Sexing South Asia: Law, Activism and Sexual Justice Conference

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New Delhi

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SEXING SOUTH ASIA – LAW, ACTIVISM, AND SEXUAL JUSTICE

Feminist and queer studies scholarships have long attended to the paradoxes of pursuing sexual justice by recourse to the law. A known limitation of activist engagements with state legal systems to safeguard the rights of marginalized groups is the rigid classification of people and identities that accompanies legal recognition of rights. For example, while the highest courts of several countries in South Asia have recognized the fundamental rights of trans* people, the use of an umbrella term such as ‘transgender’ itself may erase and further disenfranchise communities that have their own terminologies, customs, ways of living and laws.

Over the last decade, courts across South Asia have passed historic judgments upholding the rights of gender and sexually marginalized persons. Such measures do not only pertain to those who might be considered marginal in respect to their gender difference or non-heteronormative sexuality. In September 2018, the Supreme Court of India struck down a ban on the entry of menstruating women to the temple of Sabarimala. This ruling was followed by other judgments that decriminalized consensual sodomy between adults, and the offence of adultery.

Nepal’s Supreme Court in 2007 delivered a ground-breaking judgment guaranteeing LGBT individuals the enjoyment of all rights under the Constitution (then to be ratified) as well as international law and directed the State to ensure that they could access rights without any discrimination. In Pakistan, the Supreme Court in 2009 legally recognized a third gender category thus deeming transgender people as full and equal citizens. India’s Supreme Court in 2014 issued a similar judgment that upheld the right of self-identification for transgender people. In May 2018, Pakistan’s Parliament passed a comprehensive Transgender Persons (Protection of Rights) Act that, inter alia, allows for self-identification and prohibits discrimination against transgender people at schools, workplaces, and when receiving medical care. In November 2013, the government of Bangladesh officially recognized Hijra persons as third gender. However, such recognition came with intrusive medical examinations, and, erroneous ideas about sex/gender-based identities.

These judgments and legislations indicate an emerging set of shifts in sexual and gender mores in respect of legal status in the present moment of rising cultural and economic populism, engendering complex consequences for the way we perceive the relationship between law, sexuality and justice in South Asia.

While these developments are a step forward for gender and sexual minority rights movements, the far-reaching impact they will have on the relationship between the State and the ever-fluctuating landscape of gender and sexual identities is yet to be thoroughly examined. The capacity of the State to call sexual subjects into being as recognizable figurations may run counter to other formations whereby queer folk exist predominantly outside of such authorities or visualizations. The celebration of current landmark judgments must also be tempered with analyses that pay attention to the intersections of caste, class, religion, regional disparities, gender and sexuality. Does entry into
Sabarimala, for instance, signal freedom for all women or only upper-caste women? Does the State become a beacon of securalism when it advances women’s rights by declaring religious practices as unconstitutional? What does it mean to fight for love amidst the growing ‘saffronization’ of the LGBT movement in India? What makes activists repeatedly resort to the right to privacy to demand decriminalization of sodomy when it carries the potential to reify the public-private divide? Whose narratives are represented in queer activism and whose have been deliberately left out? How is ‘transgender’ being defined differently across diverse countries in South Asia, and how is the governmentality of recognition producing newer kinds of regulation of bodies? How do we think about law when it is simultaneously a site of constraint and liberation?

Seeking legal reform cannot be completely discarded as a mode of activism. State law has tremendous potential to be an instrument of social change. The judgments and legislations mentioned above are founded on principles of equality, non-discrimination and freedom of speech and expression. However, it is also a daunting task to place gender and sexual (or other) desires within the confines of the language of state law. The rapidly changing legal terrain perhaps signifies the paradoxes of recognition, and how pleasure and desire have both positive as well as negative relationships with law.

Queer theory offers powerful critiques of the manner in which the hegemonic common sense of progressive rights under liberalism order both the heteronormative and homonormative worlds. Neoliberalism, as the cultural technology of disciplining conduct, is the condition where practices of liberalism get naturalized, internalized, and internationalized by individuals who inhabit liberal or liberal-aspiring state formations. Transnational market forces then prescribe codes of respectable (sexual) citizenship, a script of seduction that is difficult to resist for those who have historically been outside the folds of formal citizenship. There is a need to locate the messiness of queer politics and organizing within the matrix of neoliberalism and legal reform to keep alive its radical potential as well as identify its conservative proclivities.

In these times, what are the possibilities of State law in transforming the ways we perceive gender, sexuality, and the desire of justice? How might legal reform in South Asia be foreshadowing the emergence of new areas of regional activism regarding same-sex marriage or civil partnership? How might incipient issues pertaining to inheritance between same-sex partners run with or against other means of codifying property in relation to kinship, lineage, socio-economic privilege and law? How might description of LGBT-subjects as ‘natural’ as opposed psychologically disordered (as has occurred in the case of law in Nepal) evoke wider and multifaceted effects regarding biological essentialism, social transformation and State recognition of sexual and gender minorities? How might the precarities of LGBT and other queer subjects endure or be altered in contexts of welfare or (un)employment in the region – by legal reform or other means? And how might sexualities, gender and law intermash and resist one another as objects of cultural study and ethnographic knowledge? Against the background of such questions the relation between law, history and nature is taking shape as an especially dense web of evolving meanings and actions in contemporary queer praxis in South Asia.

