

Transcending Boundaries: Alternative Sexuality and Church Response

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Abstract

Mizo society being a patriarchal one and influenced by Christian teachings have an accepted normative forms of sexuality which is heterosexual relationship. Heteronormativity is the usual practise. Sexuality beyond heterosexuality is considered normless and therefore is stigmatised. Due to this, the much debated issue on Section 377 of the Indian Penal Code does not seem to have much positive impact on the homosexual life as condemnation of alternative sexuality has been propagated time and again by religious institutions and civil society. This paper briefly dealt with the proceedings of Section 377 IPC, a law introduced during the time of the British in India, how it originated and challenged in the Courts of Law and Parliament. It then moved on to the context of Mizoram thus examining the standpoint of the Presbyterian Church of Mizoram when the Delhi High Court scrapped section 377 in 2009 and continues to trace the voices of the Church and civil society on the issue of alternative sexuality. It also highlights the rare opinions of homosexuals who commented on being Christian and practising same sex sexuality.

Keywords: *homosexuality, Christianity, church, sexuality, Section 377*

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The transcending of sexuality beyond culturally accepted binary categorisation of male and female is not something new but has always existed in the past. Almost all societies including ancient and medieval India, ancient Greece, Rome, Egypt, China, medieval Japan, Western Europe, Persia and several Native American and African cultures have traces of same sex sexual relationships (see Vanita, 2005). Indian society in ancient and medieval times has always been portrayed as being open to various forms of sexuality. However the onset of British colonization has been blamed by many scholars for its role on criminalization of alternative sexualities. Sherry Joseph (2005:77) stresses how the direct influence of imperialist Britain on Indian sexuality took the form of repression and domination. Ruth Vanita (2005:14) too asserts that under the colonial rule any type of sex other than penile-vaginal penetrative sex was criminalized. This law which prohibits sex ‘against the order of nature’ (Section 377, Indian Penal Code, 1860)¹ remains in the books and has generally been interpreted to refer to anal or oral sex between men or between a man and a woman. It is widely used to blackmail and harass gay men, and provides the basis for governmental discrimination even in the post-independence era.

The economic liberalisation in the 90s had brought along certain changes in the social, cultural and political sphere. Bhaskaran (2004) specifies how privatization and economic liberalisation leads to exchange of ideas and images through the institution of media. He opines that this brought about “...new forms of domination as well as unique avenues for resistance, self-transformation and community mobilization...” (See Pg. 6). Hennessy (2000) too observed the changes when she notes, “...as a result of globalization new forms of consciousness and transnational identities including multiculturalism and gender

flexible sexual identities coexist or are being articulated into the prevailing values and norms of Europe and the United States” (pg. 7). Economic liberalisation thus indirectly paved a way for sexually marginalized communities to articulate their sexuality in public. Alternative sexuality that was locked away for some time from the mainstream discourse has now emerged in the open, protest against or marched-for with pride. The debacle on Section 377 IPC of late has penetrated even the walls of Parliament, High Courts and Supreme Courts, media, academic and religious institutions.

Section 377: A Rallying Point

In November 1991, the AIDS Bhedbhav Virodhi Andolan (ABVA) had released a citizen’s report on the status of homosexuality in India entitled *Less Than Gay*. In the following years they held demonstrations in New Delhi and also moved a petition in the Petition Committee of the Parliament. In April, 1994, they filed a petition in the Delhi High Court challenging the validity of Section 377. The action was in response to the Tihar jail authorities’ refusal to supply condom to inmates despite the known prevalence of homosexual practice among prisoners and their consequent risk of exposure to HIV (Balasubrahmanyam, 1996:257). It came up for hearing in 2001 but was dismissed. An attempt to repeal was made again by the Naz Foundation Trust based in Delhi who joined up with the Lawyers Collective. It was dismissed again however the Supreme Court ordered the Delhi High Court to hear the case. During this time number of NGOs had joined the cause of Naz Foundation which eventually resulted in the July 2009 judgment that Section 377 must be read down to exclude consensual adult sex. The ruling considers the law as being unconstitutional which violated fundamental rights. In a rapid turn of event in 2013 the Supreme Court quashed the High Court’s

verdict and upheld the constitutionality of Section 377. Various religious denominations raised their solidarity to the Supreme Court's verdict.

Another revision occurred on April 15, 2014 when another landmark judgment was made by the Supreme Court of India identifying transgenders as the "third gender" and stating that they should be given reservation under the Other Backward Class (OBC) category. The judgment was pronounced in National Legal Services Authority v. Union of India & Ors. [Writ Petition (Civil) No. 400 of 2012 ('NALSA')] by a division bench of Justices K.S. Radhakrishnan and A.K. Sikri. The apex court ruling also requires the Centre and State to develop social welfare schemes for third gender community and run a public awareness campaign to erase stigma.

