



News and Current Events :: It's OK to be gay, Indian court rules

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NEW DELHI — A court passed a groundbreaking ruling Thursday decriminalizing homosexuality in the Indian capital, a decision that could bring more freedom for gays in this deeply conservative country.

The Delhi High Court ruled that treating consensual gay sex as a crime is a violation of fundamental rights protected by India's constitution. The ruling, the first of its kind in India, applies only in New Delhi.

"I'm so excited and I haven't been able to process the news yet," Anjali Gopalan, the executive director of the Naz Foundation (India) Trust, a sexual health organization that had filed the petition, told reporters.

"We've finally entered the 21st century."

But some religious leaders quickly criticized the ruling. "This Western culture cannot be permitted in our country," said Maulana Khalid Rashid Farangi Mahali, a leading Muslim cleric in the northern city of Lucknow.

The court's verdict came more than eight years after the New Delhi-based foundation filed its petition — not unusually long in India's notoriously clogged court system. The verdict can be challenged in India's Supreme Court.

Sex between people of the same gender has been illegal in India since a British colonial era law that classified it as "against the order of nature." According to the law, gay sex is punishable by 10 years in prison. While actual criminal prosecutions are few, the law frequently has been used to harass people.

The law itself can only be amended by India's Parliament and gay rights activists have long campaigned for it to be changed. The government has remained vague about its position on the law, and Law Minister M. Veerappa Moily said he would examine the high court's order before commenting.

The court's verdict, however, should protect New Delhi's gay community from criminal charges and police harassment.

"This legal remnant of British colonialism has been used to deprive people of their basic rights for too long," Scott Long, director of the Lesbian, Gay, Bisexual, and Transgender (LGBT) Rights Program at Human Rights Watch, said in a press statement. "This long-awaited decision testifies to the reach of democracy and rights in India."

While the ruling is not binding on courts in India's other states, Tripti Tandon, a lawyer for the Naz Foundation, said she hoped the ruling would have a "persuasive" affect.

"This is just the first step in a longer battle," Gopalan said.

Rights activists say the law, also popularly known as 377, or section 377 of the Indian Penal Code, sanctions discrimination and marginalizes the gay community. Health experts say the law discourages safe sex and has been a hurdle in fighting HIV and AIDS. Roughly 2.5 million Indians have HIV.

Homosexuality is slowly gaining acceptance in some parts of India, especially in its big cities. Many bars have gay nights, and some high-profile Bollywood films have dealt with gay issues.

Still, being gay remains deeply taboo, and a large number of homosexuals hide their sexual orientation from their friends and families.

Religious leaders in the capital and in other parts of India argued that gay sex should remain illegal and that open homosexuality is out of step with India's deeply held traditions.

"We are totally against such a practice as it is not our tradition or culture," said Puroshattam Narain Singh, an official of the Vishwa Hindu Parishad, or World Hindu Council.

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In New Delhi, Rev. Babu Joseph, a spokesman of the Roman Catholic church, told New Delhi Television that while homosexuals should not be treated as criminals, "at the same time we cannot afford to endorse homosexual behaviour as normal and socially acceptable."

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