This conference seeks to address these concerns by providing a space for scholars, activists and artists to discuss and deliberate on the political potentials of recent legal verdicts, the possibilities and perils of law reform, and the relationships between municipal and international law in achieving sexual rights. We especially invite works that take up these questions in relation to queer epistemologies and community-based praxis as they might help in the critical navigation of spaces between law, bodies and intimate relations.
Debated tirelessly and proliferated across diverse societies, human rights have been extended explicitly to sexuality and gender identity in recent times. The universal panacea that human rights purport to offer to human suffering, a prevalent phenomenon and strong motivation for activists around the world, makes the discourse attractive yet objectionable. Some scholars find that human rights bring meaningful change, but others criticize them for being a western imposition of power that is often ineffective as well. Drawing from her own research, Dr. Chua talks about how the ethnographic study of human rights approaches and appreciates the tensions in the mobilization of human rights for sexual and gender justice, and more generally. By taking such an approach, researchers do not treat human rights as innately good, bad, powerful or weak. Instead, they put human agency front and center in their analyses, and focus on how those who put human rights into practice interact with human rights and with society, looking to the ways in which they wield human rights to realize their hopes and dreams of a better life, the consequences they sow, and what those consequences mean to them.
**QUEER EMBODIMENTS**

**THE SAVARNA HURT & INJURY: UNDERSTANDING DIFFERENT MODES OF EMBODYING AFFIRMATIVE ACTION**

*Akhil Kang (He/Him)*

Akhil Kang is currently pursuing his PhD in Socio-cultural Anthropology from Cornell University, where he is studying upper caste hurt and victimhood because of affirmative action. He works on gender-sexuality, post-coloniality, kinship, affect, media and urban studies.

The affirmative action (reservation) policies established under the Constitution of India recognize caste as a historical injury worthy of redress. Since independence, claiming access through affirmative actions has become an important mode of Dalit, lower caste assertion. Reservation is also a contested site because while it is viciously scrutinized and criticized by upper castes, it is also politically and economically desired by them.

In this paper I will investigate upper caste claims of victimhood and narratives of injury and how Dalits’ articulation of caste has a constant relationship with surveillance and interrogation about their desires, accomplishments and assertions from upper-castes. There is already a lot written about anti-affirmative action agitations in India (for instance Mandal Commission agitations in 1990s). In addition to this, reservation/quotas are extensively debated both legally, politically and electorally. But there is a lack of understanding about how exactly the upper caste justifies its hurt and victimhood at the expense of lower caste lives and assertion. The discourse on meritocracy focuses heavily on access, capabilities and opportunities for the lower caste individuals but not on upper caste vulnerability. I use the queer affective understandings of hurt, trauma and wound and use these frameworks to understand what legal jurisprudence and social analysis surrounding affirmative action have clearly missed: how are reservations lived and felt by the upper caste.

The framework of queerness also offers interesting ways in which one could read into trauma, meritocracy and victimhood. Many politically mobilizing factors such as ‘caste pride’ also get lost in the rhetoric of violence, legacies and genealogies but never talk about how pride (which in fact has a rich queer history) constructs social life of an upper caste. As part of my larger project, I hope to see and learn to what extent and in what ways is the element of individual hurt and the idea that upper caste spaces are being usurped by Dalits is at play. I also explore anti-reservation memes (circulated in social media and WhatsApp networks) to understand how an upper caste visualizes his/her/their pain and alienation.
HOW THE KOTHI WAS DISAPPEARED: REFLECTIONS ON ETHNOGRAPHY, LAW AND CULTURE IN A TIME OF TRANS

AKSHAY KHANNA (It/Its)
Akshay Khanna is a Social Anthropologist, a lawyer, an activist, a theatre practitioner, and a development practitioner. Akshay has been active in the Queer movement in India for about 15 years.

PAUL BOYCE (He/Him)
Paul Boyce is a lecturer in Anthropology and International Development in the School of Global Studies at the University of Sussex. Paul’s research has predominantly focused on sexual and gendered subjectivities, seeking to relate theory to practice.

This paper is a work in progress which brings into conversation reflections of two anthropologists and our ethnographic experiences over more than two decades, on sexualness and gender diversity in India. It lays out key shifts in the emergence and disappearance of figures, idioms and senses of being articulating around same sex desire and gender non-conformity. The broader paper brings focus on ethnography as a practice and as a way of knowing, and its dissonance with the (dis)identifications engendered by Law. It also looks at the function and deployment of ‘culture’ in the processes of these emergences and submergences. The part of the paper that will be shared at the conference will focus, however, on one of the narratives - the disappearance of the Kothi - as a context for laying out the theoretical challenges, formulations and implications in studying gender itself.