The Central too curved a fair share for the benefits of transgenders. In Rajya Sabha, for the first time in 45 years a private members' Bill was passed on 24th April 2015 which is 'The Rights of Transgender Persons' Bill'. This Bill seeks the overall development of the transgender persons and their welfare, reservation in education and government jobs, penalty against hate speech and so on. Despite the openness in the Rajya Sabha, in the Lok Sabha however, Shahshi Tharoor's attempt to introduce Gay Sex Ban Bill (18th December, 2015) have been thwarted.

In a recent verdict the Supreme Court on 2nd February 2016, referred the provisions of Section 377 to five-judge Constitution Bench indicating its openness to reconsider the constitutionality of Section 377 with new eyes. Despite this development the plea to overturn the colonial era-law of Section 377 of the Indian Penal Code is still under consideration till today. Nevertheless the recent developments seem to offer beacon of light for the people who have been marginalized in terms of their sexuality.

Response to Section 377, homosexuality; standpoint of the Presbyterian Church and Civil Society:

Writings on sexuality in India are mostly silent when it comes to the sexuality in North East India. In the case of Mizoram the existence of alternative sexuality could not be traced far as Mizos have their own scripts only during the British regime.

Since the Mizos have their own scripts only in the later part of the 19th Century the only sources one could collect with regard to same sex relationships are from the writings of the British colonisers and oral tradition. Moreover the historians till today have not dealt much on this issue. The various literatures on sexuality in India have not included the sexual experiences in the North East region. Despite the limited literature evidence that homosexuals, gays and lesbians have always been there in Mizo society could be traced because there is an indigenous terms for different sexual orientations in the native language. J. Herbert Lorrain, a Scottish Baptist Christian Missionary who had served in Mizoram from 1894 and a pioneer in the creation and development of Mizo script had mentioned in his Dictionary of the Lushai Language that *tuai-pheng* (noun) refers to a man who practices sodomy and dresses and works like a woman; a sodomite who masquerades as a woman. *Patil* (noun) means a woman who behaves and dresses like a man; a kind of sex pervert. Superintendent of the Lushai Hills N.E. Parry (1924-1928) wrote in his book entitled, "A Monograph on Lushai Customs and Ceremonies" that "*Mawngkawluk*-This is sodomy. All cases of sodomy have to be reported to the Superintendent to be dealt with by him (in the olden days the pathicus or his father had the right to kill the sodomite or the sodomite had his nose and ears slit open. The father of the pathicus could go and shoot any mithun in the village. The meat was eaten by the villagers and the sodomite had to pay for it. Sodomy however is rare in these hills)".

During the British colonisation in 1909, one of the Superintendent of the Lushai Hills, HWG Cole issued a stature (Order No. 3 of 1909. 10) criminalizing homosexuality and cross-dressing. The order stated that in future all *tuai* who are clearly of the male sex have to abandon wearing women's clothes and they should behave like men, pay revenue and do cooly (porter) work. (Village) Chiefs should report the cases of any *tuai* whose sex is doubtful. The chiefs are bound to report all cases of unnatural offences that come to their notice whether or not any complaint has been made to them. Failure to do so is liable for severe punishment.

Colonisation has brought about a change not only in the political life of the Mizos who were once ruled by village chiefs but also resulted in the Mizos following the religion of their colonisers. As per 2011 census the population of Mizoram is 10,91,014 where 87% are Christians. While the doors are more open with the Supreme Court Judgments and the legislations elsewhere for those who practice alternative forms of sexuality, in Mizoram the society, religious institutions and the majority of the people who follow Christianity clearly label homosexuality as a sin. The Delhi High Court's Verdict in 2009 that decriminalises homosexuality has triggered the Churches in Mizoram who raise their voices against the verdict. Newspapers reported on how they tend to put forward more stringent rules for gays and lesbians in a live-in relationship as homosexuality is against the tenets of Christianity. The Synod Executive Secretary of the Presbyterian Church in 2009 commenting on the stature of 1909 said that the British administration had laid down the order with Christianity in mind and that the 1909 order is strongly supported by the Church. Commenting on section 377 he noted that the scrapping of it is a shock to the Church. "Legalising homosexuality is directly against the ethics of Christianity and the Bible", he opines.

In literature, Boswell (1980) and Crompton (2003) too had traced the condemnation of homosexuality from the Bible, the sacred book of the Christians which has several passages denouncing homosexuality. If we look at the Old Testament, The Judgment of Leviticus Chapter 18 condemns certain sexual acts including incest and male homosexuality. Chapter 20 adds to the general condemnation of Chapter 18 a specific penalty for sexual relations between males. In Deuteronomy we find the following prohibition:

“There shall be no whore (kadeshah) of the daughters of Israel, nor a sodomite (kadesh) of the sons of Israel”

In the New Testament, denunciations of homosexuality could be found in Paul’s Epistle to the Romans.

