are both stigmatised in the context of AIDS' and denied relevant safer-sex information. What do the government; health authorities and doctors claim to know about gay men, lesbians, and more generally same-sex behaviour in India?

Figures published in the ICMR Bulletin (Nov-Dec, 1990) reveal that only 6 "male homosexuals" were documented to be HIV positive out of a total of 4082 seropositive individuals. Only one out of the 57 cases of AIDS (till October 31, 1990) was thought to have contracted HIV by "homosexual contact," and the source of infection was conveniently "abroad". Of 13 AIDS cases reported in Calcutta in 1990, two were identified as a woman in prostitution and a "male homosexual". The others were listed as: "4 foreign students, a well known engineer, five haemophiliacs, and a carpenter" (The Telegraph, 2 Aug 1990)

We wonder if these categories are mutually exclusive? Can't engineers, haemophiliacs and carpenters not be gay as well? And how is it that the gay person is not referred to by profession?

According to Dr K.M.Radhakrishnan, Deputy Director of Medical Education, Tamil Nadu, "We though prostitutes and homosexuals were the 'high risk groups'. Now we find the HIV virus in heterosexuals too ... Out of 12 documented cases of AIDS in Tamil Nadu, only one is homosexual. Others include lawyers, an engineer, a hotel employee, a teenage drug addict, a businessman, a haemophiliac and one woman in prostitution. "(Sunday Mail, 13.10.91) "Heterosexual promiscuity" (read: mainly women in prostitution) is claimed to be the major route of spread.

## **Systematic denial**

How accurate is the ICMR's epidemiology? In an earlier bulletin (Nov.'88), the ICMR states that "screening of homosexuals and jail inmates (men) was attempted" in December 1986. How many such people were tested before a conclusion could be reached that heterosexual spread is the dominant pattern in India? Has the ICMR consulted any scientific data on the incidence of bisexual behaviour in India? How many men who have sex with men will call themselves "homosexual" or "gay"? And how many of them are exclusively so? What about lesbians? And women who have sex with both women and men?

In fact, Dr. Prema Ramachandran, Deputy Director of the ICHR, writing in *Swasth Hind* (Dec. 1988), a journal brought out under the ministry of Health and Family Welfare, herself concedes: "The first homosexual male with AIDS--apparently acquired abroad - was reported in December 1986. Attempts to screen homosexuals have not been very successful, probably because homosexuality is a cognizable offence in India. However, so far none of the jail inmates (men) screened in India were sero-positive."

Does the Deputy Director assume that all gay men in India are also jail inmates? Conversely, do all men in jail engage in high-risk sexual activities with other men? Was the HIV testing of the gay men and jail inmates carried out with their informed consent? How do her observations square with those of her ex-Director General, Dr. Paintal, that homosexuality does not exist in India because there is a law against it? (interview with ABVA, October 1989)

## **Follow the leader**

The double-speak on homosexuality and AIDS emanating from the apex medical science institute has set the example for doctors and hospitals elsewhere in the country. A quick survey below of some of the conflicting views on the subject makes clear at least one thing: neither the government nor the health authorities have a policy on HIV transmission and same-sex behaviour.

## **Crime, punishment and international conferences**

A paper on "Seroprevalence among Crime-related Population: Prisoners and Prostitutes" was presented by Ravinathan Ramanathan from Stanley Medical College, Madras, at the Vth International Conference on AIDS, San Francisco, USA, June 1990. It admitted that "HIV serosurveillance study was attempted to screen the convicts: men homosexuals and jail inmates; women prostitutes confined in vigilance Homes and children in Tamil Nadu. Between April 1986 and November 1989, 3,168 male convicts, 3,133 women prostitutes and 975 juveniles were screened." The conclusion, "these high risk groups should be screened compulsorily for HIV," can hardly be called a conclusion, as it was the method employed in carrying out the research. Moreover, according to the ICMR's official position, none of the jail inmates tested so far and only 6 homosexual males" have been documented to be HIV positive. Could the call for compulsory screening of these groups be related to the fact that they constitute a "captive" population, easily accessed for research with a little help from the police?

