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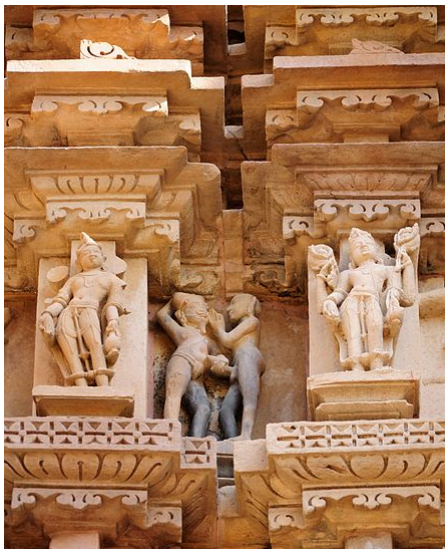
LGBT history in India

LGBT in India has been documented for different times. In recent times the unbanning of homosexuality and promotion of LGBT rights has caused large amount of researches and opinions regarding the LGBT in India.



Erotic sculptures of two men (center) at the Khajuraho temples.

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Ancient India

Ardhanariswara, the androgynous form of Shiva and Parvati, from Gangaikondacholapuram

Ancient Indian texts are relevant to modern LGBT causes. Religion has played a role in shaping Indian customs and traditions. While injunctions on homosexuality's morality are not explicitly mentioned in the religious texts central to Hinduism, the largest religion in India, Hinduism has taken various positions on the topic, ranging from containing homosexual characters and themes in its texts to being neutral or antagonistic towards it. Rigveda, one of the four canonical sacred texts of Hinduism contains the phrase *Vikriti Evam Prakriti* (Sanskrit: विकृतिः एवम् प्रकृति, meaning what seems unnatural is also natural), which some scholars believe recognises homosexual/transsexual dimensions of human life, like all forms of universal diversities. The ancient Indian text Kamasutra written by Vātsyāyana dedicates a complete chapter on erotic homosexual behaviour.

The Arthashastra, an ancient Indian treatise on statecraft, mentions a wide variety of sexual practices which, whether performed with a man or a woman, were sought to be punished with the lowest grade of fine. While homosexual intercourse was not sanctioned, it was treated as a very minor offence, and several kinds of heterosexual intercourse were punished more severely.[1]

Sex between non-virgin women incurred a small fine, while homosexual intercourse between men could be made up for merely with a bath with one's clothes on, and a penance of "eating the five products of the cow and keeping a one-night fast" – the penance being a replacement of the

traditional concept of homosexual intercourse resulting in a loss of caste.[1]

Early modern period (c. 1526-1858 CE)

Delhi Sultanate

Homosexuality and pederasty was rare in medieval Hindu society with Al-Biruni saying that Hindus greatly disapproved of it. Under the Muslim rule, this grew more common with the sultans of the Delhi Sultanate themselves establishing relationships with men despite the prohibitions against it in Sharia.[2][3]

Mughal Empire

The first Mughal Emperor, Babur, in his autobiography *Baburnama*, describes his infatuation with a teenage boy.[4]

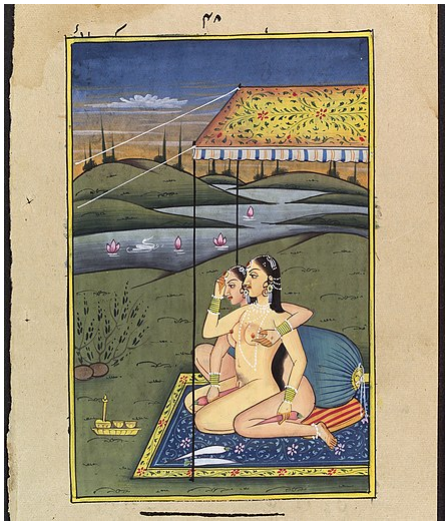
The noble class of the Mughals engaged in both homosexuality and pederasty, the latter considered as "pure love" and prevalent among those from Central Asia. In India, however, this wasn't as rife. The governor of Burhanpur was murdered by a boy servant with whom he tried to be intimate with. Ali Quli Khan was recorded to have homosexual relations with males.[5] The biography of Sarmad Kashani published by caretakers of his shrine states that he had fallen for a Hindu boy named Abhai Chand whose father eventually relented and allowed them to be together.[6]

Urdu poetry of the late medieval era used the term "chapti" to refer to sex between people of same genders. "Amarad Parast" referred to those with preference for young males.[7]

The Dutch traveler Johan Stavorinus reported about male homosexuality among Mughals living in Bengal, "The sin of Sodom is not only universal in practice among them, but extends to a bestial communication with brutes, and in particular, sheep. Women even abandon themselves to the commission of unnatural crimes."[8][9]

British Colonial period (1858-1947 CE)

The British Raj criminalized sexual activities "against the order of nature", including homosexual sexual activities, under Section 377 of the Indian Penal Code, which entered into force in 1861. It was similarly instituted throughout most of the British Empire due to the Christian religious beliefs of the British colonial governments. The Goa Inquisition prosecuted the capital crime of sodomy in Portuguese India,[10][11]



Two women using carrots as dildos, 20th century gouache painting.

