

# Alternative Sexualities in India

*Master of Arts Thesis*

Paulina S. Mposo

s1498894

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Supervisor:

Prof. Dr. P.R. Kanungo

Specialization:

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University of Leiden, Faculty of Humanities

Leiden University, Leiden

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## **Abstract**

Diversity of gender self-apprehensions and sexual attachments have been long under negotiation of medical, spiritual, and cultural writing, and is now understood as significant component of Indian political debate. There is not enough audacity in confronting assumptions on sexualities beyond binary. Although complex to address, sensitive questions upon behavior, belonging, and violence are of importance for those stigmatized on account of their sexuality. The literature, activism, and law, reflective of social bias, support norms and blur the picture of everyday lived reality. This paper gathers ambiguous, space, and time dependent perceptions of alternative sexualities in India, to open present day debate on queer mobilization in India entangled in colonial, global, and pre-modern influences.

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## **Aberrations and Acronyms**

AIDS – Acquired Immune Deficiency Syndrome

Ed(s). – Editor(s)

Hind. – Hindi

HIV – Human Immunodeficiency Virus Infection

INGO – International Non Government Organization

IPC – Indian Penal Code

Lat. – Latin

LGBTQI – Lesbian, Gay, Bisexual, Transgender/Transsexual, Queer/Questioning, Intersex

MSM – Men who have Sex with Men.

NGO – Non-Governmental Organization

Sans. – Sanskrit

SRS – Sex Reassignment Surgery

Trans. – Translator

UN – United Nations

WHO – World Health Organizations

TG – Transgender

TGWB – Tamil Nadu (Aravanigal) Transgender Welfare Board



## Glossary

**ALI** – people of “third gender”, reassuring their Hindu religious status by symbolically bewedding the male deity Koothandavar, during festival carried in Tamil Nadu. The religious role of Ali includes ritual performance at wedding and birth ceremonies.

**ANDROGYNE** – a person presenting and/or self-identifying with neutral or mixed gender. Androgyne is a widely medicized term, at the same time possessing high position within the sacred sphere (marker of holiness). One of the androgynous figures in mythology is deity Ardhanarishvara.

**ARAVANI** – “One who worships Aravan” (partially), through symbolic martial union with Lord Aravan. A term of religious/cultural sources, describing biological males, who see themselves as a woman. In Tamil version of Mahabharata, it is Krishna (masc.) who turns himself into Mohini (fem.) to marry Arjuna’s son: Aravan. Today, this all-embracing term has pejorative connotations in Tamil (similarly to asali, ombodh, pottai, kattawandi); there are efforts to replace it with thirunangi to refer to aravanis.

**ASEXUAL** – people who are not sexually active or/and do not experience sexual attraction towards other people/person, or people who are otherwise outside gender/sex binary, or who assumedly lack sexual organ. Hijras are sometimes considered such.

**BISEXUAL** – a person who feels attraction towards people of male and female sex.

**CISGENDER** – not-trans, people whose assigned gender remains in harmony with gender identity, and biological sex (otherwise assigned sex). Gender binary or cisgender division recognizes two genders: man and woman, assigned to (accordingly) male and female sex. For example self-identified man with male sex.

**CROSS-DRESSER** – a person who applies an attire of the opposite sex (in cis-sexual understanding). Cross-dresser is also understood as an identity. Cross-dressing might be an action irrelevant towards one's sexuality.

**GAY** – term used to refer to a man who is attracted to other man. Sometimes used instead of “homosexual” or towards anyone whose preference is not heterosexual (e.g. lesbian, bisexual).

**GENDER** – refers to social (learned) attributes assigned to certain sex in specific time and space. Gender determines how people are perceived and how they are expected to

think and act (undertake roles, activities, responsibilities, and have certain needs, bodies).

**GENDER BINARY** – the idea that a person must be gendered either as male or female in. Within this assumption genders other than man and woman, are “trasgressing” the division.

**GENDER IDENTITY** – the process of how an individual wants to be recognized and how they experience the self.

**GENDERQUEER** – refers to people who do not identify with the male/female binary, they may see themselves on a continuum between male and female, experience themselves as both male and female, or identify as neither male nor female. Genderqueer people sometimes use the gender-neutral pronouns (ze, hir, they, and them).

**HETERONORMATIVITY** – an assumption that heterosexual orientation, desire, body, and practice are superior to the other types; and are the norm.

**HETEROSEXISM** – sexual orientation prejudice against people with identities or/and behaviors which are non-heterosexual.

**HIJRA** – “neither man nor woman”, often translated as transgender, or “third gender” Hijra in broader scope is a social, economic, and political community, which due to socio-economic and cultural conditions often survives through performing rituals, begging, and sex work. Customs vary depending on community norms, in general upholding jammath (community system with status of the guru), emasculation, feminine gender expressions, asceticism, and street performance. Some hijras are born as hermaphrodite/intersex.

**HOMOPHOBIA** – term of Western origin, meaning fear of “homosexual”, it refers to prejudice aimed at people who desire/are intimate with same-sex person.

**HOMOSEXUAL** – (sexual orientation) romantic/emotional/intellectual/physical attraction towards people of the same sex.

**INTERGENDER** – people whose gender identity combines of multiple genders, or is between genders.

**INTERSEX** – someone whose biological sex is hard to determine, or a person naturally born with both male and female sex organs, also expressed as: hermaphroditism.

**JOGTAS** – or jogappas; sociocultural identity, mostly heterosexual males, who sometimes acquire women's attire while servicing Goddess Renukha Devi (south Indian Yellamma; Yellamma is recalled in bhaktist texts). “Hijra-jogatas“, part of hijra community, refer to themselves hijras, jogti, or jogtas. Jogti constitutes a Devadasi category – servant of the deity. One can become jogta or jogti through a guru or familial ties.

**KINNAR** – substitute word for hijra used in Gujarat, Madhya Pradesh and other Northern states, reflecting socio-cultural identity.

**KOTHI** – is a female identified man (expresses feminine mannerisms), who has preference for, and engages in receptive same-sex sex, but not exclusively. Zenana is a male kothi, adapting feminine attire only during performance – has a kinship network distinct from hijras. In general kothis see penetrated men as other kothis – whenever they identify themselves as bisexuals, homosexuals, or other. Other taxonomies describing male-to-male sex include: ac/dc, chhakka, fifty-fifty, gandugadu, kojja. do-paratha, double-deckers – reflecting sexual practice of both penetrating and being penetrated.

**LESBIAN** – a woman who is emotionally/physically attracted to another woman.

**MSM** – men who have sex with men, term of behavioral/epidemiological nature, created to target transgender women, or hijras – people considered at high risk of HIV infection, due to sexual violence done to them (unprotected sex, rape) and sex work involvement. Most individuals identify themselves differently, as they are likely to marry and have sex with both women and men.

**PANTI** – a man who is the penetrative partner in same-sex intercourse with kothi. Also, refers to the husbands of hijra. Hijra words: Kothi and panthi, are known to broader audience. Panthis do not see themselves as homosexuals or less masculine because of the sexual relations with kothis.

**QUEER** – term of Western origin demarking preferences, habits which are not exclusively heterosexual, or monogamous, or “normative” in certain contexts

**SEX** – not mutually exclusive universal biological characteristics, which are also constructed by other means; also an intercourse, or other emotional/erotic activity.

**SEXUAL ORIENTATION** – fluid preference for engagement in romantic/physical relations with a person/people of certain sex/gender/identity. It is not always definable through binaries or existing terminology homo/hetero-sexual or bisexual, it occurs on a continuum.

**SHIV-SHAKTHIS** – Hindu group, which generally does not practice emasculation, grasped under hijra category. Access to this traditional community is granted through a guru. Mostly feminine males of lower socio-economic status, who sometimes cross-dress – Shiv-shakthis, symbolically marry a sword (an expression of male power or Shiva), and earn their living as spiritual healers, or astrologers.

**THIRUNANGI** – general Tamil name for male-to-female transgender identities (hijra), of less pejorative connotations than aravani.

**TRANSGENDER** – a gender other than the expected based on binarized anatomical sex. Such person may identify as transgender, transgender female, transgender male, male, female, genderqueer, or neither. Some undergo SRS and/or hormonal therapy, some do not. Preferred gender role does not stand in relation to sexual preference.

**TRANSSEXUAL** – a person identifying as other than assigned at birth sex/gender. Trans people may not see sexuality/gender identity contradictory. Transsexual, in other words: intersex, agender, male, female cross-dresser (also transvestites), drag queen/king, transsexual, gender-fluid identities; and gross of socio-cultural identities. A term of medical origin, describing gender identity disorder. Hijras, and Tamil thirunangi and aravani fall under this definition.

**IDENTITY** – socially, culturally, and self-acquired self-apprehension.

**SEXUAL MINORITY** – sexual minorities/sexual minority community, LGBTQI people, transgender/transsexual people, kothi, hijras, who live in mostly heterosexual space.

**SEXUAL ORIENTATION** – term connected to medical and psychological debate, originally based on heterosexual/homosexual binary, designating sexual/emotional preference. The concept might be a part of one's sexual identification.

**STIGMA** – social and sexual stigma, internalized stigma, or stigmatizing attitude; part of public and personal imagination about someone or a group of people, negative stigma attaches negative prejudice about condition of a person/group.

## Chapter 1 Introduction

Even though Tamil, next to English, is the only language which categorizes twenty-five gender identities<sup>1</sup>, in India there are three officially recognized gender variants: female, male, and recently “third gender”. Concurrently High Court of New Delhi (2009) announced that Section 377, Chapter XVI, of the IPC is “unconstitutional”. While Supreme Court of India denied this decision in 2013, which caused mixed feelings within both LGBTQ and human rights advocates. The law employed by the British Rule, criminalizes same-sex intimate relations and alternative gender identities. Simultaneously, supportive statements suggest that alternative sexuality gains recognition and (to some extent) acceptance within conservative and nationalist circles<sup>2</sup>.

