Introduction

In 2012 in New Delhi, a young female student was gang raped on a bus by six men. Less than two weeks later the woman succumbed to her injuries and died. Of the six men who perpetrated the crime, the most violent and aggressive attacker was a minor, who penetrated the victim with a rusted L-pipe, removed part of her intestines via this brutal sexual assault, and then proceeded to rip out the rest of the victim's intestines with his bare hands.[1] While this attack is one of the most gruesome crimes against women in the world's largest democracy, there exist various others that seem to exhibit a misogynistic view towards women, and further, a discriminatory approach to the development of sexual minorities. For a minor to commit such atrocities, seems to portray a society that conditions its young boys and youth to feel superiority to women, and manifest their masculinity and patriarchal dominance via violence and aggression. This is inaccurate. India is an incredibly diverse nation, which can neither be amalgamated to form opinions on the country as a whole, nor broken up to form subsets to be judged accordingly. An Indian state that was the first in the nation to recognize a same-sex union in 2009 was located only 30 km away from the notorious gang rape.[2] Although not referring to India, Winston Churchill's famous axiom "an enigma, wrapped in a riddle, surrounded by mystery" seems to be more than apt to describe the position of sexual minorities within the country.

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[1] "'Delhi Gangrape Accused's Claim That Braveheart Died in India Untrue' - IBN Live." *IBNLive*. N.p., 26 Apr. 2013. Web. 02 Apr. 2013.

[2] India Repeals Section 377, Decriminalizes Gay Sex." *About.com Gay Life*. N.p., n.d. Web. 25 Feb. 2013.

Hinduism and Sexual Minorities

Historically, India's position on non-heterosexual intercourse is unclear. Many ancient

texts exist which allude to both non-procreative and non-heterosexual sexual activities,

most popularly the Kama Sutra. On the existence of homosexuality in India n a 2008

interview with Meena Kandasamy, Ruth Vanita says

"As Same-Sex Love in India: Readings from Literature and History (2000), co-edited

by Saleem Kidwai and me, has unequivocally demonstrated, same-sex love and sexual

relationships have been represented and discussed in Indian literatures for at least two

millennia. We collected translated texts from 15 Indian languages written over a period

of 2000 years, which depict same-sex relationships. The attitudes range from disapproval

to non-judgmental depiction to celebration, and the languages include Sanskrit, Tamil,

Marathi, Gujarati, Hindi, Bengali. So the myth that homosexuality is a Western import

has been laid to rest although some people may still be in denial about it."[3]

 This does not necessarily mean that homosexuality was universally accepted and left

without persecution. An ancient Indian text regarding social, political and cultural

conduct, the Arthashastra, relates that ancient Indian societies may have punished

homosexuality, but only to a small degree.[4] Typical castigations would include fines and

small payments. Contrastingly, infidelity, rape, incest and other heterosexual infractions

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[3] Bhan, Gautam. "Ruth Vanita and Saleem Kidwai in Conversation." *Wasafiri* 22.1 (2007): 52-56. Print.
[4] Abagond." *Abagond*. N.p., n.d. Web. 10 Mar. 2013.

were deemed much more severe and carried punishments along those lines. Another

Hindu text, known as the Dharmic discourse or Manumsrti, would punish homosexual

activity based on the specific partners engaging in the act. [5]These punishments tended to

be mild, but were more severe if one of the participants was a female virgin.[6]

Ancient India on the whole however seems to be credited with a progressive and

accepting general attitude towards homosexuality and sexual minorities. This is partly

attributed to the Hindu religious doctrine that emerged, which accentuates gender non-

conformities as either normal or venerable.[7] Many deities, for instance, are of ambiguous

genders and tend to demonstrate superiority in maintaining attributes of both men and

women. In Hindu tradition, the hermaphrotitic Lakshmi-Narayana is said to be a

composition of goddess Lakshmi and her spouse god Vishnu. Lakshmi-Narayana echibits

the strength and power associated with masculinity and a gentle rational that comes with

femininity.[8] Another example would be the unification of Shiva and Parvati to form the

androgynous Ardhanarishvara.[9] While these examples are representations of

hermaphrodites or intersex individuals, gender fluidity is also prominently found in