The last decade has seen a veritable explosion of a ‘Trans’ discourse that portends to create the conditions for the inclusion of non-normative gender articulations into registers of governmentality, calculations of political ‘wokeness’, and priorities of the Humanitarian-Development complex. The ‘T’ has been extricated from LGBT, been granted a (n always temporary) status as The Most Marginalised And Therefore most Deserving and has been identified as the idiom through which gender non-conformity itself must be framed. As we have seen through compelling work on biopolitics, and in our own research over the last two decades, ‘inclusion’ is necessarily a process of exclusion, of delegitimisation, opacity and erasure. One of the recent instances of the such violence, produced in part by the celebrated NALSA judgement, is the disappearance of the Kothi. The paper tells the story of this disappearance, and of the reconfiguration of Queer subjects in law and activism. It places this disappearance in relation to the zeitgeist that berates desire as extraneous to the Citizen-Subject of the (‘New’) Indian nation-state, but equally extraneous to Subject of cosmopolitan activism. Using this narrative, we open up questions for what it means to study gender and the sexual today.
Census as a legally abided national document, one where everything literally counts, has in fact rarely caught the attention of critical legal debates towards gendered and sexual recognition. Of the few works, Folbre (1991) hinged women's place within national-economic milieu by drawing our attention to the seemingly ‘neutral’ and ‘pure’ numbers of the statistical surveys. Questioning the ‘androcentric focus of...conventional census categories’ (Folbre, 1991), feminist scholars have in the past exposed the gender bias of apparently ‘objective and value free’ census document. However, such debates have remained limited one, to gender (cis-women), and not extended to trans/non-binary nor sexuality; and two, to bodily categories such as the “unproductive housewife” and “dependant”, marking bodies and behaviour.

The task of this paper then is double-fold – first, to draw our attention to spatial categories (not in place of, but in conjunction with the bodily categories) within the national census survey; and second, to specifically interrogate the sexual and gendered norms scripted in the non/recognition of spaces (and bodies) by the Census of India. Through an autoethnographic spatial-recount, i.e., revisiting and re-imaging space(s) through re-drawing and tracing from memory, five different tenant profiles (in its recognition as floating population by the Census of India) in three rental living arrangements (in its non-recognition as “congested household” by the Census of India) in a densely knit, Hindu dominated upper caste nineteenth-century planned neighbourhood of Malleswaram, Bangalore. Thus, the paper interrogates the spatial category of “congested household” in conjunction with the bodily category of “floating population” of Census of India, and asks, what counts? In its recall for justice, this paper is not conventionally legal in its language as such. Taking on a further ambitious task however, it passionately screams legal imagination, “as a faculty of transforming the experience of what is into a projection of what could be” [emphasis added] (Young, 1990). In this sense, the paper urges that identities be understood as bodies in conjunction with spaces as built, lived and felt/imagined. Subsequently, in everyday identity making practices, it underlines that there is never absent. Therefore, there is no sexual justice without spatial justice. On the contrary, such partial sexual (and gendered) “liberations” (if at all) get regularly confined to cishe normative everyday spaces, particularly intensified in intimate spaces such as shared households, as will be illustrated here. In other words, gender and sexual rights advocacy must urgently realise an awaiting collaborative project at hand with what this paper calls the “spatial-recount” (and re-imagine) advocacy. Therefore, the paper underscores reimagining the census document as a legally abided national database where everything literally counts, with a particular focus on its spatial categories (in conjunction with bodily categories) as indispensable to the recognition and realization of identities.
“Hum Aapna Adhikar Maangte Nahi Kisi se Bhik Maangte” (‘We Demand our Rights We Don’t Beg for Them’) is a popular slogan in protest marches across India. These marches not only demand rights for specific communities or economically identifiable groups but also denigrate the practices of begging. Since begging is seen as an undignified criminal way of seeking money, the beggar is stripped of any right to protest or demand. The Transgender Persons (Protection of Rights) Bill 2018 not only criminalized begging but also made provisions for screening committees to identify the gender of the trans persons. Despite sustained agitations, the government refused to see begging as a traditional form of livelihood. In fact, it is the association of begging with criminality that allows the police to harass and imprison people living on the streets.

Last year Delhi High Court ruled that the Bombay Prevention of Begging Act 1959 is unconstitutional and begging while in need cannot be termed as illegal. Rather than dwelling on the failures of the welfare state, I am more interested in the ways in which the state constitutes the acceptable categories of ‘work’ and dignified labour. It is this dignity of the citizen figure that became the basis of the Privacy judgement in 2017. But what does it mean for individuals and communities like that of sex workers who may not fit into the idea of fully authorized labour? Whose rights, therefore, will entail a call for justice? In this paper I intend to look at the hierarchization of rights-bearing bodies so that the notions of ‘privacy’ and ‘begging’ are attributed to certain bodies with specific caste and class backgrounds. I am interested in the relationship between labour and sexualities and speculate whether legal changes like the one heralded by the Privacy judgement have any impact on the publicness of sexualities as ways of living.
In 2014, the Indian Supreme Court delivered a landmark judgment – NALSA v. Union of India – which held that trans and Hijra populations have a constitutional right to legal gender recognition. It also stipulated that individuals had the right to gender self-identification, without requiring medical procedures or surgical intervention, which for many in western societies has been hailed as a ‘best practice model’ for recognition of non-binary and trans individuals. The hijra community are the perfect example of an identity which disrupts (western) heteronormative ideals with reference to sex, gender, procreation and relationships. Non-binary identities have been extensively theorised from legal, psychological, sociological, and medical spaces particularly within western discourse, however, this presentation will look at three key aspects of the hijra identity largely unexplored in academic discourse. Firstly, it will look at how increased recognition of the third gender in south Asia has become inaccurately appropriated to champion trans and non-binary rights in other parts of the world. Much scholarship, including Western LGBT activism, fails to acknowledge the intersectional experiences faced by hijra individuals living in postcolonial contexts, and the challenges of navigating identity as a hijra in a space which is increasingly questioning, resisting and placing under a microscope their desired gender (or non-gender) identity (Shah, 2015). It is also a misleading portrayal of trans and Hijra lives in India – creating a fictional legal smokescreen, which erases the economic, social and political disadvantage of these populations. Secondly, to consider the realities in India and the manner in which, since discussion about gender recognition has increasingly entered the legal arena in India, these groups have become more visible and therefore more susceptible to violence and marginalisation (socially, legally, economically, and culturally) (Hinchy, 2013). Despite historical affirmation of gender diversity, religious and cultural significance of the hijra identity, and growing acceptance of lesbian, gay and bisexual populations, Indian law provides no mechanism through which trans and Hijra individuals can be formally acknowledged in their preferred gender, and thus protected as such. Thirdly, it will explore the ways in which potential laws and legal recognition seek to govern bodies and beings, using the Transgender Bill 2018 as a key area of focus. The bill in its current form sets out to institutionalise, and therefore permit, forms of violence against the trans and Hijra community through its regulation and control over their identities, bodies, and livelihoods, i.e. the law will criminalise ‘begging’, the main form of income-generation for the hijra community; such restrictions leave few other opportunities and thus force many to engage in dangerous, lowly-paid sex work. It will therefore explore whether legal recognition and identity can actually be a liberator for trans and non-binary individuals, or whether, through categorising and regulation, it actually restricts and limits the lives of the Hijra. It will conclude by analysing the relationship between the colonial regulation of bodies, postcolonialism, and the gendered binary legal system and how these concepts interact as collective systems of oppression, reinforcing the continued marginalisation of hijra individuals.
NOT BINARY IS NOT NON-BINARY: “GENDERQUEER” AND “THIRD GENDER” IN INDIA