To understand those (in)consistencies, and because the topic acquires a new relevance in the light of recent legislative and global transitions, the study examines shifting through time and space attitudes towards, and representations of queerness. Although there are many ways of being sexual, only some of the various intimate activities are acceptable and assigned to hegemonic sexuality, constructed upon socially made female and male bodies. Therefore, non-heteronormative sexualities transgress binary: femininity/masculinity. Gender identity and sexual preference is a complex topic, relating both to feelings (which are fluid and hard to grasp) and biology. Subsequently, love, and sexual expressions cross the borders of “private” and “public”.

It is indeed possible that the process of writing about alternative sexualities reproduces binaries and biases. On the account of language used to describe the subject matter, the paper uses multiple generalizations for organizational purposes. Apart from that, each individual may or may not identify with a certain label or community, and may create other expressions. What is more, framing all people into gender and sexuality based community, suggests that a group has/or will have political claim, while many people do not see themselves fixed into a specific group. Therefore, the thesis

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<sup>1</sup>Mayilvaganan, V. *Madurai Student Pens Book on Gender Variants*. In: The Times of India, June 4, 2013. [Access](#).

<sup>2</sup>Gupta, Monobina. “My Harassers Belonged Mostly to the Educated, Urban, Middle Classes”: An Interview with Manabi Bandyopadhyay, India’s First Transgender Principal “My Harassers Belonged mostly to the Educated, Urban, Middle Classes”: An Interview with Manabi Bandyopadhyay, India’s First Transgender Principal. In: The Caravan: A Journal of Politics and Culture, December 7, 2015. [Access](#).

urges for using phrases: sexual orientation and gender identity minority (or sexual minority, identities of sexual margins), LGBTQ, community with caution<sup>3</sup>.

Throughout the study several significant issues emerge. In the light of globalization of importance is recognition, as it connects the themes of violence, citizenship, tradition, and language. In consequence, this thesis crosses the disciplinary boundaries, stimulates interest in diverse gender identities and non-heteronormative sexualities. And rather than attempting to find fixed perceptions of sexuality or causes of trans-/homo-phobia<sup>4</sup>, it is drawn towards approach that sexuality is part of being human, and it permeates multiple areas of life.

Therefore, *Chapter Two*, navigates through linkages between available inventory of literature; where discourses considered are captured within feminist and queer theory, human rights perspective, public health debate, historical, and legal framework. *Third Chapter* broadens the ground for further considerations through extensive overview of the historical accords on ambiguous bodies and desire other than heteronormative. Consequently, *Chapter Three* approaches to grasp shifting attitudes towards and perception of sexual/gender alternative. In keeping with that pattern, *Fourth Chapter* explores shifting modes of inclusion and exclusion emerging in current debate on queer mobilization. Legislature and development sector practice, with Tamil Nadu as a space of negotiation for both, create the closure for *Chapter Four*. Next, subchapter considering authenticity of language, together with *Glossary*, provide the sketch of relevant concepts. Questioning Western intrusion, the paper subsumes a short record of sexuality and gender identity in the West in *Appendix 1*.

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<sup>3</sup>The paper uses multiple expressions to encompass alternative sexualities. The vocabulary defining people through negation "non-", (non-conformative, non-heteronormative, etc.) due to necessary diversification of means of expression, is used next to other terms: homosexual, lesbian, gay, bisexual, transgender/transsexual, queer (LGBTQ) people, intersexual, homoerotically inclined person, homoerotic desire, same-sex love, women desiring women, men loving men, same-sex attraction/practice/love/intimacy, etc.; and in accordance with gender identity; identities beyond binaries, alternative identity, transgressive self-comprehension, etc.;. In addition the study considers "preference" synonymous to "orientation". Here, sexuality is a fluid comprehension of gender identity, sexual identity and sexual orientation, in other words means of expression of what person feels, desires, how perceives themselves, behaves in intimate, erotic or sexual context. Terms: "sodomy", "third gender", "eunuch"; emerging through revision of some of the historical contexts, should be used with caution. In addition terms "hetero-/homosexual orientation", "trans-gender identity", also "queer", "non-hetero-normative" or "non-normative identity/sexuality", and other, are of Western origin. For some of the vocabulary, see: *Glossary*. See also: *Appendix 1, Christianity and Same-Sex Relations*. More: Weeks, Jeffrey. *Sex, Politics and Society. The Regulation of Sexuality since 1800*. London and New York: Longman, 1981, p. 241.

<sup>4</sup>"No equivalent word exists for the term "homophobia" in any of the Indian languages". Kole, Sabir K. *Globalizing Queer? AIDS, Homophobia and the Politics of Sexual Identity in India*. In: *Globalization and Health*, Vol. 3, No. 8, 2007. [Access](#).

## Chapter 2 Literature Review

### Introduction

The following section provides a capsule of resources investigating desires, sexual/gender identities other than heteronormative in India. Concepts and theoretical positions included, consider post-colonial critique, queer, and feminist perspectives, and refer to medical spectrum of LGBTQ related ambiguities. Therefore, the contextual map drafts upon essential gender relations, historical accounts, studies upon identity and language. Next, of significance became legal framework, and human rights claims. Overall, the subsequent paragraphs consider notable constraints and set direction for inquiry undertaken in the following chapters.

### 2.1. Literature Review<sup>5</sup>

Long lasting presence of gender and sexuality theme in various disciplines, proves seriousness of those themes (Hall, Bucholtz Eds., 2004). Complexity of Indian sexuality is undoubtful (Srivastava, 2007; Dasgupta, 2011), notions of sexuality suppression (Bose, 2002), (post)colonial discourses (Gupta, C., 2002, Vanita, Ed., 2002; Aldrich, 2003; Hinchy, 2014), developmental impact (Pigg, Adams Eds., 2005; Lind, 2009; Patel, 2012), transnational flows (Lim, Smith, Dissanayake Eds., 1999; Wieringa, Blackwood, Bhaiya Eds., 2007; Martin, Jackson, et al., 2008; Roces, 2010; Katjasungkana, Wieringa Eds., 2012; Mankekar, Schein Eds., 2012) and ancient, medieval, pre-colonial past (Thadani, 1999a; Vanita, Kidwai Eds., 2000; Kugle, 2002), and the question of “intimate citizenship”<sup>6</sup>, appear in the writings of sociology, political sciences and human rights (Moran, 2001; Kollman, Waites, 2009; Madhok, 2010). In addition the keynotes of liberalization and consumerism (Srivastava, 2007; Patel, 2012)

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<sup>5</sup>Note on references. Full bibliography can be found under *References*. For this section, surnames of the authors and publication date are captioned in a bracket. Citations for the following chapters differ in that manner and can be found at the bottom of the page.

<sup>6</sup>Guided by the state and the regional populace, citizenship forms in relation to LGBT, oscillate around legal, social and economic rights: equal consent laws, access to welfare, equal partnership rights (ex. adoption rights), and equal employment rights. See also: *Chapter 4*. More: Donovan, Catherine. Heaphy, Brian. Weeks, Jeffrey. *Citizenship and Same Sex Relationships*. In: *Journal of Social Policy*, Vol. 28, No. 4, 1999, pp. 689-709; Narrain, Arvind. *Rethinking Citizenship: A Queer Journey*. In: *Indian Journal of Gender Studies*, Vol. 14, No. 1, 2007, pp. 61-71.



constitute a further context for the current debate on other than heterosexual love-related activities.

### **The Local, the Global and Language**

General tendency in ongoing academic debate on sexuality in Asia is to put the focus on what is regional or national, rather than universal, global (Kollman, Waites, 2009). Scholars of Asian Studies sustain to allude accuracy of distinction “West and the Rest” (Pigg, Adams Eds., 2005)<sup>7</sup>. Gilbert Herdt (1994), and underscores Asia is neither Westernized, nor completely “pure” in that sense<sup>8</sup>. Simultaneously, local understanding of sexual behavior expresses the need of sensing where those comprehensions of the erotic came from, the vernacular (Pigg, Adams Eds., 2005; Madhok, 2010). For those scholars, localization of approaches is necessary to re-examine prevailing categories of non-Asian origin, and to see through Anglo-centric modern bias attached to viral “gay”, “lesbian” and “transgender” labels (Wieringa et al., 2007; Martin, Jackson, McLelland, Yue, 2008). To dismiss those urban, already cultured categories, part of academicians suggest self-based taxonomy, which mirrors complexity of human desire (Wieringa et al., 2007)<sup>9</sup>. Those claims rose from the idea of elusiveness of desires and practices. *Queerly Phrased. Language, Gender, and Sexuality* states that gender is fluid, furthermore, a process of producing gender insists on conscious use of language by the speaker (Livia, Hall Eds., 1997).

Multiple researchers (Sedgwick, 1990; Weeks, 1995; Vanita, Ed., 2002; Cohen, 2005) question commonness of contemporary vocabulary in India. The binary of homosexual-heterosexual, although as some advocate (Nagel, 2003) should not be applied to non-Western cultures, it is in use at most as analytical tool<sup>10</sup>.

Ruth Vanita in *Same-sex Love...* warns from using dictionary from the timeworn accounts towards present day identities and sexualities, seeing inaccuracy in it. While “homosexuality” and “identity” as clinical terms, are indeed the product of the

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<sup>7</sup>Pigg, Stacy Leigh. Adams, Vincanne Eds. *Sex in Development: Science, Sexuality, and Morality in Global Perspective*. Durham, North Carolina: Duke University Press, 2005, p. 6.

<sup>8</sup>Herdt, Gilbert. *Third Sex. Third Gender*. New York: Zone, 1994, pp. 11-21.

<sup>9</sup>Blackwood, Evelyn. Wieringa, Saskia E. *Globalization, Sexuality, and Silences: Women's Sexualities and Masculinities in an Asian Context*. In: Wieringa, Saskia E. Blackwood, Evelyn. Bhaiya, Abha Eds.. *Women's Sexualities and Masculinities in a Globalizing Asia*. New York: Palgrave Macmillan, 2007, pp. 1-22, p. 5.

<sup>10</sup>Nagel, Joane. *Race, Ethnicity and Sexuality: Intimate Intersections Forbidden Frontiers*. New York: Oxford University Press, 2003, pp. 204-205.