Hindu texts. Male god Vishnu would often assume female identities in order to achieve

his means. In the Bhagavata Purana, Vishnu takes the form of a woman and ends up

seducing another male god, Shiva.[10] The two eventually give birth to the God Ayyappa,

[5] Manusmriti, The Laws of Manu." *Manusmriti the Laws of Manu*. N.p., n.d. Web. 01 Apr. 2013.
[6] Ibid
[7] "Countries and Their Cultures." *Religion and Expressive Culture*. N.p., n.d. Web. 02 Apr. 2013.
[8] Ibid
[9] Ibid
[10] Qualia Folk." *Qualia Folk*. N.p., n.d. Web. 02 Apr. 2013.

who is most often cited as being born of Vishnu and Shiva. [11]These Hindu texts don't

focus on the homosexual or non-conforming nature of the relationships that take place;

rather these relationships are normalized and interwoven as natural effects of humanity.

The sexual diversity of this religion served as a great tool in the assimilation of very

specific sexual minorities.

Hijras

To clarify, the sexual minorities most aided by the sexually non-conforming religious

texts are the ones that have already gained a unique position in modern Indian society.

Most popularly, the Hijras are a unique community of biological males or intersex

individuals who adopt a feminine identity. This group will often wear women's clothing

and perform actions that are traditionally considered characteristic of women[12]. Hijras

have a history of almost four thousand years in India and have established a unique niche

in society.[13] As most Indians follow Hinduism, they believe the Hindu tradition that cites

the religious origin of Hijras. The Hindu goddess Bahuchara Mata is thought to have

punished either her unfaithful husband, or a potential rapist, by castrating him and

making him act with feminine qualities.[14] While their predicament is seen as a

punishment to this group, their condition is outside of their control that initially limited

[11] Ibid
[12] "The Third Gender of India - Takeshi Ishikawa." *The Third Gender of India - Takeshi Ishikawa*. N.p., n.d. Web. 02 Apr. 2013.
13 Ibid
14 Bahuchara, Hindu Goddess of Castration | Goddess A Day." Goddess A Day RSS. N.p., n.d. Web. 29 Apr. 2013.

any bigotry against them. Their plight is very similar to the Christian belief that God

punished Eve with menstruation and painful childbirths because she gave in to the

Devil's temptations in the Garden of Eden. Both involve a supreme being punishing a

human of the opposite sex for giving into temptation. Additionally, the punishment

administered is directly related to sexuality. While women are critical to the continuation

of humanity, Hijras cannot usually bear children and are not essential to society. Rather,

their position as being directly created by a divine being, and further involvement in

religious texts, allows them to be seen auspicious amongst most Hindu circles. In one of

the most popular Hindu epics, the Ramayana, Rama is exiled for fourteen years as the

result of a boon that his father granted to one of his wives, who wishes her son to rule the

kingdom of Ayodhya. Before Rama leaves, he makes a speech to the inhabitants of the

kingdom.[15] At the end of his speech he dismisses all of the men and women of the land.

When he returns to find that the Hijras, being neither male nor female, have remained in

the same place where he delivered his speech, he is so struck by their devotion that he

grants them "badhai", the Hindu belief that Hijras have the power to bestow blessings at

births, weddings and religious events.[16] Hijras then, are protected by their religious

creation and further alleviation in Hinduism. Many divine beings shared their same

genital ambiguity. Hijras were formally present and active in mainstream communities,

and are even mentioned as available for sexual pleasure for men in the Kama Sutra.

While retaining a lot of their historical and societal importance, imperialism radically

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15 Qualia Folk." Qualia Folk. N.p., n.d. Web. 02 Apr. 2013
16 Ibid

changed the position of this group in modern India.