ANIRUDDHA DUTTA (They/Them)
Aniruddha Dutta is an Associate Professor in the departments of Gender, Women’s and Sexuality Studies and Asian and Slavic Languages and Literatures at the University of Iowa. Dutta is interested in the study of contemporary globalizing processes, particularly the negotiation between various centers and peripheries of power.

As “genderqueer” spreads transnationally as a term for non-binary gender identities, a growing number of government documents in India recognize the term under the “transgender” umbrella. However, the term’s usage remains largely urban and elite, and it is sometimes positioned as a more “progressive” and cosmopolitan gender identity relative to more “traditional” gender-variant communities such as kothis and hijras, who are also commonly positioned outside the binary as a “third gender.” This presentation traces emerging scalar, linguistic and political hierarchies between different discourses of non-binary gender and analyzes their implications for a decolonial and intersectional queer/trans politics.
QUEER PERSONS’ RIGHT TO PUBLIC SPACES

AJITA BANERJIE (She/Her)
Ajita Banerjie is a queer feminist and a researcher on gender and sexuality rights based in New Delhi.

Public spaces are not equally accessible for everyone, are often controlled, and result in the selective removal of certain groups, making some people remain more equal than others. Transgender and gender-non conforming persons, especially those belonging to socio-economically disadvantaged backgrounds, experience hostility, prejudice, discrimination and violence in public spaces and often start avoiding those spaces altogether. There exists a patriarchal dichotomization of space that has profound and painful consequences for gender non-conforming persons in different spaces like that of public spaces such as streets, quasi-public domain of the schools and offices, to semi-private spaces of malls, theatres and parks and ending with the privacy of home. Studies have shown that LGBT persons may avoid using public transport and public toilets, only walk on the streets when accompanied by others so as to avoid homophobic and transphobic violence and live in a state of constant anxiety and fear of being attacked. Transgender people experience a certain tyranny in the gendered division of space that arises as they challenge the hegemonic expectations for 'appropriately' gendered behaviour in society. In this sense, questions of sexual identity can be seen to intertwine with those of citizenship in a number of profound ways for LGBT individuals.

LGBT persons often feel free to express their sexuality only in certain (and principally private) spaces, with the streets being experienced as exclusionary spaces where heterosexuality is aggressively asserted as the norm. Spatial locations present various threats and manifestations of power, and certain criminal laws intersect this field in multiple ways. For LGBT persons, certain laws frame and enable conditions of hostility thereby creating the need for self-surveillance and discipline in public spaces. Safe areas, in contrast, are marked off by lack of detection and relative freedom from the law. In India, the effect of criminal sanctions against LGBT individuals range from discrimination in access to education, livelihood and healthcare to sexual violence and threat to life. Archaic ‘sodomy’ laws such Section 377 of the Indian Penal Code (IPC), interact with other forms of societal censure to produce a climate of oppression and perpetuate stigma around non-normative gender and sexual identities in public spaces.

This ‘chilling effect’ on the lives of LGBT citizens has had the same impact as the Panopticon, viewing LGBT individuals as socially and legally constructed miscreants. This paper will discuss how archaic laws such as the Criminal Tribes Act of 1871 and Section 377 of the IPC provides the backdrop to legal exclusion and social panopticism, making LGBT persons ‘partial citizens’ and depriving them of their fundamental rights. The paper will also inquire into the impact of certain domestic laws that regulate sex work, trafficking, begging and public obscenity on the lives of LGBT persons. Lastly, the paper will seek to discuss the intersection of right to privacy and LGBT rights in light of recent Supreme Court judgments in Navtej Singh Johar v Union of India (2018), KS Puttaswamy v Union of India (2017) and National Legal Services Authority (NALSA) v Union of India (2014).
Fantasies that turn us on and disturb us at the same time. Fantasies that are prohibited by norms of mutuality, dignity and rights. Fantasies for which our queer/feminist politics might not seem to grant us permission.