19th century European sexology<sup>11</sup>, moreover, at part, the field condemns the utilization of those terms, there are many self-proclaimed queer people and lesbians in India<sup>12</sup>. For Abha Bhaiya (2007) worldwide power endangers local variety, it also limits possibility of classification. Struggles with invention of new nomenclatures are reflected in *Women's Sexualities and Masculinities* (Wieringa et al., 2007; Waites, 2010; Ghosh, A., 2015).

Flexible sexual behavior and self-apprehensions vary (Blackwood, Wieringa Eds., 1999; Vanita, Kidwai Eds., 2000), so does relevant terminology, to that end, terms used in the present academe are not able to mirror plurality<sup>13</sup>. Post-colonial thought inspires undertaking the inquiry upon locality and authenticity of language, seeing complex re-written past, governmental restrictions, and processes of alleviation relevant for sexuality debate (Weeks, 1995; Giti, 1999; Dutta, 2012; Picq, Thiel Eds., 2015). Limitations caused by the language describing “sexual minorities” brings attention of sociolinguists, who instance that desire is equally significant as identity in the process of sexuality categorization (Bucholtz, Hall, 2004).

Throughout the study local and global forces and dialectic between the dynamics becomes of importance (Lim et al., 1999; Mankekar, Schein Eds., 2004). Following Adams and Piggs, sex is a global phenomenon concurrently differently understood in various parts of the world. Geopolitical shift of focus in the field makes insight into demanding regional complexities possible. As Indian sexuality contests through diasporas, constant fluctuance between local and global raises the bar for the future research<sup>14</sup>. It is said diasporic communities, transnational powers encourage towards variance<sup>15</sup> (Reddy, Ch., 2005; Patton, Sanchez-Eppler, 2010; Yue, 2012).

While scholars successively debate moral meaning behind sexual identities, sexed bodies, and behavior<sup>16</sup> (Pigg, Adams Eds., 2005; Hinchy, 2014), sexual sciences, demography, and epidemiology (connected with AIDS prevention, family planning)

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<sup>11</sup>Glick, Elisa. *Materializing Queer Desire. Oscar Wilde to Andy Warhol*. Albany: Sunny Press. State University of New York Press, 2009, p. 11.

<sup>12</sup>Blackwood, Evelyn. Wieringa, Saskia, Eds. *Preface*. In: *Female Desires Same-Sex Relations and Transgender Practices Across Cultures*. New York: Columbia University Press, 1999, X.

<sup>13</sup>Elouard, Yajna. Essen, Birgitta. *Psychological Violence Experienced by Men Who Have Sex with Men in Puducherry, India: A Qualitative Study*. In: *Journal of Homosexuality*, Vol. 60, No. 11, 2013, pp. 1581-1601.

<sup>14</sup>Wieringa et al., 2007, p. 4.

<sup>15</sup>Gopinath, p. 11.

<sup>16</sup>Kwaak, Anke v. d. Wegelin-Schuringa, Madeleen, Eds. *Gender and Health: Policy and Practice: A Global Sourcebook*. Amsterdam: KIT Royal Tropical Institute; Oxford: Oxfam GB, 2006, p. 99.

through objectifying sexuality, producing particular vocabulary, support the construction of “the normal”<sup>17</sup>. Moreover, neglecting “the Western disease”<sup>18</sup> caused ignorance aimed at composed affairs of same-sex intercourses and sustainment of true, “non-gay” Indian tradition of (post)colonialism (Kugle, 2002; Pigg, Adams Eds., 2005; Srivastava, 2007<sup>19</sup>).

### **Health Care Discourse**

Although “there is no support available to fight against discrimination and violence” (Samuels, Verma, George, 2006), *Indian Feminisms* (2007) written within contemporary feminist framework, presents struggle against cruelty, Geetanjali Gangoli turns back to independence activism to link it with feminist movement. Although non-heteronormative relations do not lie in the main scope of the study, the book shows how essentialist concepts of body represented by the Right, normalize what is feminine and masculine.

Problematic debate on non-conformative genders and sexualities re-entered India, next to other tunnels, through the healthcare ground. Frequently the topic of sexuality in early writing of wellbeing and suffering excludes questions of partnerships, erotic acts, love, and friendships (Elouard et al., 2013). Current tendencies target socioeconomic, medical aspects of personal preference (Vanita, Kidwai Eds., 2000; Kwaak et al., 2006), yet some publications are tainted with victimization of personas considered (Misra, Chandiramani Eds., 2005). While HIV/AIDS is a serious issue around the world, now the main theme in sexual public health body of literature is discrimination and stigma largely put on men who engage in sexual activities with other men (MSM), rather than previously: injustice towards women (Misra, 2005; Boyce, P., 2006; Elouard, Essen, 2013).

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<sup>17</sup>Pigg, Adams, pp. 2-3.

<sup>18</sup>Accentuations that whatever comes from the West should be automatically neglected, are constantly negotiated and dismantled with full acknowledgement that “homosexual” performance did not come from the Europe neither US or as it was thought two centuries ago from the Muslims and it is indigenous to cultures including India. Wieringa, Blackwood, 1999, p. 27.

<sup>19</sup>Kugle, Scott. *Sultan Mahmud's Makeover. Colonial Homophobia and the Persian-Urdu Literary Tradition*. In: Vanita, Ruth Ed. *Queering India: Same-Sex Love and Eroticism in Indian Culture and Society*. New York: Routledge, 2002, pp. 30-46, p. 30.

Huge branch of public health studies consider sex work<sup>20</sup> (Kapur, R., 2001; Kole, 2007). As *Psychological Violence* alarms, MSM is an understudied group, men often earn their living through such employment because of socioeconomic situation, and to gain access to forbidden by the state same-sex sexual behavior (Nagel, 2003), Further problematization of sexual labor, sets it as a target for sexuality control and as such intrudes class and power relations (Kapur, R., 2001; Bergeron, Puri, 2012).

### **Stigmatized Femininity**

In general, there are fewer sufficient studies in correspondence to trans-feminine gender expressions, trans-women or female to male transgender people. Joti Puri (1999) avoided tracking lesbians, transgender, and transsexual females in her ethnographic work *Woman, Body, Desire in Postcolonial India*. Expectations of feminists of that time were met with notions concerning patriarchy. Moreover, while the plexus of sexuality embracing themes of (post)colonialism, nationalism, and transnationality, is exhaustive, and the rich study of sexuality renounces one chapter on “queer”, those “non-conformative” narratives abstract from debate based on the anthropological interviews of upper and middle class Indian females.

As observed by Herdt (1994), queer discourses within diaspora/migration studies, become known through popular media polemic<sup>21</sup>. This trend is well represented by Gayatri Gopinath (2005), postcolonial studies researcher acknowledges ignored categories: queer subject and women. Writings on middle and upper class females, then specifically lesbians is redirected towards primarily working class lesbians with publication of Misra and Chandiramani (2005), nevertheless the study focuses mostly on females, it remains silent about feminine transsexual identities. Transgender women are taken into account with *Female Desires* (Blackwood, Wieringa, 1999) and *Women's Sexualities and Masculinities in a Globalizing Asia* (Wieringa et al., 2007).

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<sup>20</sup>Surprisingly very little is said about clients of sex workers in the field of humanistic studies or social sciences. Only recently attention to this matter was given by behavioral studies, socio-medical analysis. Suryawanshi, Dipak. Bhatnagar, Tarun. Deshpande, Sucheta. Zhou, Weiwei. Singh, Pankaj. Collumbien, Martine. Thorne, Claire. *Diversity among Clients of Female Sex Workers in India: Comparing Risk Profiles and Intervention Impact by Site of Solicitation. Implications for the Vulnerability of Less Visible Female Sex Workers*. In: PLoS One, Vol. 8, No. 9, September 2013, [Access](#). Raj, Anita. Saggurti, N. Cheng, Debbiem. Dasgupta, Anindita. Bridden, Carly. Pradeshi, Manojkumar. Samet, J. H. *Transactional Sex Risk and STI among HIV-Infected Female Sex Workers and HIV-Infected Male Clients of FSWs in India*. In: Aids Care-Psychological and Socio-Medical Aspects of Aids/HIV. Vol. 23, No. 11, 2011, pp. 1374-1381.

<sup>21</sup>Herdt, pp. 11-21.

*Female Desires* is one of the kind notion of transgender females across cultures. With this anthropological, queer account, feminists make a statement that non-Western women decide of their bodies and identities, and point out that victimization set upon them must stop. Authors call for (trans)national public debate on transgressive sexualities and genders. Their writing suggests homophobia and transphobia are the strongest in places where sexuality is a taboo<sup>22</sup>.

Conversely, Aldrich (2003), while trying to represent colonized voices, tracks only male desires in colonial empires through the eyes of outsiders. The account verbalizes that even though male's sexual interactions were forbidden, intimacy was not<sup>23</sup>. Although micro accounts of intimacies are historically valuable, the volume does not live up to expectations of queer scholarship.

In general, the records bounded by the colonial exoticism, and heterocentrism are now dynamic part of the debate on sexual rights (Baudh, 2006; Waites, 2010; Ilkcaracan, 2012). Denial of femininity in Indian colonial culture, low status of women reflected in anti-sodomy law, constant headlining antinomy masculinity/femininity with nether status of the latter (Nandy, 1983) emulates on kothis, or men who prefer taking subordinate role while lovemaking with another male (Reddy, G., 2005a; Dutta, 2012). What is condemned, is not male-to-male sex, but feminine character of those men (Cohen, 2005; Samuels et al., 2006; Wieringa et al., 2007). According to Herdt (1994) prejudice is built upon constructed notions of feminine and masculine, while Srivastava (2007) shifts the tension between "homosexual" and "heterosexual", "feminine" and "masculine" towards Gandhian celibacy and discourse of sexual-asexual.