Imperialism and European Influence

Modern imperialism seems to be most credited with abolishing any gender acceptance of pre-colonial India. While various groups, including the Mughals, Guptas, and later the Marathas and Sikhs, have held considerable power and influence in the subcontinent, the modern subjugation of sexual minorities predominantly occurs with the introduction of European tradition into the culturally distinct country. While England is the most notable of these European powers, Portugal, the Netherlands, France and Denmark all laid claim to the subcontinent at various points beginning in the early 16th century. These countries had radically different religious and social attitudes towards sexual minorities and often imposed these sentiments upon the Indian people of the land they appropriated. These effects are quite palpable today.

The British initially established ports in India as settlements of the English East India Company. Following the decline of the Mughal Empire, the Company began to expand into greater areas and consolidate their territories into the main Indian subcontinent. These territories were considered subject to the rule of the British Crown and were not autonomous lands.[17] The modern Indian Penal Code was established in 1860 and enforced by 1862 under the rule of the British Raj. The most notable foundations of the

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17 "[Regents Prep Global History] Imperialism: India." [Regents Prep Global History] Imperialism: India. N.p., n.d. Web. 09 Apr. 2013.

code were the current laws of England, in addition to elements from the Napoleonic

Codes and the Louisiana Civil Code.[18] The problem with this implementation of western

ideology was that it effaced, and successfully so, much of the cultural values of the

former Indian society, including the treatment of sexual minorities. Indeed, homosexual

intercourse was a considered a criminal offense until 2009, when the Delhi High Court

repealed section 377.[19] The British attitudes, and legalities, however formed new

animosity toward homosexual and non-conforming gender individuals. The British Raj

made attempts to extinguish Hijras from mainstream society. Hijras were often punished,

and sometimes executed, solely for their gender identity. For almost 80 years, Hijras

were labeled as a "criminal tribe", a term the British used to denote people they deemed

susceptible to crime because they belong to a specific ethnic or cultural people.[20] This

was a radical change from the previous freedoms that Indians had afforded Hijra

communities.[21] As more Hijras went into hiding, British and European doctrine began to

influence Indian attitudes. India is currently considered a conservative country in regards

to sexual politics but it would have been interesting to have seen the development of

these ideals without the centuries' long influence of an oppressive imperialist society.

England was not the only country to institute measures of segregation against sexual

minorities. The first colonial power to actually arrive on the Indian subcontinent was

Portugal. Portuguese imperialism was strongly influenced by the Catholic Church.

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[18] Ibid

[19] "Section 377 of the Indian Penal Code." *Section 377 of the Indian Penal Code*. N.p., n.d. Web. 01 Apr. 2013

[20] Ibid

[21] Herdt, Gilbert. ": Neither Man nor Woman: The Hijras of India . Serena Nanda." *American Anthropologist* 93.1 (1991): 199-200. Print.

Whereas British colonization was more a product of industry and financial gain, Portugal's motives were both fiscally and religiously driven.[22] The fervor with which the Portuguese conquered and converted the natives of their land exhibits a unique fanatical brutality. For almost two centuries, the Portuguese instituted the "Goa Inquisition", a period in which Portuguese missionaries would give native Hindus in India the choice of converting to Catholicism or dying for their religion.[23] The extreme punishments given to those who practiced Hinduism assured that the newly converted Roman Catholic Indians remained that way. Even now, the region of Goa in India is very predominantly Catholic. The practice and culture of this religion has established a strong homophobic culture in the region. Goa law allows people who have tested positive for HIV-infections to be arrested as a measure of health precautions.[24] This state law is mostly used as an instrument of racism perpetrated by state police officials.