At the Vth International Conference on AIDS, held in Montreal in 1989, Dr I.S.Gilada, Secretary General, Indian Health Organization (IHO), Bombay, presented a poster session entitled "The Hijras: A cult susceptible for AIDS". The introduction states: The prevalence of AIDS as related to sexual preferences and patterns of function seems to be a significance that will determine epidemiological action...Adult life of Hijra is patterned as Male Homosexual Prostitute." The same Dr. Gilada is of the medical opinion that "60 % of all gay men are engaged in prostitution." (Bombay Dost) A similar poster exhibition put together by the IHO was presented at the World Congress on HIV/AIDS held in Bombay in, 1990. Several photographs zeroed in on the genitalia of hijra citizens, in an effort to show the differences between castrated and non-castrated hijras. In addition, slides of hijras and woman in prostitution from Bombay were flashed on the screen before hundreds of delegates, without the use of identity protecting eye bars that are required by international scientific codes. At the same conference, Dr. J.K. Maniar, STD specialist, G.T. Hospital,

Bombay, presented close-up photographs of genitalia of women patients from his STD clinic. At a national seminar on child Abuse and Neglect, held in October 1991 in New Delhi, the IHO publicly displayed the same slides, despite prior objections raised by ABVA.

Are such practices ethical? Is the Indian government aware that some of its citizens are being used in such an obscene manner at international conferences, in violation of all standards of decency? What is the relevance per se of hijras or women in prostitution to AIDS? Could it be that Dr Gilada and Dr Maniar belong to a cult of medical professionals susceptible to sexual perversion, ignorance and peddling of systematic misinformation about gay people, hijras, women in prostitution, and AIDS?

### **An imperialist disease?**

Writing in *Bigyan-O-Bigyan Karmi*, a prominent, progressive science journal published from Calcutta, Pachu Rai takes an ingenuous stand. After deftly conflating homosexuality with anal sex, he describes the restricted nature of the anal canal, which makes regular intercourse a traumatic act, as the reason behind the abnormality of homosexuality. In his view, anal sex per se (with or without a condom) is the cause behind "homosexual sales" getting AIDS. In the West, he points out, 70 per cent of all the AIDS patients are "homosexuals". There are about one crore people with AIDS worldwide. West Bengal, with a population of six crores, has only four AIDS cases. India with an 80 crore population has only 29 AIDS patients. Therefore, eureka, can we say that homosexuality has gripped India? No. "How many homosexuals do we meet in our long lives?" he asks. "The path taken by the West, which is the cause of AIDS, is not relevant to our country. Then why such a hue and cry in India over only 29 AIDS cases?" ("Will AIDS Become an Epidemic in India," BOB, Mar-Jun, 1989)

We have earlier in this report exploded the myths behind such an obsessive concern with the anus and the vigorous denials of the existence of homosexuality in India. It is also common to patriotically blame AIDS on some source outside the country. In the United States, Africa is referred to in racist ways as the point of origin, the Cubans blame it on the US, the Soviet Union (until recently) called it a capitalist aberration, in India people talk of imperialist disease and American germ warfare research as the cause. When will Indians admit that the HIV virus does not distinguish between groups and nations when entering the blood stream? As for Pachu Rai's lament that he has not met any "homosexuals", as one gay man we spoke to put it, "Thank God for homosexuals"

### **Pawns in a chess game?**

*CARC Calling* (Sept-Oct 1989), the bulletin of the Centre for AIDS Research and Control (CARC), an ICMR body, published a cover page with three posters and logos, all of which are classic examples of the kind of moralistic education about AIDS that is bound to backfire. The poster on homosexuality shows pawns in a chess game, facing each other front to back, with one Pawn falling off the line, presumably as a result of the supposed deathly consequences of his sexual perversion. The official explanation accompanying the poster, provided by Dr S.N. Bhadkamkar (Joint Director of Health services, govt. of Maharashtra), says: "This is on homosexuality. It suggests that homosexual contacts are unnatural and very harmful to health; it makes one's life miserable due to a number of diseases he contracts due to his abnormal sexual behaviour."