### **Silence and the Law**

Sexuality in India, swayed by distinct hierarchical modes conveying and reacting upon sexual behavior, now rests in legal, political, economic contexts (Sharma, 2007; Sturman, 2012; Puar, 2013; Rao, 2015). The Section 377 IPC contains multiple biases (Sharma, 2007; Srivastava, 2007; Kannabiran, Singh, 2008; Joshi 2010; Arasu, Thangarajah, 2012). The law, which criminalizes erotic act other than that in line with heteronormativity, specifies consensual, non-reproductive sexual activity as "unnatural"

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<sup>22</sup>Wieringa, Saskia E., Blackwood, Evelyn. *Introduction*. In: Blackwood, Evelyn. Wieringa, Saskia, E. Eds. *Female Desires Same-Sex Relations and Transgender Practices Across Cultures*. New York: Columbia University Press, 1999, pp.1-38, p.28. See also:

<sup>23</sup>Aldrich, Robert. *Colonialism and Homosexuality*. New York and London: Routledge, 2003, p. 276.

(Jagatap, 2012). Besides, it conflates behavior with identity, confirms cisgender binary (masculinity assigned to male body, femininity to female body) excluding remaining spectrum (Nagel, 2003; Kannabiran, Singh, 2008). Section 377 does not criminalize homosexuality or homosexual lust or love but same-sex sex (Misra, 2009; Faucette, 2010).

Activists and personas considered put on a fight for institutionalization of same-sex relations, legalization of their natural feelings, passions, and bodies. So far regulations fail to acknowledge other forms of intimate relationships (Vanita, 2005; Bottomley, Wong, 2009). Queer and feminist studies academics see the institution of marriage as another tool of social oppression for these sexualities (Vanita, Kidwai Eds., 2000; Menski, 2003; Misra, Chandiramani Eds., 2005). In addition, the assertions are supported by the statement that marital knot will not overthrow “homophobia” (Balasubramanian, 2014). While the silence is broken by the media describing suicides and places in India where same-sex marriage did happen, their dramatic approach leaves little coverage for everyday practice of personas considered (Vanita, 2004, 2007; Sharma, 2007). Sharma (2007) points out those already existing non-institutionalized queer relations might be valuable for creating family - another significant institution prevailing in marriage-centered culture.

Bhaskaran (2002) delivers a proper socio-cultural context for British anti-sodomy law. The essay tracks the transition from religious crime to crime against the state, development, and transformation (Balasubramanian, 2014) – sooner, it was Foucault who investigated the shift from religious to legislative comprehensions was<sup>24</sup>. Moreover, through foot-printing sources of the IPC, Bhaskaran questions issue of consent. However, lacking an advanced notion on legal consequences for diverse sexualities, her account takes into consideration dichotomy between action and identity. To sum, she leaves the reader with blurry and troublesome meanings of intercourse and penetration.

With stigmatization of variegated sexualities (Bose, 2006), insufficient recognition in legislative system should not surprise (Arasu, Thangarajah, 2012). Disapproval deepens the stigma set upon already marginalized (a)political bodies, which although considered “alternative”, LGBTQ people perceive themselves as a part

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<sup>24</sup>Foucault, Michel. *The History of Sexuality. Vol. 1: An Introduction*. New York: Vintage Books. A Division of Random House. 1980, pp. 36-40. More: Burchardt, Marian. Wohlrab-Sahr, Monika. Wegert, Ute. “Multiple Secularities”: *Postcolonial Variations and Guiding Ideas in India and South Africa*. In: *International Sociology*, Vol. 28, No. 6, 2013, pp. 612-628.

of everyday mainstream. Brinda Bose (2002, 2006) signifies the relation between politicalized body and access to safety and politics of identity. The author provokes a further inquiry with questions: What happens if no one raises the issue of the unheard? How something so private and intimate can be understood by judiciary?

### **Historical Recounts on Gender and Sexuality**

History of Asian queer studies for many years followed colonial pattern. Long lasting unawareness of diverse sexualities narratives, combined with unequal flow of cultural and intellectual capital kept this part of heritage aside (Martin et al., 2008).

Challenging anterior, and looking into histories, is one of the ways to build awareness of contextual relevance of alternative sexualities (Puri, 1999; Thadani, 1999a; Wieringa et al., 2007). Multiple chronologies, “little” folklore traditions, medieval texts, Urdu-Persian literature, slowly unravel singular, sensual, social meanings captured in universal categories (Kidwai, 2000; Natarajan, 2007; Sarkar, N., 2013; Boyce, B., 2015).

Conversely, some scholars expressed that looking into texts does not satisfy present needs (Srivastava, 2007). Critical reading of those writings does not completely solve the conflict around the anti-sodomy law (Kalpana, Ranbir, 2008; Sheikh, 2013). Moreover, anxiety of losing semen (Reddy, G., 2005) regarding obligation to remain in celibacy is ambiguous (Srivastava, 2007).

Ruth Vanita and Salem Kidwai (2000) in search for representations of same-sex love revised, re-read and re-translated Indian written inheritance, mythology, religious texts, Perso-Urdu and Islamic traditions, from ancient up to modern. The chosen notions of same-sex friendship, sex change and cross dressing (Dasgupta, 2011), stories of moving beyond gender, and narratives of dual motherhood, are eloquently analyzed and set in their cultural, literary, and sociological background. *Same-Sex Love in India* with compassion and moral awareness fills in the rapture in the literature and queer study of same-sex relations, acknowledging plurality of genders and passions, giving them refreshed historical recognition. Ruth Vanita is a gender historian, who in opposition to the most of the recent scholarship conducts academic inquiry without victimization or feminist aggression. *Love's Rite* investigates marital unions between same-sex personas with focus on women, interestingly transsexual and transgender people are acknowledged, therefore the book constitutes a valuable position within

queer studies. Keeping in mind international dialectic within gay and lesbian studies, academician articulates consent of both parties as an indicator to marry. Secondly, she challenges tradition by pointing out the overlap between intimate friendship and marriage. What Vanita under-emphasized was the anxiety towards same-sex marriage prior to the British rule. *Queering India* (Vanita, Ed., 2002) is a multidisciplinary volume investigating theatre (Hansen, 2004), cinema, television (Patel, 2012), literary accounts (Sweet, Zwilling, 1993, 1996; Petievich 2001, 2004; Kugle, 2002, 2007) , through lenses of colonial transitions (Bhaskaran, 2004) and independent India. The compilation activates queer discourse through perspective of pre-colonial and current society, while contextualized wide-ranging essays give justice to plurality of gender roles, sensualities in India (Vanita, Ed., 2002).

### **Gender Identity and Sexual Behavior**

Joane Nagel (2003) elaborates that there is no unified desire which is natural, she continues by stating there are as much as practices as cultures. Difficult connection between action and identity lays in assumption that behavior does not need to fit the specific already flexible identity, gender, erotic desire. According to Nagel creation of sexual identity in India is based on how person acts, rather than how they feel or who they are and the context of the social life and family is crucial indicator of how someone is seen.

Conversely, Murray, and Pilling (1992) in *Oceanic Homosexualities* claim “defining persons by their sexual behaviour or preference is not a universal of categorisation”<sup>25</sup>, and perception of something as sexual is learned. In addition, the anthology recognizes female non-heteronormative passions.

The most visible group intersecting understanding of gender and sexuality in India are Hijras. Although they are to larger extent accepted in India than in any other place<sup>26</sup> (Hinchy, 2014), additionally, it is the only group of physically ambiguous people that became the legal subject (2014). Even in the light of recent legislative changes, inquiry on transgender female to male, transsexual males, intersex, bi-gender, people of pansexual orientation, non-monogamists must be undertaken, because The Section 377 IPC and other laws continuously set a threat to alternative sexualities.

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<sup>25</sup> Murray, Stephen. Pilling, Arnold. *Oceanic Homosexualities*. New York: Garland Publishing, 1992.

<sup>26</sup> Livia, Hall Eds., p. 431.



## **Gaps Within the Current Research**

Though conspiracy of silence within Asian narratives in general is being gradually broken (Murray, Pilling 1992; John, Nair, 1998; Giti 1999; Bose, 2002; Gupta, 2002; Ballantyne, Burton, 2009), there are topics and discourses that have to be sketched and revised in broader scope. In controversial publication of cultural psychologist Kakar Sudhir (1990), although does not explicitly take into consideration diversity of passionate attractions, denoted the gap in studies on other sexualities, stating that variances and transgressions in sexual behavior need to be examined - even if against cultural perceptions. In introductory part, similarly to contemporary LGBT activists and international relations scholars, *Intimate Relations* calls intellectuals to take closer look at sex politics (Giti, 1999; Moran, 2001; Rahman, 2015; Picq, Thiel Eds., 2015) and language of emotions and relations in the Indian puzzle (Weeks, 1995; Altman, 2001; Bhaskaran, 2004; Madhok, 2010; Dave, 2012). Allied with Sudhir, majority of researchers underline relatively large slot in the field of Asian sexual culture studies (Murray, Pilling, 1992; Martin et al., 2008;), Asia is marginalised in favour of Western countries, mainly the US.

Important explanation of gender politics is included in Charu Gupta *Sexuality, Obscenity, and Community* (2002), through analysis of literary sources of the colonial, gender historian explores roots of evident defense of ethical ideals in present day India. The account on simultaneous emergence of national and gender identity, does not mention identities out of gender binary. What is more, to understand atmosphere around, and policies on account of intimate morality, it is crucial that the narrative attempts to identify influence of Hindu nationalism on seeing sexuality (Rajagopalan, 1992; Katrak, 1992; Bacchetta, 1999; Dasgupta, 2011; Sjoberg, 2015).

## **Conclusion**

The available reflections upon sexuality, uncover few limitations. Indeed, the skeptical attitude of the academia seems to mirror social uncertainties. The lack conceivable clarifications upon nomenclature within multiple areas became apparent, and consequently the danger of further marginalization of the individuals considered is real. Recent advancements towards improvement of lives of LGBTQ community, mark complex processes. To understand those, historical legacies of tradition, indigenous cosmologies, patriarchal regime and colonialism need revisiting.

## Chapter 3 Attitudes Towards Alternative Sexualities

### Introduction

With full awareness of the histories, being potentially preclusive over the present captions, the aim of this section is to revise changing through time and spaces, levels of sensibility towards personas of non-heteronormative sexuality or gender in India. Additionally, to underline relevancy of the current discussion to some modern states, outlooks from both Indian and the Euro-American history are recalled<sup>27</sup>. To detect whether and how, both recognition and acceptance of amorous homosociality within Indian landscape shifted through various discourses, study examines intersecting constructs of gender and sexuality throughout transitioning, but long-standing cultural traditions<sup>28</sup>. It is therefore an inquiry of the way current and past narratives, political, and ideological agendas delineated the perception, moods towards, and spectrum of visibility of what some call sexual minorities.