<u>Role of Media and Film</u>

Misogyny and Heterosexual Love in Film

Despite the very different attitudes and values that permeate the nation, a general commonality amongst almost all Indian states is the pride and value of cinema. India is

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[22] "Hindu Genocide in Goa Inquisition." *Hindu Holocaust-Goan Inquisition*. N.p., n.d. Web. 04 Apr. 2013.
[23] "Hindu Genocide in Goa Inquisition." *Hindu Holocaust-Goan Inquisition*. N.p., n.d. Web. 04 Apr. 2013.
[24] "My Brother... Nikhil - Official Site." *My Brother... Nikhil - Official Site*. N.p., n.d. Web. 02 Apr. 2013.

the world's largest producer of films, releasing almost 1,000 movies a year.[25] This

incredibly prevalence of this industry has then made it one of the most powerful aspects

of disseminating ideas and values to the general public. For sexual minorities, this has

served as both a tool and detriment. The vast majority of Indian cinema, especially the

Mumbai based Hindi-language films informally called Bollywood, is centered on themes

of love and family. Usually some type of conflict, often cultural or based in tradition, will

keep apart an Indian man and woman who are in love.[26] At the end of the film, love most

often prevails and the couple is together. In these films there is very little physical or

sexual contact between the men and women. In accordance with Indian traditions, most

of these couples adhere to sexual abstinence until marriage. Indeed, there are few

incidents of kissing or examples of what is considered mild romantic contact in other

areas of the world. These conservative tendencies and glamorization of traditional values

make it arduous to bring about new notions of love. Media has made heterosexual,

abstinent culture something to be revered, replicated and maintained. Homosexual and

other non-conforming relationships are not seen as natural or normal. These behaviors

are not something sweet or loving but rather unfamiliar and alien. Mahima Kaul, in her

article "What is Bollywood's Role in Changing Attitudes to Women?" blames the film

industry for what she refers to as the misogynistic nature of Indian society. Using her

personal interpretations of the film "Diwale Dulhaniya Le Jayenge", Kaul relates a strong

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[25] "Planet Bollywood - Latest News, Reviews, Posters, Wallpapers of Hindi Movies, Music Albums, and Film Stars." *Planet Bollywood - Latest News, Reviews, Posters, Wallpapers of Hindi Movies, Music Albums, and Film Stars*. N.p., n.d. Web. 05 Apr. 2013
[26] Ibid

sense of women's helplessness.[27] In this film, the female lead, Simran, was to be given away via an arranged marriage between her father and a man she had never met in India. She ends up being saved by her childhood sweetheart, Raj, who negotiates with her father to finally allow him to marry her.[28] This is what Indian film has portrayed as a happy ending. Kaul, contrastingly, counters that because Simran had no true say in her future, and indeed because of the way in which her fate is bartered between Raj and her father, the film is actually quite deleterious to attitudes towards women. This film, and the countless others like it, has such a strong sense of patriarchy that is romanticized by Indian culture. It builds upon the sense that heterosexual love, and a strong dominant male hero, is the only way to achieve happiness.

While these portrayals of film have obviously served as an influence for heterosexual society, the sentiments they recount to sexual minorities tend to be even more critical. As a young homosexual youth, Andrew Sullivan narrates the trauma he felt from the realization that the inherent value society placed on marriage would never be his, in his piece "Why The M Word Matters to Me". Sullivan says that wedding day is the most celebrate event in a person's life. Further, all happiness and sense of fulfillment could not be accomplished without marriage. Sullivan details that he went into a severe depression, and contemplated suicide, because of being withheld this basic human institution of companionship.[29] While Sullivan is directly referring to American views on marriage, his

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[27] What Is Bollywood's Role in Changing Indian Attitudes to Women?" *Index on Censorship RSS*. N.p., n.d. Web. 04 Apr. 2013.
[28] Ibid
[29] Sullivan, Andrew. "Why The M Word Matters To Me." *Time*. Time, n.d. Web. 04 Apr. 2013.

argument is even more applicable in Indian society. Indian society places an even greater

importance on marriage and families than western views. Although divorce in India has

been publicized for drastic increases in the past decade, the divorce rate, according to the

CIA World book, still only reaches about 1.1%. In contrast, the same source reports

divorce in the United States at around 50% of marriages.[30] Marriage in India is seen as

obligatory for both happiness and to maintain a general lifestyle. Being a bachelor or

bachelorette is much more taboo in this nation. Additionally, arranged marriages still

have a great incidence in the country and children are supposed to stay with the spouse

that their parents have chosen for them. Spouses are often chosen based on class,

finances, culture and convenience. Virtually no Indian parents would choose a same sex

partner for their child. Disregarding the deep discrimination that occurs against

homosexual individuals, many parents want to assure that they will have grandchildren to

carry on familial traits. For an Indian homosexual youth then, being denied marriage

keeps from them an even greater sense of belonging and family.