In response to this poster, Dr. S. Chowdhary, Assistant Professor, Centre for Community Medicine (AIIMS), New Delhi had this to say: "Statements like "unnatural," "very harmful to health," "makes one's life miserable," "abnormal sexual behaviour" denote a high degree of value judgement. Such words must therefore be avoided. All homosexual contacts are not "very harmful" e.g. mutual masturbation which is being promoted world over is safe. No study has yet documented that homosexuality makes one's life miserable; on the contrary, there is enough evidences to suggest that fellatio, cunnilingus and anal sex are practiced even by heterosexuals. Is it also "abnormal sexual behaviour"?" (*CARC Calling*, Apr-Jun 1990)

Dr Indira Kapoor, Director, Family Welfare Training and Research Centre, Govt. of India, also condemns the poster on homosexuality. She quotes Kinsey's studies and also a recent study on the



incidence of overt homosexuality in the US and Western Europe, by P.H.Gebhard, which estimates that "the cumulative incidence of overt homosexual experience for the adult female population as a whole is between 10 and 12 per cent." She adds: "It is time, we medical and para-medical people realise the extent of variation in human sexual behaviour. We give our judgement an extremely superficial knowledge we possess. There is a definite need to explore the broader concepts and international thinking in the area of human sexuality. What may be normal for us may also turn out to be "unnatural" and harmful in someone else's view point. "Value judgement" is a very dangerous area and more so when made without in-depth knowledge on a sensitive and personal issue like human sexuality." (CARC Calling, ibid)

Is anyone in the government listening to these sane voices?

### **What does it cost to be human?**

On January 5, 1991, the Hindu carried an item "To Err is Human, But at what cost? ": "Doctors in Lok Nayak Jai Prakash Narayan (LNJP) Hospital in New Delhi have come to know much to their consternation that a patient operated upon in September last year was actually infected, the (HIV) virus. As he was treated like an ordinary patient and no precautions were taken during the surgery, its possible repercussions have caused such anxiety in the hospital.

"The patient a resident of Bhajanpura was operated upon for Fistula-in-Ano (opening in the anal canal) on September 10. He was discharged on September 12 after the wound healed. However, the patient who has confessed to be a homosexual returned in the last week of November complaining about the recurrence of the disease. The doctors found that the fistula had multiplied with no apparent reason.

"On the hunch of a junior doctor the patient was recommended for ELISA test for the presence of the HIV virus. The test report came in the last week of December proving him to be HIV positive...The patient, who was admitted to the hospital, was discharged without surgery again. He was not told about the infection and asked to report back for the Western Blot test.

"The Directorate General of Health Services (DGHS) guidelines for handling AIDS patients mentions the use of disposable instruments and linen, use of double gloves, masks and gowns for the health care workers... these precautions were not taken...When junior doctors contacted the Medical Superintendent, Dr. Prem Kakkar, regarding the matter...they were told that it was a "professional hazard" ... The Head of Surgery Department, Dr. T. K. Malik, when contacted, said the chances of the patient having AIDS infection at the time of the operation was negligible as the wound had healed. Other doctors, however, contend that the virus might have been in its incubation period when the operation was performed. But as a precaution, the patients who had undergone operations on September 10 in Operation Theatre-1 will shortly be called for tests."

The example set by the All India Institute of Medical Sciences (AIIMS) when it denied surgery to an HIV-positive African envoy in January 1990 has been well followed by doctors at LNJP hospital. What is indeed baffling is that despite extensive guidelines laid down on handling AIDS cases, the patient was discharged without surgery once he was discovered to be HIV positive. Interestingly, as the Hindu reports, "the doctors say that they have not seen any copy of the DGHS guidelines in the hospital." Even if doctors are concerned about their own safety rather than the patient's welfare, would it not make sense to adopt universal barrier precautions when dealing with blood all throughout the hospital? Do people with HIV bear some biological mark to justify selective precautions as an AIDS-prevention strategy in a health-care setting?

### **Mystery of the spiteful pamphlet**

According to the Sunday Observer (April 30, 1989), a mysterious pamphlet arrived at their office, ostensibly by some organization that called itself the Society for Prevention of AIDS in India (SPAM), Delhi. "With neither a phone number or address to its name, nor even a single office bearer listed, this 'concerned' pamphlet very meticulously, though not very grammatically, reproduces an article on

homosexuality published in the weekly Sunday (August 1988) - but only the parts concerning one of the Capital's noted theatre persons, Barry John of Theatre Action Group (TAG). On the flip side, the pamphlet lists the following points...a) Barry John is homosexual b) He prefers young boys and c) he was initiated into gay life by his drama teachers. Among the other units John is involved with, the pamphlet lists TAG theatre in education unit which services schools and other institutions for children, and the TAG Nukkad Unit which is involved with street working children.

"Addressed to the 'Drama Critic,' the pamphlet goes on to cite the case of a student who was supposedly having a 'roaring affair,' with the TAG director; "Just stop and think," the pamphlet says, waving a warning finger, "What if it was your son or your brother or your best friend? You are his patron...you may be paying in part for these activities...is it right?"