Outlining presumed difference between “gendered” bodies and examining legal and moral consequences of same-sex amorous behavior might be crucial, but not the only way of reading evaluations on same-sex coupledness. From the origins of Indian culture, the subcontinent has seen a plenitude of regulations and unstable approaches<sup>29</sup>, contributing to change of meanings consigned to non-heteronormative behaviour<sup>30</sup>. Tracking the prescriptions and literature will not reveal the actual support and honoring of suggestions in practice<sup>31</sup>. Everyday experience, many-sided quintessentialities and abstractions around gender, problematize understanding of sexuality even further<sup>32</sup>.

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<sup>27</sup>See also: Appendix.1.

<sup>28</sup>Variety of cultural and social traditions in India is enormous; many remain beyond the scope of the paper.

<sup>29</sup>Dasgupta, Rohit K. *Queer Sexuality: A Cultural Narrative of India's Historical Archive*. In: Rupkatha Journal on Interdisciplinary Studies in Humanities, Vol. 3, No. 4, 2011, pp. 651-670, p. 651.

<sup>30</sup>West, Donald J. *Homosexuality Re-Examined*. London: Duckworth, 1977, p. 119.

<sup>31</sup>Boswell, John. *Christianity, Social Tolerance, and Homosexuality: Gay People in Western Europe from the Beginning of the Christian Era to the Fourteenth Century*. Chicago: University of Chicago Press, 1981, p. 22.

<sup>32</sup>Sanders, Todd. *Rains Gone Bad, Women Gone Mad: Rethinking Gender Rituals of Rebellion and Patriarchy*. In: The Journal of the Royal Anthropological Institute, Vol. 6, No. 3, 2000, pp. 469- 486, p. 470.

### 3.1. Essential Notes on Gender and Sexuality

In mainstream understanding of gender and sexuality, preserved in (non-dualistic) Hindu philosophy, the divine (Brahman) is transcending beyond notions of femininity and masculinity<sup>33</sup>. Gods and goddesses of puranic pantheon in devotional literature of middle ages and late antiquity compromise all gender possibilities<sup>34</sup>. Alternatively, dualistic Samkhya outlook introduces two independent substances; the connection between them creates the keystone of the world<sup>35</sup>.

Situational, temporary, and social context-dependent expressions of gender, are visually coded<sup>36</sup>, therefore culturally assigned, and might or might not be appointed to biological sex<sup>37</sup>. Even through reading performances of gender, it is impossible to track desire, gender, and sexual identities. Further, in India class and caste<sup>38</sup>, not biological or cultural gender, conveying the sources of power<sup>39</sup>. Similarly, in ancient Hindu and Buddhist<sup>40</sup> texts, which negotiate rebirth, it is less disrupting to change class, caste, and even species than sexuality<sup>41</sup>.

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<sup>33</sup>Kelkar, Meena. *Man-Woman Relationship in Indian Philosophy*. In: Indian Philosophical Quarterly, Vol. 26, No. 1, 1999, pp. 71-88. [Access](#).

<sup>34</sup>Vanita, Kidwai Eds., p. 73.

<sup>35</sup>Purusha (neutral, conscious) is seen as masculine and activates Prakriti (unconscious) feminine matter. Kelkar, pp. 77-79. Natarajan, Kanchana. *Desire and Deviance in Classical Indian Philosophy: A Study of Female Masculinity and Male Femininity the Tamil Folk Legend Alliyarasanimalai*. In: Wieringa et al. *Women's Sexualities and Masculinities in a Globalizing Asia*. New York: Palgrave Macmillan, 2007, pp. 47-68, pp. 51-53.

<sup>36</sup>Channa, Subhadra Mitra. *Gender in South Asia: Social Imagination and Constructed Realities*. Delhi: Cambridge University Press, 2013, p. 12.

<sup>37</sup>Idem, p. 202.

<sup>38</sup>Note on the caste system: "The caste system of India, having lasted for around 3,500 years, has proved to be one of the most enduring of Indian institutions. Despite India's rapid economic development in recent decades, it still insinuates itself into the social, economic, and political fabric of the country". Binder, Chris. Eswaran, Mukesh. *A Gender-Based Theory of the Origin of the Caste System of India*. May 5, 2014, pp. 1-44, p. 2. [Access](#).

<sup>39</sup>Channa, 2013, pp. 202-203.

<sup>40</sup>Some of the spokesman of a Buddhist, are openly gay or lesbian in liberal Western Buddhist communities (Gross, p. 1389). While the analysts are trying to re-read doctrinal literature of Buddhism, which traditionally endorses both privilege of men over women and heterosexuality (Gross, p. 1387). Gross, R.M. *Buddhism and Gender*. In: Smelser, Neil. Baltes, Paul. Eds. *International Encyclopaedia of the Social & Behavioural Sciences*. Oxford: Elsevier, 2001, pp. 1386-1390.

<sup>41</sup>Vanita, Ruth. *Love's Rite: Same-Sex Marriage in India and the West*. New York: Palgrave Macmillan, 2005, p.78.

### 3.2. Medical Literature of Middle and Late Vedic Period

The literature upholding the span of the 15th-17th centuries BCE holds remarks on alternative sexuality<sup>42</sup>, with cues on symbolic flexibility of sexes, polygyny, polyandry, and miraculous births. Early medical writings (the 10th-8th centuries BCE), Buddhist texts in Pali, and Sanskrit, Jaina works in Sanskrit and Prakrit, next to Shastras and Sutras were part of tangled paths defining socio-sexual relations<sup>43</sup>.

Consideration of synonymously used sanskritic words: *qliba*<sup>44</sup>, *sandh(y)a(ka)* and *napusa(ka)*<sup>45</sup>, occurred in the classical age with the development of ayurvedic medicine. Chakara systematizes the terms as: “hermaphrodites, people who pursue non-conventional sexual actions (e.g. usage of aphrodisiacs), or people who are sexually and/or anatomically anomalous (e.g. bent penis, lack of testicals or semen) or suffer from sexual dysfunctions”<sup>46</sup>.

Gender behavior and a coital role defined the sexual other of Vedic period<sup>47</sup>. Range of sexual varieties is encapsulated under the term *sandhya(ka)*. Sushruta considers *sandhya(ka)* playing a receptive role in male-to-male penetrative amorous coupling or someone who enjoys performing *fellatio* (Lat.)<sup>48</sup>. Anxiety of being polluted with excrements might explain why oral erotic activity appears more often in

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<sup>42</sup>Sahgal, Smita. *Exploring the Beneficiaries: A Gendered Peep into the Institution of Niyoga in Early India*. In: Indian Historical Review, Vol. 39, No. 2, 2012, pp. 163–198, p. 165.

<sup>43</sup>John, Mary. Janaki, Nair. *A Question of Silence?: The Sexual Economies of Modern India*. New Delhi: Kali for Women, 1998, p. 55. Those traditions are captioned in other languages of india, including Tamil.

<sup>44</sup>*Kliblava, kliba, qibla* might derive from the adjective “klīv” (impotent). Loh, Ung Jennifer. *Narrating Identity: the Employment of Mythological and Literary Narratives in Identity Formation among the Hijras of India*. In: Religion and Gender, Vol. 4, No. 1, 2014, pp. 21-39, p. 29.

<sup>45</sup>Relating to: transvestite, homosexual, bisexual, transgender and intersex. Note: Terms used for present day understanding should not be seen as synonyms to: *qliba, sandhya(ka), napusa(ka)*. Sweet, Michael. Zwilling, Leonard. *The First Medicalization: The Taxonomy and Etiology of Queerness in Classical Indian Medicine*. In: Journal of the History of Sexuality, Vol. 3, No. 4, 1993, pp. 590-607, p. 592.

<sup>46</sup>“Eight gender abnormalities: 1.The true hermaphrodite, having both male and female genitalia. This condition is believed to result from the parents contributing equal portions of the male and female generative fluids, semen and blood, the predominance of which was held to determine the offspring's gender, as male or female, respectively; 2.The man with a "windy organ (that is, having no semen); 3.Those who employ special means such as aphrodisiacs for obtaining sexual potency; 4.The effeminate homosexual male; 5.The masculine lesbian female; 6. The man with a bent penis, which is believed to result either from the mother's lack of desire for intercourse or from the weakness of the father's seed; 7.The voyeur; 8.The man born without testicles and therefore sterile”. Sweet, Michael. Zwilling, Leonard. 1993, p. 593.

<sup>47</sup>Idem, p. 595.

<sup>48</sup>Boyce, Bret. *Sexuality and Gender Identity Under the Constitution of India*. In: Journal of Gender, Race and Justice, Vol. 18, No. 1, 2015, pp. 1-64, pp. 3-4.

literature than anal intercourses, anal sex, also in Kamasutra, is regarded as a domain of preliminary heteronormative relations<sup>49</sup>.

Sexual behavior of a voyeur, effeminate male who desires another or masculine woman enjoying a woman (*narisandha*, *sandha*, *sandhi*) correspond to *sadhakas*<sup>50</sup>. Therefore, a feminine behavior and attire of men is something different from passive role during intercourse, although other sources tend to conflate the two. “Feminine *narisandhas*” are not mentioned, simultaneously “mannish *sandhi*” is regarded as “hateful of men” and “breastless”. Sushruta recognizes rubbing vulvae against each other as a form of lovemaking between two women. Intercourse of such might result in offspring<sup>51</sup>. Medical corpus of literature upholds the claim of venereal diseases and impotence are a result of oral penile sex practice<sup>52</sup>. Furthermore, gender identities are not considered<sup>53</sup>, which suggests behavior occurring independently from one’s self-apprehension. All the dysfunctions mentioned are said to be a result of purely biological reasoning<sup>54</sup>, for this reason, the texts support pathologizing view on gender and sexuality variance.