Same-Sex Love in Film

   Despite the overwhelming concentration of Indian film on heterosexual love and

romance, many films exist which address issues of same-sex love. While this genre is

currently very small, the importance of this type of media in Indian society makes any

films pertaining to sexual minorities an extremely valuable asset. In contrast to the

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[30] "Central Intelligence Agency." *CIA*. N.p., n.d. Web. 04 Apr. 2013.

idealistic happy endings typical of most Bollywood films, this genre showcases the struggles and realities associated with same-sex love in India. The 2011 Bollywood film "I Am" showcases a few of the social rights controversies that face India today. In addition to artificial insemination and child abuse, the film highlights discrimination faced by a gay couple at the hands of a policeman in Mumbai. The police rape one of the men, Omar, and extort a considerable amount of money from Jai, the other men. By the end of the film Jai realizes that Omar was part of a plot involving the policemen to extort money from him all along.[31] The movie is progressive in portraying issues pertaining to the homosexual community, the way in which these problems are portrayed still demonize homosexuals as people who are cunning, dishonest and worthy of persecution. While the movie "My Brother Nikhil" maintains this same sort of tragic ending, the movie adds a note of progression towards the struggle of the LGBT community. The film is set in the southern, formerly Portuguese state of Goa. Nikhil is a popular, friendly, award-winning swimmer who is a closeted homosexual. When he is diagnosed with HIV, his friends abandon him and his parents refuse to let him live in their house. Under the Goa Public Health Act, he is arrested and is only released through the help of his sister and friend. Eventually Nikhil develops AIDS and dies. His sister and friend implement a program to help people with HIV in India in his honor.[32]

While the two aforementioned films deal with male homosexual relationships, one of the first mainstream Indian movies to demonstrate same-sex love used the affair between

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[31] "I Am Synopsis." *I Am Bollywood Movie Preview, Synopsis*. N.p., n.d. Web. 03 Apr. 2013.
[32] "My Brother... Nikhil - Official Site." *My Brother... Nikhil - Official Site*. N.p., n.d. Web. 02 Apr. 2013.

two young sister-in-laws who lived in the same house. The 1996 film "Fire", directed by

Deepak Mehta, was revolutionary for demonstrating strong female leads and elements of

heterosexual couple separation, in addition to homosexual love.[33] Upon release in India,

rioters attacked movie theaters in Mumbai, New Delhi and Calcutta. While legal action

was carried out against them, Chief Minister Manohar Joshi responded by saying "I

congratulate them for what they have done. The film's theme is alien to our culture."[34]

Joshi is then supporting public riots, the destruction of private property and persecution

of homosexual couples.

   The film industry then, through the portrayal of homosexuals, the normalization of

heterosexuality, and the maintenance of a strong culture of sexual repression, has served

as a detriment, especially to the advancement of same-sex love. While it is of critical

importance to exhibit the problems facing LGBT individuals, which Bollywood and film

has begun to do, it is of equal, if not greater, importance to show strong, happy,

normalized homosexual relationships that can function similarly to heterosexual ones.

India places so much value on family and children that it must first be demonstrated that

homosexual couples can even have children and maintain bonds of unity similar to

heterosexual marriage, to begin the path to acceptance. Many Indians are quite traditional

and don't know that these ideas can be applied to same-sex partners. In more liberal,

western nations, the debate over gay marriage has been contested within the confines of

whether or not marriage itself is a fit for gay couples. Frank Browning's piece "Why

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[33] "From "Fire" to "Journey" to "Kiran": Cinematic Indian Lesbians Evolve." *AfterEllen.com*. N.p., n.d.
[34] Ibid

Marry?" addresses these concerns. Browning says that marriage is not the typical fit

because of the unique make-up of the gay family.[35] These arguments are not as

applicable in India. The strength in the institution of marriage in this country makes any

other type of union unviable for proper assimilation. The homosexual communities in

India need to fit into the rigid society, rather than embrace the sense of western

individualism that is not present in their country. Film would be a powerful ally in

achieving this goal.