“Because of this, god gave them over to shameful lusts. Even their women exchanged natural relations for unnatural ones. In the same way the men also abandoned natural relations with women and were inflamed with lust for one another. Men committed indecent act with other men, and received in themselves the due penalty for their perversion.” (Romans 1:26-27, NIV)

These Bible verses and Christian teachings are probably the reason why the Church leaders of Mizoram are against alternative sexuality. The Presbyterian Church of Mizoram even goes to the extent of cutting ties with the Presbyterian Church of USA as the latter had allowed ordination of gays as priests.

In 2011, the Synod Executive Committee of the Presbyterian Church of Mizoram sent a circular to each of the churches under it. In this circular the standpoint of the Church towards sexual relationship is written which brings out three arguments based on the scripture.

1. In the beginning God created human beings as male and female. He created female to be the companion of male. Only male and female can sanctify the holy matrimony. (Genesis 1:28, 2:18)

2. Sexual relationship should take place only between a male and a female who are married. (I Corinthians 7:2, Hebrew 13:4)
3. The practice of homosexuality and pre-marital sexual relationship is against God's will (Romans 1:26-27).

Nevertheless, the Presbyterian Church of Mizoram opposed discrimination thus requesting the church members to attempt to bring them closer to God rather than stigmatising them.

Not only the Church but other prominent organisations in Mizoram raised their voices towards curbing homosexuality. It was reported on the news that the President of the Young Mizo Association strongly condemns the Delhi High Court verdict when he said, "I do not see any positive part in scrapping Section 377. Personally speaking, I believe that the 1909 order is still a good order for the Mizo Christians". On 14th September 2015, the MHIP executive committee in their meeting declared that there are many *tuai* (gay) and *patil* (lesbian) in Mizoram. They are concerned that this would have a negative effect on the society and the religion/church. They passed an agreement to consult other non-governmental organisations to discuss the matter (*Vanglaini*, 15th September 2015).

Following this, on 22nd December 2015 the MHIP called a meeting with other NGOs which was attended by the office bearers of Young Mizo Association (Y.M.A.), Mizo Upa Pawl (membership is for those who are 50 years and above)², Mizo Zirlai Pawl and Mizo Students Union (MSU). They proclaimed that *tuai* and *patil* (lesbians) are becoming bold and audacious in the city therefore they agreed on showing them who they really are.

Despite stringent rules laid down by various institutions in Mizoram, the need to address this issue clearly shows the existence of alternative forms of sexuality thus crossing the boundary laid

down by culture and religion. As per the record of an NGO working to prevent HIV/AIDS among Men who have sex with men (MSM) in Aizawl, the population of MSM in Aizawl alone constitutes 0.23% of the male population while the overall MSM population recorded by NACO stands at 0.046% in 2012.

Levy and Reeves (2001) in their research on Gay, Lesbian and Queer Individuals in a Christian upbringing find that gay, lesbian and queer individuals often experience conflict between religion and sexual identity. Subhi and Geelan (2012) concluded from their research that those who do not abandon their Christian faiths are bound to encounter conflict between their faith and their sexual orientation. Yip (1997) observed through his studies that homosexual orientation alone is not condemned by the Church who are more liberal but the physical expression is not compatible with Christian moral teachings. Being homosexual and being a Christian has thus a challenging ordeal. Through ethnographic study among Men who have sex with men (MSM) in Mizo society it is clear that some of the MSM especially the transvestites refrain from participating in the Church service and religious gatherings due to their orientation and the stigmatisation faced from the people. Most of my informants call themselves as Christians and believe in God. Among them there are sex workers who pray everyday before they go out for work so as to get God's blessing. Two of my informants believe that if they are not practicing same sex sexual activity they would not be doomed and will go to heaven but if they do they are sinners. At the same time some of my informants like K are perplexed about those who are an active member of the church but who also practice same sex which he considered as unfair because they are hidden and just because of that society does not stigmatized them. He said that as long as we are Christians we will never accept same sex relationship.

Conclusion:

Mizoram, being a State where the teachings of Christianity have major impact on the life of the people, it does not seem to be as open when it comes to alternative sexuality compared to its counterparts. Even though the mainstream society in various States of India have been developing certain avenues to uplift the marginalized sections of the society with the help of the State government and other NGOs, the only progress in Mizoram so far seems to be the steps taken by Mizoram State AIDS Control Society in spreading awareness to curb HIV/AIDS. The proceedings of Section 377 IPC do not have much coverage in the media and daily discourse so as to have an impact and to spread awareness of the rights of the sexually marginalized sections. Therefore trying to negotiate their space in their family, society and religion in the midst of non-acceptance in a patriarchal-heteronormative environment truly is a challenging task for the homosexuals in Mizo society.

Notes:

³ According to Section 377 IPC, “Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal shall be punished with imprisonment for life or with imprisonment of either description for term which may extend to ten years and shall also be liable to fine”. Ironically the United Kingdom had already legalized sex between consenting adults in 1967.

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(Endnotes)

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