#MightItBe that this uncomfortable place is also a productive place to be?

#MightItBe that the continuum and back and forth of the personal is political is personal can help us see fantasies at play in violence and abuse performed in the realm of politics.

For my presentation I will draw upon research that I have undertaken for a book entitled Sex, Love and Indian Politics to be published later this year. I will invite the lens of the psyche, drawing upon certain psychoanalytic concepts. In particular I will share and reflect on certain fantasies, and the feelings that respondents have about them, from an anonymous online survey. I will also share and reflect upon particular instances of lynchings of Muslim men as well as abuse by Hindu Nationalists targeted women on twitter.

My hope is that sexual fantasies that are prohibited by liberal norms and which do not seem to have the permission from queer/feminist politics, can help us recognize the terrible kind of enjoyment in the enactment of fantasies that have permission from Hindu Nationalism. My argument is not that the fantasies are the same, but that sexual fantasies can help us see the play of fantasy in politics. The personal can help us glimpse jouissance at the intersection of prohibition and permission in politics. A lessening of bewilderment about how “ordinary” folk can perform acts which are prohibited by norms of humanity, might help strengthen our struggles against ideologies that give permission for crimes that are (also) erotic in nature and thus far illegal.
The landscape of identity and affirmation for feminine / femme / female-identified categories of Hijra-Koti-MSM-Transwoman in Bangladesh have undergone sharp polarization, corporatization and NGO-ization, and hierarchies of power and difference have developed as a result. These identifier terms include a mash-up of historical and traditional categories intermingled with pathologically crafted medical terminology and expressions of personhood originating out of the LGBT politics of the West. However, within this entanglement of identities and self-expressions, feminine-aligned / feminine-identified queer individuals, including members of Hijra communities in Bangladesh, have for many years lived with state denial and at the margins of the legal and social infrastructure, which have served to erase non-normative expressions and ways of being. 2014 marked a discursive shift in state rhetoric. The Ministry of Social Welfare published a gazette notification declaring 'recognition' of the Hijra community in Bangladesh. This was quickly referred to in media and NGO-speak as “recognition of the third gender”. However, with no specific measures taken to ensure self-identification, questions of legitimacy and authenticity were raised, and amongst members of queer communities, this newly recognized gender category soon gave rise to open hostility over shares of division, labour, power and influence. A few welcome but sporadic measures were adopted in furtherance of the recognition, but no overall affirmative action policy was put in place. At this juncture that Bangladesh Legal Aid and Services Trust (BLAST), a national organization, engaging a pro bono lawyers’ network across the country, began an initiative to provide paralegal training and capacity building initiatives to individuals from diverse, queer communities across several districts of Bangladesh. In effect, the approach aimed to enable members of the Hijra community to exercise their constitutional rights in the same way as those with normative gender identities.

This paper seeks to explore how the language of constitutional entitlements and human rights connects to claims for and actions to secure the socio-legal protections that queer individuals and queer groups need. In doing so, it attempts to share the experiences of queer individuals, their stories and experiences of invoking or conflicting with the law, and with each other, and uncovers the potential for building subversive solidarity as well as recognizing spaces of incoherence, where the law facilitates ‘other-ing’, denial and violence that structure the everyday life of queer people. The paper has been developed by drawing on the narratives, opinions and reflections of those involved in the paralegal trainings for the Hijra community.
PARADOXES AND CHALLENGES IN PURSUING LAW, ACTIVISM AND SEXUAL JUSTICE IN THE CONTEXT OF MANIPUR

KUMAM DAVIDSON (He/Him)
Kumam Davidson Singh is an independent journalist, activist and educator. He received his Master’s in English from the Centre for English Studies, Jawaharlal Nehru University. He co-founded The Chinky Homo Project in 2018 and founded Queer Boys Collective Manipur in 2019.

Law, activism and social justice (instead of sexual justice) would have been more apt when talking about Manipur for the larger struggle of the public has been around it for decades. This must not imply that the trinity finds favourable ground in the state – but to simply suggest that as a society we have not acquainted ourselves with the idea of sexual justice in its diverse sense. Probably because for decades Manipur has been a melting pot brewing with human rights violations, political conflicts, communal rifts, bureaucratic failures, rampant corruption, and drug epidemic among others that we have not bypassed these long-endured issues that there is little or no space for the idea of sexual justice to grow. Yet its people carry on with resilience; those who have migrated and those remained behind. The complex circus that is law, activism and social justice in the case of Manipur has been written and talked about far and wide. Sexual justice, on the other hand, is one that many are still apprehensive about voicing though there have been resilient efforts by transman and transwomen groups for years and in the past one year or so, queer activism in the state has seen new development with the emergence of new collectives and groups. The paper identifies two key questions herein – if Manipur is the breeding ground for activism on human rights violations then what restrains the larger public from upholding the call for sexual justice? And what is the complex relationship the state has with law, activism and sexual justice vis-à-vis the Indian nation state? The paper attempts to investigate the complexity, nuances, paradoxes and challenges of the issues by delving into journalistic articles, blogs, testimonials, interviews, books and research papers.
“CASTE”ING A CLOUD OVER THE RAINBOW

DEBJYOTI GHOSH (He/Him)
Debjyoti Ghosh is an Assistant Professor of Comparative Law at the Asian University for Women, Bangladesh. He is a human rights lawyer and has worked on issues around HIV, women, children and sexual minorities.