Hijras in Film and Society

Contrastingly, the historic position of Hijras has made them less controversial in

Indian film. Because Hijras have always maintained visibility in Indian society, they are

able to maneuver and garner rights much more adeptly than their same-sex loving

counterparts. Hijras have been used in Indian movies since the 1970's, appearing as a

crucial aspect to Indian culture.[36] While these initial portrayals were meant solely as

accurate representations of India with little prominence for Hijra roles, the 1990's saw a

shift towards films that showcased Hijras as main characters with the same emotions and

problems as heterosexual people.[37] The film "Tamanna", released in 1997, tells the story

of a Hijra individual who cares for his ailing mother. After she dies, he finds a young girl

in a trashcan and decides to raise the orphan as his own. The film is incredibly unique

[35] Browning, Frank. *The Culture of Desire: Paradox and Perversity in Gay Lives Today*. New York: Crown, 1993. Print.

[36] "The Third Gender of India - Takeshi Ishikawa." *The Third Gender of India - Takeshi Ishikawa*. N.p., n.d. Web. 02 Apr. 2013.

[37] Ibid

and powerful in its portrayal of Hijras as coming from loving homes, and able to continue that trend into future generations. The movie's positive reception demonstrates the immensely different attitudes towards homosexuals and Hijras in India. Ruth Vanita analyzes the films value to both same-sex and Hijra communities, saying

"Tamanna also depicted the Hijra community very positively, as saving the life of a girl child from her wealthy, upper caste, biological father who wants to kill her. In numerous films, cross-dressing scenes, where a woman dresses as a man and sings and dances with another woman, are highly suggestive of lesbianism. More importantly, as both I and film studies scholar Shohini Ghosh have argued, Hindi cinema's celebration of love as socially defiant and the most important element of life (think of the long cinematic history of depicting positively intercaste, interclass and inter-regional love such as widow remarriage etc.) has helped the public imagination become more sympathetic to disapproved kinds of love."[38]

While still quite isolated, Hijras are accepted and integrated into society in ways homosexuals have never been able to. More support of this idea surfaces in the 1998 election of Hijra Shabnam Bano, affectionately referred to as "Mausi" or aunty, to public office.[39] Bano has proven herself as an amazing politician, dedicated to fighting poverty, corruption, and violent crime in the nation. Through her international travels she has

[38] Vanita, Ruth. *Queering India: Same-sex Love and Eroticism in Indian Culture and Society*. New York, NY: Routledge, 2002. Print.
[39] "Shabnam Mausi." *TheBody.com*. N.p., n.d. Web. 04 Apr. 2013.

learned to converse in 12 languages. She also advocates HIV awareness, rights for

homosexuals, and calls for Hijras to give up their traditional roles of dancing, singing and

sex work as means of employment and embrace education and different areas of work.[40]

Bano could not have been elected to office without general public acceptance of the Hijra

community. To further accentuate the attitude differences towards these groups, the

former Prince of the Indian state Rajpipla, Manvendra Gohil, was disinherited from his

family following his coming out as a homosexual man in 2006.[41]

AIDS and LGBT Activism

Recent years have shown increased activism for LGBT goals but the source of this

activism may portray false attitudes about the Indian population as a whole. HIV and

AIDS activists, for example, have made significant contributions to the progression of

sexual minorities. In a study conducted by the Avert organization, every single Indian

state had a higher prevalence of HIV infection among men who have sex with men, than

the national average.[42] These statistics may reflect why these activists have decided to

adopt the dual agenda of gay rights activism and AIDS awareness. The NAZ foundation,

based in New Delhi, is one of the few Non-Governmental Organizations (NGO's) who

deal with the problem of HIV and AIDS in India.[43] Executive director Anjali Gopalan