The article goes on to condemn the singling out for attack of one person who has, even according to the Sunday article, been among the rare ones who are outspoken about their sexual convictions. "Should or can we encourage these amorous assertions of adventurous homosexuality? Should we allow these sexually 'perverted' individuals to move scot free and pursue their 'illegal vocation' with impunity?" questions the anonymous pamphlet.

Alok Mukhopadhyaya, the executive director of the Voluntary Health Association of India (VHAI) denounced the pamphlet as a canard. Arun Kuckreja, director of the theatre group Ruchika, commented, "We've heard of people writing spiteful and vindictive anonymous letters when we were children, and even then we were told to condemn such cowardice. If these people or the society has something specific to say, let them say it openly and in a straightforward manner (as Barry John has done in his interview to Sunday) Obviously they have something to hide, or they would have identified themselves and refrained from character assassination. Their word or motive is suspect."

A social worker, who once worked with John, was reported to say: "If this SPAID is really interested in making people aware about AIDS, let them distribute pamphlets advocating safe sex, health and hygiene and point out the debilitating effects of the disease. Why bring in Barry's personal convictions? Don't men go to prostitutes? Let them advocate either legalizing prostitution... or let them urge men to take a vow against becoming their clients. ("Watery of the Spiteful Pamphlet," by Prabha Jagannathan, SO, 30 April 1990)

## **Government (in) action**

The National AIDS Control Programme, which was established in 1985 with the collaboration of the ICMR, has so far organized 14 training courses for physicians and nurses in the clinical management of AIDS cases in different parts of the country. So far, 280 doctors and 140 nurses have been trained. (Annual Report, Ministry of Health and Family welfare, 1990-91) Lakhs of rupees have already been sunk into "AIDS education". The government is also in the process of negotiating a huge AIDS grant of 65 million dollars from the WHO-World Bank. Perhaps, this was why Dr. Gariyali, Special Secretary, Health, State of Tamil Nadu, "got things cracking as soon as the first instalment of Rs 1.5 lakhs from the Rs 15 lakhs Central grant was released in March." (Sunday Mail, 13 October 1991)

However, all to what effect? Premier medical centres like AIIMS and INJP hospital, in the heart of the capital, continue to mete out inhuman and unscientific treatment to people with HIV/AIDS. The Central Health Education Bureau (CHEB) is yet to bring out a single advertisement, which is not sex-negative. Women in prostitution, professional blood donors, drug users and "homosexuals" continue to be stigmatised as the "vectors of spread" of HIV infection. Is it a mere coincidence that HIV positivity figures of marginalized groups, usually obtained from forcible testing, are widely publicised; whereas other figures, like those relating to "Defence, Border Security Force, police personnel and sailors," who are also included in the 16 "high risk groups" elaborated by the CHEB, are never publicly announced?

What is the government doing about AIDS and same sex sexual interactions? We strongly oppose any public health strategy which targets gay people as a "high risk group." However, we also condemn the unwillingness to acknowledge the existence in Indian society of a wide range of sexual

interactions, heterosexual, homosexual and bisexual. All of these occur within the "general population", among and between reasonable people and not on some conjured up margins of society. Men who have sex with men, women who have sex with women exist here, as everywhere else. Moreover, what is this concept of the "general population"? Are gay people, women in prostitution, and professional blood donors to be thought of as somehow existing outside society? Whatever the personal views of medical professionals about these groups, is there any scientific justification for perpetuating this impression?

Dr Indira Kapoor, Director, Family Welfare Research and Training Centre, Govt. of India, puts it like this: "Knowledge of reproduction and contraception does not by itself complete the knowledge on human sexuality, it only complements or forms a small part of it. Human sexuality is itself a separate speciality of medical science... Unfortunately, training curricula in medical colleges/schools do not lay much stress on this educational aspect." (CARL Calling, April-June 1990)

Gay men and lesbians must not be assumed to be abnormal, lusty, irresponsible people. For instance, ABVA last year met "Anil Kumar", a gay man whose search for an HIV test was written up in the Sunday Mail (25.6.89). He described how the lab technician at AIIMS required him to fill out a form, with particulars such as name, address, phone number, before he would do the test. The result was that Anil did not have his test done at AIIMS where he had gone "out of a sense of social responsibility." Is he to blame if he is now driven "underground", without access to an HIV test and safe-sex counselling?