“(Caste no bar) (Iyer preferred)” – these are the words from a matrimonial advertisement placed almost playfully by the mother of renowned Indian equal rights activist, Harish Iyer, for a groom for her son. While the first advertisement of its kind, the wordings rankled with several people from the queer community as well as allies. Iyer went on record saying that his mother wanted someone to be familiar with their way of life, but at the same time stating that it was given that there was no bar on caste, and that he has relatives professing the Islamic faith.

The caste system continues to carry on and rear its all-to-often ugly head every now and then, despite caste-based discrimination being constitutionally outlawed. The playful advertisement placed by Iyer’s mother is ironically symbolic of how the queer communities have come to work in India in certain ways by visibilising certain identities and invisibilising others.

Within the structures that pre-existed LGBTQ activism, non-normative sexualities and genders have existed albeit in an invisibility, but often drawing from their own surroundings. With the advent of LGBTQ activism in India, people from different castes came together to fight for the same cause, but with their own caste-related battles. Several times, class and caste stratification have surfaced within the community, but now is probably the time that it will come to the surface the most, given the reading down of Section 377 of the Indian Penal Code. Drawing from Nancy Fraser’s and Axel Honneth’s ideas on the conflict between redistribution and recognition, and Kimberlé Crenshaw’s notions of intersectionality of discriminations, this paper aims to explore the interplay of caste in queer communities in India, how queer people have navigated it in the past, and how it has come to play out in the face of queer activism and queer victories in the judicial arena. I hope to be able to explore the purposeful invisibilising of caste identities in order to fit into communities around sexual and/or gender identities, only for them to resurface at some point. This paper will combine both primary and secondary research through interviews and literature reviews.
Gender discourse has gained momentum over the past decades and the discourse itself came to shine light on complex issues of its own. In the broadest sense, gender is defined as socially constructed roles and responsibilities of how men and women should be and behave as opposed to their biological differences of being male and female. Although the initial idea of the concept originated from the feminist movement in the West, however the need for gender discourse has become crucial in any kinds of societies. Therefore, with this aim in mind, this paper will discuss gender literature from the Buddhist context. Buddhist literature books such as འདོད་པའི་བསྟན་བཅོས། (Treatise on Passion), ཕྱུན་བཟང་བླ་མའི་ཞལ་ལུང་། (Words of my Perfect teacher), Julama, བེ་རེ་ཀྲོང་ལྷན་པར། (meditation sutra), སྦོད་འཇུག (The Way of the Bodhisattva) and poetry by 70th Jekhenp.
Queer movement in Sri Lanka often been elided into the liberal civic space and neglected both in the scholarly discourse and praxis of queer politics in the region. In addressing the gap, this study seeks to understand the ways in which queer movement in Sri Lanka evolves with its post-war political landscape. I focus on how queer movement in Sri Lanka responded to the period of 52 days of constitutional coup from late October 2018 as a case for examination.

In late October, 2018 President Maithreepaala Sirisena removed Prime Minister Ranil Wickramasinghe and eventually suspended the parliament which was later declared unconstitutional by the supreme court of Sri Lanka paving the way to the restoration of the prime minister and the cabinet. During the period between the removal of the prime minister and the Supreme Court ruling the island nation has witnessed unprecedented level of public protest demanding democracy and president to respect the rights of the people. During the coup, President and his aides accused sacked prime minister and his closed circles of decision makers are ‘Butterflies’ a term that is widely understood as derogatory and carries the meaning of effeminate men with irresponsible behaviour. President’s accusation was regarded as a hate speech against queer community in Sri Lanka and was proactively responded by the queer communities and allies in a common front called ‘Butterflies for Democracy’ (B4D). Since then B4D was able to exploit the momentum against president Sirisena. It has strategically aligned demand for democracy with queer rights. B4D emerged as not just a movement for queer rights but also for democracy through its intersectional approach to the crisis which paved way for mainstreaming and cultivating much needed empathy for queer rights in Sri Lanka. It has elevated the queer movement in Sri Lanka from being mono-causal to multi-front intersectional political agency.

This paper traces the strategies, trends and ideas deployed by the B4D during late October 2018 to January 2019. The study is also informed by the reflective approach as the author is also part of the B4D movement. In addition to that, further data collected through interviews with activists who had been part of the B4D and an archival research.

The B4D movement was able to successfully exploit the momentum created by an injurious speech in Judith Butler terms. It presents a relatively success story of a queer movement in global south particularly a conflict affected country with populist nationalism and how queer movement in the global south can deploy intersectional approach in mainstreaming queer rights. B4D was able to device political strategy which brought queer rights of the queer communities and democratic rights of the citizens of Sri Lanka and thereby creating an intersectional political struggle that led to increased support for the queer rights in Sri Lanka.
PERFORMING DISSENT: READING THEATRE AS LEGAL ARTIFACT

DANISH SHEIKH (He/Him)
Danish Sheikh is a lawyer and playwright. He has law degrees from NALSAR University of Law, Hyderabad and the University of Michigan, Ann Arbor which he attended on a Grotius Fellowship. His first play, Contempt, was nominated for the Hindu Playwright Award in 2017 and selected to open the Global Queer Voices Festival in London in March 2018.