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[40] Ibid
[41] "Manvendra Singh Gohil: Out, Proud and Princely in India." *Huffington Post (blog)*. N.p., 28 Apr. 2013.
        Web. 02 Apr. 2013.
[42] "Naz India." *Naz India*. N.p., n.d. Web. 04 Apr. 2013.
[43] Ibid

founded the organization after realizing that the government had virtually no programs to

protect against the spread of HIV and AIDS.[44] Much of this disinterest is probably due to

the high rate of HIV/AIDS among homosexuals and sex workers. The Naz foundation,

since its creation, has expanded into programs designed for men who have sex with men,

safe sex education, and providing homes for children born with HIV. The Naz foundation

was also the main advocate of the repeal of Section 377 of the Indian Penal Code, which

made same-sex activities illegal.[45] Naz was the original petitioner for this appeal and

used other articles in the Indian Penal Code that guaranteed basic liberties as the basis for

their argument. Chief Justices Shah and Muralidhar made the decision for the repeal on

behalf of the New Delhi High Court, but they provided very specific justification for their

actions saying

"If there is one constitutional tenet that can be said to be underlying theme of the

Indian Constitution, it is that of 'inclusiveness'. This Court believes that Indian

Constitution reflects this value deeply ingrained in Indian society, nurtured over several

generations. The inclusiveness that Indian society traditionally displayed, literally in

every aspect of life, is manifest in recognizing a role in society for everyone. Those

perceived by the majority as "deviants' or 'different' are not on that score excluded or

ostracized.[46]

Where society can display inclusiveness and understanding, such persons can be assured

of a life of dignity and non-discrimination. This was the 'spirit behind the Resolution' of

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[44] Ibid
[45] "India Repeals Section 377, Decriminalizes Gay Sex." *About.com Gay Life*. N.p., n.d. Web. 25 Feb.
    2013.
[46] Ibid

which Nehru spoke so passionately. In our view, Indian Constitutional law does not permit the statutory criminal law to be held captive by the popular misconceptions of who the LGBT's are. It cannot be forgotten that discrimination is antithesis of equality and that it is the recognition of equality which will foster the dignity of every individual."

The Chief Justices' statement makes it clear that providing homosexuals equal rights are a matter of legality, rather than public preference. By saying that homosexuals are "perceived by the majority as 'deviants'", he makes very biased implications, and indeed may fuel backlash against the verdict.[47] Interestingly, section 377 doesn't explicitly condemn homosexuality but instead states

"377. Unnatural offences: 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."[48]

Section 377 is then a reflection of Indian, and formerly British, interpretation and enforcement, rather than an actual upholding of law. The formerly British ruled state decided, and then disseminated, that homosexual intercourse would count as "against the order of nature". Furthermore, the continued application of this sanction after Indian independence is testimony that the Indian people adopted British restrictive attitudes.

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[47] Ibid
[48] "Section 377 of the Indian Penal Code." *Section 377 of the Indian Penal Code*. N.p., n.d. Web. 01 Apr. 2013

<u>Nature vs. Nurture in Sexual Minorities</u>

       One of the critical debates that exist within any field of sexual minority research is the notion of "nature versus nurture". Essentially, is homosexuality (or any sexual deviation) a product of an individual's environment and choices or is sexual orientation genetic and pre-determined at birth. While this question itself may never be answered, a society's general perspective can usually be gleaned from their treatment of this group. The belief that sexual orientation is a genetic disposition reflects the acceptance that such attributes are irreversible and no fault of the said person. Adhering to the notion that sexuality is a choice and determined by numerous environmental factors essentially says that some aspect of a person's upbringing was inferior to a heterosexual's childhood. India's position on this issue is not quite clear. While an official view is not easily ascertained, certain constructs shed light on where general consensus tends to lie. In 2013, India legalized adoption of Indian orphans by homosexual foreign couples.[49] In the same year, India also upheld that Indian surrogacy to homosexual couples would remain illegal.[50] With this legislation, Indians seem to acknowledge that homosexuality is not a choice and is not transferrable from parents to children. Indians do maintain however that homosexuality is genetic and seem to buy into the ideology that this gene can be inherited from homosexual parents. Moreover, they believe that this gene is not something to be passed on to future generations, hence their ban on homosexual surrogacy.