Traditional Indian medical thought corresponds to the later focus on same-sex preference - it is an organic disorder which includes psychological component<sup>55</sup>. Phenomena of queerness (*qliba*, *napumsaka*) considered an embryonic abnormality, pronounce the recognition of sexuality as not the matter of choice, at the same time of importance are specific personal traits<sup>56</sup>, rather than identity.

### 3.2.1. “Third Gender” in the Late Vedic Period

The idea of the “third gender” was recognized in the later Vedic period (the 8th-6th centuries BCE), then gradually inherited and vividly discussed by the Jain

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<sup>49</sup>Sweet, Zwilling, 1993, pp. 596-597.

<sup>50</sup>*Sandhakas* in the understanding of Sushruta, but not Chakara. Sweet, Zwilling, 1993, p. 597.

<sup>51</sup>Miraculous birth may therefore occur as a result of female-female coitus. Ibidem.

<sup>52</sup>Sweet, Zwilling, 1993, p. 594.

<sup>53</sup>Idem, p. 599.

<sup>54</sup>For example embryonic damage or speculations on unequal distribution of generative liquids, unwillingness to participate in the intercourse (rape) that led to conception of “dysfunctional unit”. Both “lesbians” and effeminate men are said to be born during intercourse in which female takes and active position, male a passive one (“reversed position”). Idem, pp. 593-597.

<sup>55</sup>Zwilling, Leonard. *Homosexuality as Seen in Indian Buddhist Texts*. In: Cabezón, José Ignacio Ed. *Buddhism, Sexuality, and Gender*. Albany: State University of New York Press, 1992, pp. 203-214, p. 206.

<sup>56</sup>Sweet, Zwilling, 1993, pp. 603-604.

heterodoxy<sup>57</sup>. *Napumsaka*, originally the third grammatical gender, addresses to men unable to reproduce, effeminate men, and well acquired group of males within institutionalized female roles<sup>58</sup>. Seeing *napumsaka* as “not a male - not a female”, marks their ambiguous sex<sup>59</sup>. The notions of *napumsaka* go further with feminine *napumsakā* – equaled with *qliba* and less often *pandaka*. *Purusha napumsaka* (masculine *napumsaka*) was said to perform both roles while lovemaking. In this manner sexual behavior ascribed *napumsaka* to the group of “third gender”<sup>60</sup>.

Homologous to the “unmale” (*napumsaka*), delineations of the “third gender” including all neuter in grammatical gender: *tritiya*, *trairashika*<sup>61</sup>, *tritiya prakriti*<sup>62</sup> - understood as “homosexual transvestite”<sup>63</sup>, surfaced next to the existing expressions now tied to transvestite art performers: *qliba* and *pandaka*<sup>64</sup>.

### 3.3. Sexual Preference and Gender Self-Awareness in Jain and Buddhist Thought

#### 3.3.1. Same-Sex Feelings and Sexuality in Jain Pre-Schism Thought

Buddhist and Brahmanical perspectives suggest either absence or presence of primary and secondary (biological) as sex indicators of allocation of sex, yet this direction was not shared within the Jain canonical literature<sup>65</sup>.

In the early Jain thought<sup>66</sup>, it is neither the behavior, nor the looks or genitalia, but one’s self-apprehended sexuality, “sexual orientation” and “identity” being seen as

<sup>57</sup>Thadani, Giti. *The Politics of Identities and Languages: Lesbian Desire in Ancient and Modern India*. In: Blackwood, Wieringa, Eds. *Female Desires. Same-Sex Relations and Transgender Practices Across Cultures*. New York: Columbia University Press, 1999a, pp.67-90, p. 68.

<sup>58</sup>Dancers, singers and subsequently prostitutes. Sweet, Michael. Zwilling, Leonard. *“Like a City Ablaze”: The Third Sex and the Creation of Sexuality in Jain Religious Literature*. In: *Journal of the History of Sexuality*, Vol. 6, No. 3, 1996, pp. 359-384, pp. 362-364.

<sup>59</sup>“Neither male nor female” mostly refers to hijras in contemporary India (More: Nanda, Serena. *Neither Man Nor Woman: The Hijras of India*. Belmont: Wadsworth, 1990). More: Sub Chapter: 3.4. *Gender and Sexuality in Shastras and Sutras*.

<sup>60</sup>Sweet, Zwilling, 1996, pp. 373-374.

<sup>61</sup>Meaning: third, third heap. Idem, p. 363

<sup>62</sup>Meaning: “of a third nature”. Penrose, Walter. *Hidden in History: Female Homoeroticism and Women of a “Third Nature” in the South Asian Past*. In: *Journal of the History of Sexuality*, Vol. 10, No. 1, 2001, pp. 3-39, p. 12.

<sup>63</sup>Also recognized in *Kamasutra*. Zwilling, 1992, p. 211n3.

<sup>64</sup>Known in medical treatises, Satapatha Brahmana of the 8th century BCE Buddhist Vinaya (the 5th-4th centuries BCE), sanskrit *Kamasutra* (the 4th century BCE – the 2nd century CE) and *Arthashastra* (the 4th-3rd centuries BCE). Idem, p. 205, p. 211 n 3.

<sup>65</sup>Idem, p. 365. Boyce, B., pp. 9-10.

<sup>66</sup>Dated before the Jain schism (4th-5th centuries BCE). Sweet, Zwilling, 1996, p. 371.

the keystone of one's sexual behavior and the marker of sex. These theoretical, rather than empirical rationales forbid sexual intercourse or erotic activities in monastic context. "Third gender" personas could attain liberation, in addition satisfying sexual needs through same-sex sex was not one's designation to this category - it was (partially) the feeling (*veda*) towards both binarily recognized sexes<sup>67</sup>.

Transpiring urgently after Vedic period, the vivid debate of Jain masterminds resulted in blurring gender dualism through acknowledgement of "sexual orientation", sexual feeling (*veda*) and the impression of *dravya* (material basis of the person) and *bhava* (emotional inner state). Anyone could have a third sex feeling - no matter the biological sex<sup>68</sup>, therefore these concepts, to some extent gave recognition to diverse sexualities and genders<sup>69</sup>.

### 3.3.2. Ambiguous Bodies, Sexual Activity and Sexuality in Early Buddhist Tradition

In Indian Buddhist and Jain tradition debate on gender and sexuality emerged within context of possibility for different sexual and gender identities to attain the liberation and to enter the order. The dichotomy of gender was set to monitor the admission, the ones that did not meet one of the ends of polarized division: masculine - feminine, were not certified for the Buddhist initiation. It is difficult to make a statement on Buddhist laity of alternative sexuality or desires<sup>70</sup>, since there was no strict code of behavior for non-monastics<sup>71</sup>.

*Puggalappadasu Dutta* and *Anguttara Nikaya* contain warning against homoerotic desires, while in general "sexual orientation" is considered "organic"<sup>72</sup>. Vinaya<sup>73</sup> texts in Pali and Sanskrit<sup>74</sup> catalogue various sexual dysfunctions ascribed to

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<sup>67</sup>There is no accord of bisexual practices of the third nature. Idem, p. 370.

<sup>68</sup>Vanita, Kidwai Eds., pp. 24-25.

<sup>69</sup>For instance, people with masculine *dravya* (the body) and feminine *bhava* (the inner). Roy, Kumkum. *The Power of Gender & The Gender of Power: Explorations in Early Indian History*. New Delhi: Oxford University Press, 2010, pp. 207-208.

<sup>70</sup>Gross, p. 1387.

<sup>71</sup>Ibidem.

<sup>72</sup>Zwilling, p. 209.

<sup>73</sup>Vinaya is a compendium of monastic Buddhist and Jainist laws, rather a set of suggestions for expected behavior of an individual, than a strict doctrine, parts of which were strongly informed by Brahmanical sources. Sweet, Michael J. Zwilling, Leonard, 1993. Voyce, Malcolm. *From Ethics to Aesthetics: A Reconsideration of Buddhist Monastic Rules in the Light of Michel Foucault's Work on Ethics*. In: *Contemporary Buddhism: An Interdisciplinary Journal*, Vol. 13, No. 5, 2015, pp. 1-31.

*pandaka*; compared to present day voyeurism, impotence, and homosexuality<sup>75</sup>. In essence, classical Indian Buddhist thought mirrors the taboos of pre-modern Indian society - there is little information about people with sexuality other than majority<sup>76</sup>; and the known ethical approaches towards sexual activity among Buddhist differ<sup>77</sup>.

At large, the attention was brought to the state of mind leading to intercourse, rather than the act itself<sup>78</sup>. Declaration of illegality of same-sex relations was a later extension written by the Buddhist authorities. What is known, is that *pandakas* (or *sandhas*) in the eye of The Lotus Sutra are not formally recognized as the part of Sangha<sup>79</sup>. They are prohibited from hearing preaching and giving donations to monks and nuns. Stigma amplifies with reading of The Questions of Milinda - *pandakas* are unable to understand Dharma at all<sup>80</sup>.

The undetermined gender of *pandaka* is mirrored in assumed inconclusive sexuality, notions of the ambiguous body transpire onto judgments on the inner-self. The desire attached to them is considered either “too strong to follow the Buddhist path” or “too weak to take a position of an objector”<sup>81</sup>. *Pandaka*, discussed in Vinaya, are full of passion towards both sexes, and failed to fulfil the male role (equal to denial of maleness) and as such, are compared to depraved or sexually liberated females<sup>82</sup>. *Pandaka* is not considered distinct from normative sexualities and is not defined by the carnal activity<sup>83</sup>. The early Buddhist monastic sources<sup>84</sup> pronounce five<sup>85</sup> branched

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<sup>74</sup>Combined by various thinkers roughly around beginning of a present milieu. Gyatso, Janet. *One Plus One Makes Three: Buddhist Gender, Monasticism, and the Law of the Non-Excluded Middle*. In: History of Religions, Vol. 43, No. 2, 2003, pp. 89-115.

<sup>75</sup>Boyce, B., p. 9.

<sup>76</sup>Gyatso, p. 93.

<sup>77</sup>Boyce, B., p. 9.

<sup>78</sup>Idem, p. 10.

<sup>79</sup>Zwilling, 1992, p. 208.

