



CALL FOR PAPERS: Sexing South Asia – Law, Activism, and Sexual Justice

Conference 19-20 July 2019, Jindal Global Law School

Convenors

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Feminist and queer studies scholarship 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.¹

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.²

Nepal’s Supreme Court in 2007 delivered a groundbreaking 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.³ In Pakistan, the Supreme Court in 2009 legally recognized a third gender category thus deeming transgender people as full and equal citizens.⁴ India’s Supreme Court in 2014 issued a similar judgment that upheld the right of self-identification for transgender people.⁵ 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

¹ Dipika Jain, *Shifting Subjects of State Legibility: Gender Minorities and the Law in India*, 32(1) Berkeley Journal of Gender, Law and Justice (2017); Aniruddha Dutta, *Contradictory Tendencies: The Supreme Court’s NALSA Judgment on Transgender Recognition and Rights*, 5 Journal of Indian Law and Society 225 (2014)

² Indian Young Lawyers Association v. Union of India (Sabarimala judgment), W.P.(C) 373 of 2006; Navtej Johar v. Union of India (377 judgment), W.P. (Cr) 76 of 2016; Joseph Shine v. Union of India (Adultery judgment), W.P. (Cr) 194 of 2017

³ Sunil Babu Pant and Others v. Nepal Government, 2 NJA Law Journal 2008

⁴ Dr. Muhammad Aslam Khaki v. SSP (Operation) Rawalpindi, Constitution Petition 43 of 2009

⁵ National Legal Services Authority v. Union of India (NALSA judgment), 2014 5 SCC 438

people at schools, workplaces, and when receiving medical care.⁶ 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.⁷

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.⁸ 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?⁹ Does the State become a beacon of secularism 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?¹⁰ 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.

⁶ See <https://www.npr.org/sections/thetwo-way/2018/05/09/609700652/pakistan-passes-historic-transgender-rights-bill>

⁷ Adnan Hossain, *The paradox of recognition: hijra, third gender and sexual rights in Bangladesh*, *Culture, Health & Sexuality*, Culture, Health and Sexuality (2017) 19:12, 1418-1431.

⁸ Akshay Khanna, *Sexualness* (2017, New Text)

⁹ Asha Kotwal, *There's No Reason for Women to Celebrate their Entry to Sabarimala*, *The Wire* (2019). <https://thewire.in/women/theres-no-reason-for-women-to-celebrate-their-entry-to-sabarimala>

¹⁰ Nikhil Rampal, *Gay Modi fans can finally shut the liberals up if Section 377 is decriminalised*, *The Print* (2018); Akhil Kang, *SC verdict on Section 377 won't end fight against inequality; love is as much about caste, class and religious struggle*, *First Post* (2018); Rohit K. Dasgupta and Debanuj DasGupta, *Queering Digital India: Activisms, Identities, and Subjectivities*. Edinburgh University Press; Oishik Sircar, "New Queer Politics in the New India: Notes on Failure and Stuckness in a Negative Moment," *Unbound: Harvard Journal of the Legal Left* XI (2017), 1-45.

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.¹¹ 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 intermesh 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.

We seek interdisciplinary works that explore such changes and challenges to reconsider how a politics of sexual justice can be auto-critical, intersectional, reparative and inclusive. In doing so, we want to further wonder how we might address the gaps in implementation that inevitably result after groundbreaking judgments are delivered. We also aim to reconsider the role of legal institutions and the State in regulating, controlling and conforming gender and sexuality.

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 relationships.

The conference is being organized by the Centre for Health Law, Ethics and Technology at Jindal Global Law School, the Departments of Geography and Women’s and Gender Studies at the University of Connecticut and the School of Global Studies, University of Sussex.

The conference will be organised over two days from July 19–20, 2019 at the campus of the Jindal Global Law School in Sonapat, Haryana.

¹¹ Oishik Sircar and Dipika Jain, *Introduction* in NEW INTIMACIES, OLD DESIRES: LAW, CULTURE AND QUEER POLITICS IN NEOLIBERAL TIMES (2017, Zubaan)

We welcome individual and panel submissions from scholars in all fields. The abstract should be no longer than 500 words. Research areas may include, but are not limited to, the following topics:

1. How do ideas pertaining to sexuality, culture and economies define the contours of queer political organizing today?
2. How does one speak about queer emancipation beyond the liberal legalese of rights?
3. What are the queer potentials of law and legal activism?
4. How are various legal decisions across South Asia creating a potential lawscape in order to protect (and regulate) diverse gender and sexual identities?
5. How are queer identities being materially and symbolically mobilized in neoliberal times in South Asia?
6. Can we reconcile the promise of queer emancipation and the rise of insidious forms of corporeal and structural violence on queer bodies, where such bodies might be cited as 'natural' or perverse for instance? And how might the citing of queer bodies as natural speak to a dual, or 'duplex', ways in which sexual subjects become framed between culture and law?
7. Do queer movements, in privileging and attempting to dismantle sexual identity categories, reproduce gender, caste, and race hierarchies?
8. How do we view nationalism, capitalism and colonialism in methods of queer organizing?
9. How do we navigate legal gender recognition and what are the gaps between the law and its implementation?
10. How does activism feed into the judicial process, and how can activism ensure that decisions are effectively implemented?
11. How do current legal decisions in South Asia hold the possibility of moving beyond their specific focal points (sexual orientation, gender identity, gender) to engage and impact conversation across different marginalized identity markers?
12. How are traditional kinds of geopolitics, international and regional institutions related to gender and sexual rights advocacy?

Submission Guidelines

All submissions must contain the name/s, affiliation/s, full postal address, telephone or mobile number, and email of the applicant.

Deadlines

Please send an abstract of no more than 500 words, with the subject line "ABSTRACT SUBMISSION" along with an author bio of 150 words by **April 25, 2019**. Innovative panel formats, not more than four participants per panel (incorporating alternative modes of engagement like performances, posters etc.) are welcome. Panel proposals must not be more than 1000 words.

Submissions should be sent to sexualjusticeconference2019@jgu.edu.in and copied to kkartik@jgu.edu.in. We will inform you of acceptance and conference logistics by **May 15, 2019**.

Logistics

Organisers will provide accommodation and food for the days of the conference. Participants are expected to cover their travel costs. Some travel bursaries may be available for participants. Please indicate in your application whether you will require travel support.