[49] "Get a Womb: Gay Couples Outsource Indian Mothers." *GlobalPost*. N.p., n.d. Web. 10 Apr. 2013.
[50] "India Bans Gay Couples From surrogacy." *PinkNews.co.uk*. N.p., n.d. Web. 05 Apr. 2013.

The Naz foundation has made enormous progress in homosexual rights and sexual health. UN reports indicate that between 2000 and 2009, the rate of new HIV infections dropped by 50%. The Naz foundation has served as an invaluable tool in empowering the LGBT community, but even more critically this group has not tried to implement a cookie-cutter model for gay culture and development in India. Naz seeks to give sexual minorities the power to form their own future in India, rather than form it for them.

The cultural face of gay India has thus emerged as quite different from other gay communities. Project BOLO, for instance, has served as a reservoir of positive gay experiences and encouragement. The endeavor describes itself as

"PROJECT BOLO, meaning 'Speak Up', is an attempt to overcome this lacuna, by offering real life positive real-life role models by documenting LGBT persons - their lives, careers, love and struggles. It is hoped that this will turn into a movement to empower LGBT persons across India.

'Project Bolo' records and documents individual profiles of LGBT persons who have, in their own way, stood up   for what they believed in and challenged norms and stereotypes loaded on them by the society. They are   also persons who have made

a significant mark in their   own professional areas of work, be it literature,

   filmmaking, law, activism, healthcare, journalism,   IT, media, etc."[51]

   Similar to the "It Gets Better" campaign, Project Bolo uses positive reinforcement to

let the LGBT community know that they are not alone and that sexual orientation does

not act as a deterrent to achieving their goal. Testimonials come from a variety of

different backgrounds and professions, including businesswomen, journalists and

lawyers.[52] India, however, is at a much different point in their timeline of modern

integration of sexual diversity. Whereas the "It Gets Better" campaign adds to an already

present culture, "Project Bolo" is shaping the development of India's gay culture. The

modern gay bars and clubs were usually the only venue for sexually questioning youth to

find others who might share their dilemma in the early 20th century. Through social

media and technology, gay Indians may have the same experience virtually. These clubs

are still a very big part of western gay culture, but Indian gay life has begun to form very

differently. The standards tools once used to measure gay acceptance in the west is not

applicable. For instance, India's LGBT community has been deemed too afraid of

backlash to attend gay pride parades. This type of assertion cannot be justified because

the manner in which the Indian gay community expresses themselves may be completely

removed from traditional western constructs.

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[51] "Project Bolo - Indian LGBT Oral History Project :: Home ::." *Project Bolo - Indian LGBT Oral History Project :: Home ::*. N.p., n.d. Web. 03 Mar. 2013.
[52] Ibid

Additionally, this divergence may also be due to the incredible poverty that plagues India. Poverty leaves people without a voice. The search for food, shelter and clothing is all consuming. Because of this, there is little information on LGBT low-income groups. Gay India seems intellectual and affluent, but for each of these public representations there are thousands of poor, dying, sexual minorities. For those sexual minorities who are from low-income groups, there seems to be a general amalgamation of homosexual males and Hijras. Homosexual Indian men are not able to explore their sexuality because homosexuality remained largely absent from the nation in the modern period. Many assume that their feelings actually are the Hijra identity and they conform as such. It is only at a specific level of affluence and education that these sexual minorities realize that their identities are very specific.

<div align="center">Conclusion</div>

The development of sexual minorities in India is neither unified nor easy to understand. Specific groups, such as the Hijras, have gained rights and acceptance solely for their long-standing history and tradition in the nation. Issues of poverty, nationalism and colonialism, have all drawn deep lines of distinction within India and their attitudes towards sexual diversity. While Indian's sexual minorities have garnered many freedoms and liberties, their cultural development and the future of this struggle is truly uncharted and cannot be predicted based on previous models.