<sup>80</sup>Questions of Milinda. [Access](#)

<sup>81</sup>Gyatso, p. 99, p. 98n22.

<sup>82</sup>Zwilling, 1992, p. 205.

<sup>83</sup>Gyatso, p. 97.

<sup>84</sup>For example: Buddhaghosa *Samantapasadika*, Asanga's *Abhidharmasamuccaya* and Yasho Mitra's commentary to *Abhidharmakosa*. Sweet, Zwilling, 1993, p. 598n26.

<sup>85</sup>There is no precise definition of *pandaka* in the canon. It is misread and read both as “eunuch” and as a person who involuntarily feels desire towards men for half of a month, towards women for the rest, women *pandaka* is ascribed to this group based on her irregular menstruation or difficulty with having progeny. Lifespan transformative sexuality due to initiation - for example: desire towards men raised after having oral sex or watching same-sex sexual activities (voyeurism) marks another *pandaka*. Boyce, B., p. 9. Gyatso, p. 94, p. 97.



classification *pandakas*<sup>86</sup>, where *napumsaka pandaka* is considered the only impotent and incapable of obtaining sexual pleasure<sup>87</sup>.

Buddhaghosa's *Samantapasadika*, and corpus of literature throughout the following ages confuses intersexuality (*ubhatobyanjanata*) with the equivalent of today's "bisexuality" and "homosexuality", doing so through grafting of feminine hermaphrodites' desire onto both male and female; and more, through coinciding masculine hermaphrodite with attraction towards women.

Next, only *Abhidharmasamuccaya* mentions men as a forbidden sexual object for other men, when it comes to types of non-procreative acts within sexual misconduct (*kamamithyacara*). Within conventional framework, the manner Buddhaghosa expresses notions of homosexuality as a "wrong conduct" (*micchadharma*), and attaches it to the quality of the lived-in era, is similar to what is done in Mahabharata, reflecting the times of decline<sup>88</sup>.

Engaging in dispute on gender and sexuality, Vinaya passages seem to carry a medical tint<sup>89</sup>, concurrently cases of sexual dysfunction of *pandaka* are a result of bad karma<sup>90</sup>. Pre-Buddhist folk tales – Jatakas<sup>91</sup>, propose more emotive outlook on relations between men. Primarily, it acknowledges the need of renunciation of hetero-proper life path, on the course of which one might join a beloved companion or a close same-sex friend<sup>92</sup>.

### 3.3.3. Female Same-Sex Relations

Recognition of lesbianism in Buddhist doctrine is questionable, the monastic rules for nuns (*Bhikkhu Vinaya*) contain fewer references to homosexual acts, than those for monks. There are accords of nun's transvestism with intent of pursuing sexual activity with another woman and this action is punishable. Yet Vinaya does not

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<sup>86</sup>Zwilling, p. 204. Gyatso, pp. 95-97.

<sup>87</sup>*Usuipandaka* (Sans. voyeurism); *pakka pandaka* (Sans. impotent for half of the month); *assittapandka* (*asekappandaka*) (Sans. enjoys fellation); *opakkamikapandka* (Sans. experiences sexual pleasure through special skills or tools). Zwilling, pp. 204-205.

<sup>88</sup>Zwilling, pp. 206-209.

<sup>89</sup>Gyatso, pp. 95-97.

<sup>90</sup>Boyce, B., p. 9.

<sup>91</sup>Jatakas were known in the 3rd century BC, but not compiled until the 5th century BC. Vanita, Kidwai Eds., 2000, p. 358.

<sup>92</sup>Zwilling, p. 209.

categorize female desires<sup>93</sup>, only mildly punishes mutual masturbation between nuns. There are no laws directed specifically at lesbian activity, though there are restrictions decreasing the chances of its occurrence<sup>94</sup>. Sex-negative in general<sup>95</sup>, Vinaya penalties are hierarchized accordingly to the specific act and the person involved. Relatively smaller punishment met those who shared erotic experience with *pandakas* (in comparison to lovemaking with female); the highest fines met those who shared sexual pleasure with men. Expulsion from the order (Sangha) is a punishment for penetration with emission, minor punishments meet those who indulge in self-pleasuring or engage in non-orgasmic activities such as touching one's genitals. Indeed, those qualifications might suggest bias targeting women. In contrast, female-female sex might have been more accepted, since there is no ejaculation involved. Accordingly, male-male erotic play might have been considered a better option than male-female sex<sup>96</sup>.

### 3.4. Gender and Sexuality in Shastras and Sutras

Hinduism is said to be rather positive regarding gender and sexuality, the scriptures underline that all people have female and male essence. Mythical accords on lives of both divine creatures and humans recall instances of sex change, and tales of gender-ambiguous bodies<sup>97</sup>. Ancient considerations include further categorization of the third sex<sup>98</sup>. Indian mythological body treats transformation of women into men with more reserve than that of men into women<sup>99</sup>. Furthermore, those descriptions mostly stress the “lack” of a specific trait connected to the reproductive activity<sup>100</sup>, not the significance of the sexual behavior, identities, gender roles or sexual preferences.

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<sup>93</sup>Faure, Bernard. *The Red Thread, Buddhist Approaches to Sexuality*. Princeton: Princeton University Press, 1998, p. 216.

<sup>94</sup>For example: two nuns are not allowed to share one bedsheet. Zwilling, p. 207.

<sup>95</sup>Ascetics within the spiritual and theoretical entities considered, did not advise any kind of sexual activity on the grounds of worldly attachment, both heteronormative and non-heteronormative sensual behaviours (except for tantric esotericism) (Zwilling, p. 210), were condemned as they threaten the attainment of enlightenment. Roy, R., p. 206.

<sup>96</sup>Zwilling, p. 207. It remains uncertain if at that time female ejaculation was acknowledged.

<sup>97</sup>Nanda, 1990, pp. 20-21.

<sup>98</sup>For example: male “eunuch” (“of desiccated testes”); the castrated male; the hermaphrodite and the female “eunuch” “without genitalia” - mostly the one that does not menstruate (Nanda, 1990, p. 21). In fact intentionally emasculated were barely familiar in pre-Muslim era: *napumsaka*, *qliba*, *sandha* and *tritiyam prakritim*, since not castrated on purpose should not be considered eunuchs. Zwilling, p. 204.

<sup>99</sup>Other traditional identities lack specific cultic associations and are instead connected to particular sexual practices or gender representations. Boyce, B., p. 25.

<sup>100</sup>Mainly, absence of testicals or lack of presence of conceptive organs of both sexes (hermaphrodite), nevertheless possessing ability to menstruate and to produce semen. Sweet, Zwilling, 1993, p.593.

Modern day “third gender”, or hijra, track their origin back to apprehensions of *napumsaka*, *qliba*, and *tritiyam prakritim*. Acknowledgements of their social position and auspiciousness in chapters of Mahabharata and Ramayana, designate hijras as neither male nor non male, neither female”, or “non-female and both male and female”, “non-male and non-female”<sup>101</sup>.

The voices of non-hetero-normatively inclined are highly mediated in the literature. Prescriptive sanskritic texts located within brahmanical tradition<sup>102</sup>, as well as retellings of the records of non-brahmanical rites (Mahabharata, Ramayana), followed by the later commentaries to those works, laid down norms in various shades of permissivity for diversity of erotic practices<sup>103</sup>.

Sanskritic sources discussed in the following section provide scope for exploring gender relations. General literary and artistic representations of sexuality do not stabilize gender roles in sexual act, additionally little sexual repressions are set (if any) on non-reproductive erotic activities<sup>104</sup>. The texts need to be understood in a specific socio-economic context of cultural and material prosperity<sup>105</sup> - illustrated by increasing stratification of the society, emergence of the new urban spaces. The situation as such, might have pushed law-givers (urban elite) to codify norms and practices, including multiple, often incoherent voices<sup>106</sup>. The normative patterns had their own territorial alterations, while socio-cultural landscape of the rural sexuality remains beyond the spotlight<sup>107</sup>.

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<sup>101</sup>Lal, Vinay. *Not This, Not That: The Hijras of India and the Cultural Politics of Sexuality*. In: *Social Text. Out Front: Lesbians, Gays, and the Struggle for Workplace Rights*, No. 61, 1999, pp. 119-140, p. 123, p. 125, pp. 130-131.

<sup>102</sup>Shastras: Dharmashastra or Manava Dharmashastra (the 2nd century BCE – the 1st century BCE), Kautilya’s Arthashastra (the 4th century BCE – the 2nd century BC), Vatsyayana’s Kamasutra (the 3rd century BCE). Boyce, pp. 5-8.

<sup>103</sup>Roy, R., p. 3.

<sup>104</sup>Kakar, 1990, p. 166.

<sup>105</sup>Vanita, Kidwai Eds., p. 46.

<sup>106</sup>John, Janaki, p. 54.

<sup>107</sup>Roy, R., p. 208.

### 3.4.1. Same-Sex Sexual Interaction in Brahmanical Traditions<sup>108</sup>

Ancient or medieval notions of behavior of the “third gender” (exclusive or not) are closely related to the passages handling oral sex, which constitutes a model for carnal interaction within same-sex unions and for “third gender”<sup>109</sup>.

The early Hindu worship encapsulated in tales from Vedas, Brahmanas, and Upanishads, shows that consumption constitutes the symbolic chain of relations. Food exchange between all beings, including immortals, caused miraculous births in Ramayana, Mahabharata, and Puranas. Those premises led Ruth Vanita to conceptualize feeding as the source of primacy of oral sex in ancient texts, simultaneously kissing the ejaculation spot is considered polluting. Vatsyayana, states it is proper to follow same-sex attraction, if a local custom and personal ever-changing inclinations allow<sup>110</sup>. However, often the doctrine of individual dharma remains in disaccord with the doctrine of social dharma<sup>111</sup>.