Republic of India (c. 1947 CE - present)

In 1977 Shakuntala Devi published the first[12] study of homosexuality in India.[13][14] Whilst convictions under Section 377 were rare, with no convictions at all for homosexual intercourse in the twenty years to 2009, Human Rights Watch

have said that the law was used to harass HIV/AIDS prevention activists, as well as sex workers, men who have sex with men, and other LGBT groups.[15] The group documents arrests in Lucknow of four men in 2006 and another four in 2001.

Homosexual intercourse was a criminal offence from the introduction of Section 377 of the Indian Penal Code in 1860 until the Delhi High Court's 2009 decision in *Naz Foundation v. Govt. of NCT of Delhi*.[16] After the Delhi court's ruling was overturned in 2013, homosexual intercourse was re-criminalized until the Supreme Court of India's 2018 ruling in *Navtej Singh Johar v. Union of India*. This made it an offence for a person to voluntarily have "carnal intercourse against the order of nature."

2009-2013

This law was struck down by the 2009 Delhi High Court decision *Naz Foundation v. Govt. of NCT of Delhi*, which found Section 377 and other legal prohibitions against same-sex conduct to be in direct violation of fundamental rights provided by the Indian Constitution.

Asia's first Genderqueer Pride Parade at Madurai with Anjali Gopalan (July 2012)[17]

Decisions of a High Court on the constitutionality of law (i.e. judicial review) apply throughout India, and not just to the territory of the state over which the High Court in question has jurisdiction.[18] However, even after the pronouncement of verdict, there have been (rare) incidents of harassment of homosexual groups.[19]

On 16 February 2012, the Supreme Court, during a hearing of a bunch of appeals filed against decriminalisation of gay sex, observed that homosexuality should be seen in the context of changing society as many things which were earlier unacceptable have become acceptable with the passage of time.

The two-judge bench, composed of Justices G S Singhvi and S J Mukhopadhaya, opined that homosexuality should be seen in the light of changing times where phenomena of live-in relationship, single parents and artificial fertilisation have become normal. They had also pointed out that many things, which were considered immoral 20 years ago, have become acceptable to society now. The bench said that gay sex was not an offence prior to 1860 and referred to paintings and sculptures of Khajuraho. Senior Advocate Amrendra Sharan, who opposed the Delhi High Court order of decriminalising gay sex on behalf of the Delhi Commission for Protection of Child Rights, had then submitted that social issues cannot be decided on the basis of sculptures. The apex court bench, however, observed that it is a reflection of society of that time and homosexuality should not be seen only in terms of sexual intercourse. Earlier, the Supreme Court bench had asked the anti-gay rights groups, challenging legalisation of gay sex to explain how such acts are against the order of nature as submitted by them. The apex court was hearing petitions filed by anti-gay rights activists and also by political, social and religious organisations which have opposed the Delhi High Court verdict decriminalising homosexual behaviour.

However, on 23 February 2012, the Union Home Ministry of the UPA government replying to a Supreme Court observation, told the Supreme Court that it was opposed to the decriminalisation of gay sex. "This is highly immoral and against the social order," the Home Ministry told the apex court. It said that India's moral and social values were different from other countries, and therefore, the nation should not be guided by them.[20] The Central Government reversed its stand on 28 February

2012, asserting that there was no error in decriminalising gay sex. This resulted in the SC pulling up the Centre for frequently changing its stand on the issue. *Don't make a mockery of the system and don't waste the court's time,* an apex court judge told the government.[21]

Also in 2012, a guide titled 'Creating Inclusive Workplaces for LGBT Employees in India' was developed by IBM, Goldman Sachs, Google together with Community Business, a non-profit organization.[22]

In December 2013, however, India's top court upheld the law that criminalises gay sex, in a ruling that reverses a landmark 2009 Delhi High Court order which had decriminalised homosexual acts. The court said it was up to parliament to legislate on the issue.

Indians have traditionally interpreted Section 377, a 153-year-old colonial-era law, as condemning a same-sex relationship as an "unnatural offence", and also considering it punishable by a 10-year jail term. Political, social and religious groups petitioned the Supreme Court to have the law reinstated in the wake of the 2009 court ruling.[23][24]

2013-present

The protests against the reinstitution of Section 377 took place across India, and resulted in political activism across political parties to declare their support for the law's repeal. By April 2014, the month of the upcoming election, at least three major political parties - the Aam Aadmi Party, the Congress and the Communist Party of India (Marxist) - had included support for decriminalization of homosexual relations in their election manifestos,.[25]

In July 2014 first book on Genderqueer in Tamil and first Tamil book on LGBTQIA was from Srishti Madurai was released by BJP's state general secretary, Vanathi Srinivasan, at the 6th Hindu spiritual service foundation's sixth service fair, Chennai.[26][27][28]

In June 2016, a dating platform called Amour Queer Dating was launched in India, for LGBTIQ people seeking long term companions.[29][30] In May 2017 the first Bhopal Pride March was conducted, gathering the participation of around 200 members.

On 6 September 2018 the Supreme Court of India invalidated part of Section 377 of the Indian Penal Code making homosexuality legal in India.[31] In striking down the colonial-era law that made gay sex punishable by up to 10 years in prison, one judge said the landmark decision would "pave the way for a better future."[32]

See also

- Timeline of South Asian and diasporic LGBT and queer history
- Kolkata Rainbow Pride Walk

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