Queen Size, a performance devised by Mandeep Raikhy, positions itself as “a choreographic response to Section 377”. The performance premiered in 2016 and since then has had an extended domestic and international run that continues to the current year. In this presentation, I will ask questions around the intersection of law and performance, using Queen Size as my primary text. What are the possibilities that reading Queen Size as a legal artifact allow us to explore, what are the worlds that are created in this process, and how might this allow us to rethink the ways in which we engage with the law? I will argue that not only does the space created by Queen Size respond to the law, but it might be seen to constitute a parallel normative universe that reconstitutes legal meaning.
My presentation will cite instances from contemporary theatre and performance practice that work with embodied actions of women, foregrounding acts of sexual violation and social exclusion and the ways in which women make claims to the law. Each of these performances not only uses tactics that critique the formal, the institutional and the normative with respect to women’s agency, freedom of movement and safety; they also employ performative tactics (actions, spaces, materials and their interaction) that do not fit comfortably with the representational aesthetics of theatre. In the process, these performances stage (possibilities of) protest actions that sit alongside everyday experiences of visibility and desire of a subject thus reconstituted, in the context of the contemporary urban milieu.
THE ADULTERY LAW, FEMALE SEXUALITY AND MARRIAGE: ‘UNFAITHFUL’ WOMEN IN INDIAN CINEMA

DR. KAUSTAV BAKSHI (He/Him)
Dr. Kausat Bakshi is an Assistant Professor, Department of English, Jadavpur University, Kolkata. A Charles Wallace India Trust Fellow, his doctoral thesis, written with partial funding from the Trust, is entitled ‘Family, Sexualities and Ageing in Sri Lankan Expatriate Fiction: Kinship, Power Relations and the State’

This paper aims at locating Indian cinema’s frequent return to the question of female adultery in the context of the arbitrariness of Sec. 497 of the IPC. The arbitrariness of the adultery law, which clearly underscores the wife’s complete subordination to the husband, has been challenged at least three times before it was eventually quashed on 26 September 2018. The three previous judgements had further reinforced the toxic patriarchal implications of the law.

I would use three films to show a progressive movement towards a ‘social change’ in the perception of adultery and its ‘illegality’. The first is B R Chopra’s Gumrah (Deception) released in 1963; the second is Aparna Sen’s Paroma (1986), a Bengali film dubbed in Hindi for a nationwide audience; and the third is Mahesh Manjrekar’s Astitwa (Identity; 2000) – all of which had a successful run at the box-office. While the first film, released a few years after Sec. 497 was challenged and revisited by the court in 1954, upheld strong moral sentiments in favour of preserving the sanctity of marriage, the two later films, by ‘naturalising’ female sexuality and desires, presented strong cases for reviewing the question of adultery and faithfulness in marriage. Interestingly, however, I shall also show, how the first film too recognises female sexuality in a way which was quite ahead of its time, but, could not allow its female protagonist to cross the lakshmanrekha (which is a potent symbol in the film text) of moral uprightness as a wife. The release dates of these films – 60s, 80s, and 2000s, are important in order to make sense of a progressive social change that was reflected in the arguments in favour of quashing Sec. 497 of the IPC last year. In the process, I shall raise questions of how morality informs the law, and how, in case of the quashing of Sec. 497 of the IPC, certain ancient moral registers of imagining female sexuality within heteropatriarchal marriage structures are dismantled.
POETIC JUSTICE: QUEER RIGHTS ACTIVISM AND LEGAL REFORM IN SOUTH ASIA

VIJETHA RAVI (She/Her)

Vijetha Ravi is a 4th year student of Law at Jindal Global Law School working as a Research Assistant for the Centre of Human Rights Studies at JGU. Her interests lie in the intersections of research, policy and litigation with relation to feminist jurisprudence and socio-economic rights.

"Section 377 of the Penal Code is unconstitutional in so far as it penalises a consensual relationship between adults of the same gender." - Excerpt from Navtej Johar v. Union of India

Patricia Williams’ account of her life is what she refers to as a profoundly troubling paradox; an example would be when she talks about “Invisible Reflections”, and how there is a paradox in speaking of reflecting what is invisible. This paper proposes a joint reading method of two different languages that form another such paradox. One is the language of law; of rigidity, of structure, of rationale. Another is the language of poetry; of love, of vulnerability, of messiness. In invoking antagonistic methods of expression, this is a paradoxical attempt to listen to the marginalized queer voices in their own language while attempting to understand their legal rights through the dictating language of the state. South Asian Queer Activists have been reinvigorating the activist tool of poetry as a method of reaching out to their community in an intimate attempt to deal with their rage, grief and loss together. The queer poetry anthology edited by Aditi Angiras and Akhil Katyal, is an example of communities uniting across nations in war, linguistic and religious differences in their common subjugation within the framework of a post-colonial state. The role of social media as a platform of activism for queer politics in spreading poetry is instrumental in delving into this. The attribute which makes this kind of activism powerful is that it does not aim to appeal to the state. It is rooted in the needs of the queer community for empathy, healing from heartbreak and everyday realities. With the passing of landmark judgements around South Asia in relation to queer rights, there have been compelling calls for celebration in the recent past. Amidst this chaos of victory bells ringing, queer politics continues to deal with how queer people are really effectuated by the change in law with poetry as one of their primary tools of activism and social media as its harbinger. The focus of this paper is twofold; political and personal. The political focus is to understand how poetic literature can influence legal reform and the judiciary in South Asian countries as an activist tool. The personal focus is on navigating through my own role as a law student endeavouring to understand how queer politics works in contrast with the socio-legal framework. In presenting this paper, the performative aspect of spoken poetry is aimed to influence our reading of the judgements’ extracts in the language of queer activism. My approach hopes to analyse this surpassing the binaries of academia and activism, digital spaces and lived realities and thinking about law and culture across a spectrum of intersections.
INNOCENT SEXUALITIES