According to Dr. Matthew Verghese, senior orthopaedic surgeon, St Stephen's Hospital, New Delhi., "there is nothing abnormal about homosexuality." Nor is there any scientific rationale for violating confidentiality or turning persons with HIV/AIDS away from hospital care. His ethical commitment as a surgeon is well revealed in his statement: "Even if a patient is the worst possible criminal, I will still treat him as a patient." (Interview with ABVA)

In fact, given that homosexuality is no longer considered a physical or mental ailment the world over, shouldn't the medical establishment be spearheading the campaign for scrapping the sodomy law (section 377) in India? Wouldn't such a step help rather than hinder AIDS prevention work?

## 10. CHARTER OF DEMANDS

ABVA urges the Government of India to take cognizance of the following demands and take urgent steps towards their realization:

1. Repeal all discriminatory legislation singling out homosexual acts by consenting adults in private - section 377 of the Indian Penal Code, and the relevant sections of the Army, Navy and Air Force Acts, 1950. In other words, decriminalise sodomy.
2. Enact civil rights legislation to offer gay citizens and other sexual minorities such as hijras the same protections now guaranteed to others on the basis of caste, creed, and colour. Amend the Constitution to include equality before the law on the basis of "sex" and "sexual orientation."
3. Recognize the right to privacy as a fundamental part of the citizen's right to life and liberty, including the right to his or her sexual orientation.
4. Reform police policy (for example, by calling a meeting of senior police officers, including all Station House officers (SHOs)), to put an end to the harassment of gay people at the hands of the police and public. Police authorities should take the initiative to make available information on all local public nuisance laws used on gay people in public places, and the relevant procedures and penalties specified therein. They should also make public the numbers of arrests, prosecutions and convictions of gay people under various laws along with the period of sentence, amount of fine and age of the offenders.
5. Establish a Commission to document human rights violations of gay people, such as violence and blackmail directed at gay men and lesbians, as well as atrocities within marriage on lesbians who may be married to men.
6. Redefine the offence of rape in the Indian Penal Code to include all coercive sexual acts rather than only vaginal penetration. Rape laws should be made applicable to both men and women, irrespective of whether they are gay, nongay, married or single.
7. Have the Press Council of India issue guidelines for respectful, sensitive and representative reporting on gay men and lesbians and issues around homosexuality.
8. Have the Medical Council of India (MCI) issue guidelines to the effect that refusal to treat a person on the basis of his/her sexual orientation is a cause for censure on grounds of professional misconduct. Bring medical curricula in schools and medical colleges in line with the latest scientific theories of homosexuality.
9. Consider unethical any reckless and uncalled for sex change surgery without informed consent and counselling. Counselling should be made available to help a person deal with the normality of his/her gender incongruities. Any irresponsible experimentation by medical professionals in this area should be made punishable by law.
10. Institute a massive, nation-wide survey of sexual behaviour in our society.
11. Ensure that everyone receives judgement-free health education related to sexuality, homosexuality, Sexually transmitted Diseases (STDs), HIV testing, AIDS and condom use. All AIDS-related education should explicitly acknowledge sexual interaction between people of the same sex.
12. Delete the clauses in the AIDS (Prevention) Bill, 1989, which lies pending before a Joint Parliamentary Committee) that provide for coercive testing, contact tracing, and isolation. Include explicit confidentiality on sexual orientation and anti-discrimination measures for the protection of people with HIV/AIDS.

13. Make available anonymous HIV testing facilities for all.
14. Alter the heterosexist bias in education, from school onwards, by presenting positive images and role models of gay man and lesbians and of homosexuality as a viable, healthy alternative lifestyle.
15. Amend the Special Marriages Act to allow for marriages between people of the same sex (or between people who may be inter-sexed, or have undergone sex-change surgery, and any others). All consequential legal benefits of marriage should extend to gay marriages as well, including the right to adopt children, to execute a partner's will, to inherit, etc. Same-sex couples should also be entitled to the legal benefits that accrue to their heterosexual counterparts of common law marriages. No presumption as to fitness or unfitness for custody of a child or visitation rights shall arise based on sexual orientation of either parent in such a situation.
16. Alternatively, legally recognize and encourage friendship agreements between single people of the same sex as a valid way of organizing family life.

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