THE PRIVACY WARS:
SEXUALITY EDUCATION IN THE AGE OF POCSO AND ONLINE GATEKEEPERS

Accessing information on sex and sexuality issues, especially by young people, has always been controversial and closely regulated by the State and other gatekeepers. This has increasingly become the trend in online spaces as well, where increasingly, online gatekeepers are able to monitor, control, and regulate access to content and information on a range of diverse issues pertaining to sex and sexuality, even when the information is for educational purposes. Moreover, with laws like POCSO now in place, accessing content on sex and sexuality issues by young people under the age of 18, and providing such content for increasing awareness and information about sexual health and rights issues, has become fraught with challenges and fear, along with also raising concerns related to young people’s violation of right to privacy and bodily autonomy.

As India’s leading source of content and information online on comprehensive sexuality education for young people, Love Matters India is uniquely placed within this landscape of navigating current laws and online gatekeepers to provide accurate, non-judgmental, rights-based, and stigma-free information on sexual and reproductive health and rights to young people accessing our online platforms from across India. Hence, we would like to propose a panel that unpacks various aspects of this complex topic to attempt to answer and gain clarity on the following questions:

- Does regulating sexual content online infringe on young people’s right to privacy?
- How does POCSO influence young people’s, especially those below 18, access to both information (online) and services pertaining to their sexual and reproductive health and rights (SRHR)?
- How can we distinguish between the need for laws and approaches being used to address child sexual abuse versus creating an enabling environment for young people to responsibly explore and learn to navigate issues pertaining to love, sex, and relationships?
- What are the potential solutions and strategies for diverse stakeholders to collectively address the challenges and dilemmas surrounding young people’s right to access information and services that ensure their sexual health and well-being?

The panel will bring together individuals working across the domains of legal and policy work, focusing on POCSO and right to privacy, comprehensive sexuality education, SRH service provision, and youth SRHR advocacy.
Much of the discourse on sexuality and the law in recent times, from the calls of the MeToo movement to the litany of judgments by the Supreme Court, center a liberal individual in exercise of her sexual autonomy. Law's paradoxical approach has on one hand tended to rely heavily only on the machinations of 'consent' to pursue sexual justice and has found despair when institutions do not respond adequately. The other approach focuses on the punishing of non-normative choices (seen in the offence against adultery, 'unnatural' sex, or choices of adolescents) by delegitimizing their agentic capacities. This over-reliance works to obscure the messiness of social codes that govern the push-and-pull that desire and attraction are coloured in. What do we make of the yes-no binaries created by the vagaries of affirmative consent in light of the taboo attached with saying yes to desire? How do we understand transgressions in backdrop of not the law, but mores that showcase vulnerabilities and asymmetry in attraction? Linked to one’s desirability, how does the coercive nature of hierarchy interpret desire and good sexuality? More importantly, is law mindful of these nuances?

This panel presentation aims to discuss and argue theoretical and experiential grounds of law's interaction with sexuality in its elements of consent, desire and sexual agency as three separate but intermeshed categories of interrogation. We seek to interrogate how agentic capacities and consent, distinctly as well conjointly, leverage and construct understandings of desire. How does then the law, through elevating certain social scripts or repudiating certain capacities from certain socio-locations, conceive and construct desire, given its violation-centric framing? Can the violation-centric approach to the domain of sexuality ever hope to encapsulate the greys and uncertainties of the experiential realm that sexuality inhabits? This panel seeks to explore and answer these concerns in the context of adolescents and young adults, the most vulnerable population group, which navigates desire through the legal, social and educational impositions of abstinence.
The behaviourists tell me that I am ‘determined’. In Beauvoir’s existentialism, I see myself ‘socially constructed’. But it was Late Wittgenstein’s Language Games that really saved me. Inspite of his foundational transformations within one lifetime, Logical Positivism persisted. It shapes the trans healthcare I get. It produces my legal rights. In the form of Legal Positivism, it has granted me LGR in the 20th century. But cut off from any outside referentials, what this legal thinking shapes, continues to be contested in my lived life. Have I journeyed to claim masculinity, to reach this ‘formal man’, just like the trajectories of ‘formal equality’ and ‘formal freedom’? Jurisprudence helps. The Hart-Fuller debate is endlessly fascinating but I can’t bring it to the family of my trans brother in Haryana.

Why?

Am I standing at a moment that threatens to be ahistorical? Immaterial? Epistemologically idealistic? Against Language?

Is self-determination a slippery discursive slope? A legal conundrum? How do I travel ahead?