#### Kamasutra 4th BCE - 2nd BC

Regulation of lust in The Sutras Concerning Kama suggests that what is inadvisable might be permitted<sup>112</sup>. In general, Kamasutra treats the ambiguity of sexual identity with neither angst nor correction. Vatsyayana, to whom the compendium is

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<sup>108</sup>While punitive *Dharmashastra* and *Arthashastra* consider accordingly: socio-religious norms and polity, Kamasutra regulates all types of desire (*kama*) including sexual (Thomas, p. 169), those texts mostly do not apply to lower and non-Aryan castes, customs included in those epitomes had equal validity to the common law. Thomas, Paul. *Indian Women Through the Ages: a Historical Survey of the Position of Women and the Institutions of Marriage and Family in India from Remote Antiquity to the Present Day*. London: Asia Publishing House, 1964, p.235.

<sup>109</sup>Penetrative acts (such as anal intercourse) constituted this model later on. Here, the visual demeanor of the third sex male (either feminine or masculine) makes no difference to his occasional or regular longing for men and performance of *auparashataka* (Vanita, Kidwai Eds., p. 51). Occupation as hairdressers and masseurs is said to be common among those who possess masculine characteristic and desire men, they as well as male servants perform hierarchical one way (not reciprocal) oral stimulation (Idem, p. 27, pp. 50-51). Mutual act of oral sex (*sadharana*) is described to occur between two trusted friends (male city dwellers), while women engage in mutual licking in the realm of women's quarters of the household. Idem, p. 52.

<sup>110</sup>Likewise for those who revisit courtesans and struggle with evoking an erection. Idem, pp. 51-53.

<sup>111</sup>Vanita, Ruth. *Same-Sex Weddings, Hindu Traditions, and Modern India. Queer Spirituality and Politics*. (Essay). In: Tikkun, Vol. 25, No. 4, July/August, 2010, pp. 43-45. [Access](#).

<sup>112</sup>Vanita, Kidwai Eds., p. 47.

attributed<sup>113</sup>, underscores that multiple standpoints are possible and legit; interestingly no sanctions for deviations are mentioned<sup>114</sup>.

Attitudes towards people and their sexual behavior emerge as the passages catalogue and categorize intimate acts. Sutra XII drains multiple possibilities of what some would call today non-normative sex: “The organs of action are the tongue, the hand, the foot, the anus, and the sexual organ”<sup>115</sup>. Anal copulation or penetration between the thighs is ascribed to both men and women<sup>116</sup>. Handling an instrument, or using hands to access or to play with vulva of another female is conceded in Sutra XIX<sup>117</sup>. The erotic acts described, are recommended to be performed or not, depending on personal way of thinking, but also the context: literature, the place and time.

### **Socio-Sexual Norms in Dharma Shastra (Manusmriti) and Arthashastra**

*Arthashastra* mentions non-vaginal sex (*ayoni*) as punishable for any person. Considerably, the sanction in the broader context regarding sexuality is the lowest, suggesting minority of this offence. What is more, women who have sex with each other are burdened with a lower fine than men who have sex with men. Instances of adultery and rape or abduction, and that is also true in *Manusmriti*<sup>118</sup>, same-sex and cross-sex sex division is set aside within nonconsensual precedents<sup>119</sup>.

While *Arthashastra* makes no particular distinction between oral/anal sex occurring between men or between women, The Sastras About Dharma, although harsher in judgement of alternative erotic behavior<sup>120</sup>, are more occupied with the location and timing of the love play, and consider themes of semen anxiety<sup>121</sup> and

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<sup>113</sup>Actual authorship belongs to multiple writers, contributors are mentioned by Vatsyayana. For this analysis Danielou's translation is used. Danielou, Alain (Trans.) *The Complete Kama Sutra: The First Unabridged Modern Translation of the Classic Indian Text*. Rochester: Inner Traditions, 1994.

<sup>114</sup>Vanita, Kidwai Eds., pp. 46-47.

<sup>115</sup>Danielou, p. 30.

<sup>116</sup>With usage of a dildo or other phallic object in case of a woman and also some of the men. Vanita, Kidwai Eds., p. 49, p. 52.

<sup>117</sup>Danielou, p. 173.

<sup>118</sup>The later text rooted in Dharmashastra.

<sup>119</sup>Vanita, Kidwai Eds., pp. 25-26.

<sup>120</sup>Siker, Jeffrey, Ed. *Homosexuality and Religion*. An Encyclopedia. Westport: Greenwood, 2006, p. 9.

<sup>121</sup>Wadley, Susan, S. *One Straw from a Broom Cannot Sweep: The Ideology and Practice of the Joint Family in Rural North India*. In: Mines, Diane P. Lamb, Sarah E., Eds. *Everyday Life in South Asia*. Bloomington & Indianapolis: Indiana University Press, 2002, pp.14-25, pp. 11-22.

importance of virginity. Principally, there are no restrictions banning oral sex or manual mutual stimulation. A man who engages in amorous coition with either woman or another man in a bull chart, water (a polluting act<sup>122</sup>) or during the daytime, faces a low punitive measure<sup>123</sup>. In The Book of Manu homoerotic behavior of women meets with more sanctions than those of men<sup>124</sup>. Even though Manusmriti mentions that traditionally same-sex pairing was causing the loss of the caste, the text shows relatively low legal and social consequences of such behavior, except for the instance of mutual defloration of virgins<sup>125</sup>. Fasting of one night and five cow-based meals are to reprimand the one who casts off his semen in something else than vagina (e.g. water or a man)<sup>126</sup>. What is interesting is the fact that *Dharmashastra* is more revengeful of anal sex within heterosexual union than towards same-sex intercourses<sup>127</sup>. In addition, “homosexuality” is set within moral sins like adultery, thievery, killing, or lying, and consuming intoxicants<sup>128</sup>.

### 3.5. Same-Sex Behavior in Medieval Sanskrit Tradition

#### 3.5.1. Late Antiquity and Early Medieval Period

Compendium of the fundamental religious stories, legends, and myths, Puranas<sup>129</sup>, did not introduce the audience to the new concepts. Nevertheless it rearranged the idea of the divine forces, as well as humans, remaining transcendent towards gender, purity, race, and class. The verses stretch the existing spectrums in ways that allow gods and goddesses to be part of the mundane world<sup>130</sup> and likewise for

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<sup>122</sup>Kamasutra says such acts are not recommended by the texts, but permitted, Vanita, Kidwai Eds., p. 51.

<sup>123</sup>The punishment consists of bathing with clothes on. Idem, p. 25.

<sup>124</sup>Siker, Ed., p. 9.

<sup>125</sup>Double the dowry must be paid, followed by ten whiplashes. In case of those who manually deflower a virgin, no matter the sex of a doer, he or she should have two fingers cut off. Vanita, Kidwai Eds., pp. 25-26. Note: “Third gender” as a doer is not considered.

<sup>126</sup>While the same penalty meets a man who discards semen in non-human female or menstruating woman, this penalty is also laid down for stealing articles of a small value. Ibidem.

<sup>127</sup>Siker, Ed., p. 9.

<sup>128</sup>Jones, Richard. *Theravāda Buddhism and Morality*. In: Journal of the American Academy of Religion, Vol. 47, No. 3, 1979, pp. 371-387, p. 372.

<sup>129</sup>Complied roughly between 4th and 14th centuries BC.

<sup>130</sup>Vanita, Kidwai Eds., p. 58.

people to break these essential categories. Puranic stories, correspondingly the tales of Mahabharata and Ramayana still give shape to lives of many Indian people<sup>131</sup>.

Gender, might be now considered another piece of clothing, passing away after death<sup>132</sup>. During the middle ages, Vishnu, Shiva (*Ardhanarishvara*) and Devi came to be worshipped, Shaktism, and Tantrism renewed with references to the previously forgotten feminine pre-Aryan cosmogonies<sup>133</sup>. Puranas by underlining the concept of *leela*<sup>134</sup>, with non-judgmental attitude allow customarily shameful acts to pass as innocent<sup>135</sup>. Sex-change of men into women, possible through rebirth, a necessity process to play with Krishna<sup>136</sup>, became a recognizable theme, so was the amorous attraction of Shiva towards Vishnu (Mohini)<sup>137</sup>, similarly Shiva abrogates his male gender in favor of a female being, as to please his spouse Parvati. What is more, tales of miraculous births, as a result of same-sex interaction seem to legitimize such unions<sup>138</sup>. Tamil deity Murugan (Sanskritic Kartikeya) is both married and celibate, proving that one does not exclude another<sup>139</sup>.

Simultaneously medieval age, with dogmas of patriarchy followed by the growing insistence on rituals and progressing medicalization of the body, normalized binary construction of gender and heterosexuality - defining males sexual activity by penetrative function of phallus and females sexuality reduced to reproductive function with special emphasis on bearing sons. With harsher attitude towards autosexuality

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<sup>131</sup>Lal, V., p. 123.

<sup>132</sup>Idem, p. 65.

<sup>133</sup>In pre-Vedic times described in Mahabharata, marriage had nothing to do with sexual freedom of women. The textbooks of puranic Hinduism reflecting respect towards women in Vedic times (Thomas, p. 44-45). combined Aryan and non-Aryan sacred and profane traditions (Thomas, pp. 118-119). In addition, goddesses were now identified with the general ideas of cyclic and transformative outflow, physical intimacy and diversity within the sphere of unity. Thadani, 1999a, p. 76, p. 86. Thomas, 1964.

<sup>134</sup>Divine, often erotic play. Vanita, Kidwai Eds., p. 61.

<sup>135</sup>Idem, pp. 61-62.

<sup>136</sup>In Vaishnava text *Padma Purana* (re-read Mahabharata), Arjuna changes over into Arjuni to get to know Krishna's secret, ethos of the loving companions in the epic is seen through the scope of the dominant at that time intimate-erotic devotion, in which female embodiment is one of the ways to harmonize with the divine (here Krishna). Idem, pp. 90-91.

<sup>137</sup>The 8th-9th centuries. Vishnu takes the feminine form of Mohini (Idem, p. 69). Sexual *ayoni* play between Shiva (Hara) and Mohini (Hari) according to some legends resulted in miraculous birth of Hari-Hara-Putra - Ayappa (Idem, p. 66). In Skanda Purana, Shiva Purana and Mahabharata, Kartikeya is said to be born from the semen of Shiva implanted in Agni. Both deities considered masculine. Idem, pp. 77-79.

<sup>138</sup>Idem, p. 66.

<sup>139</sup>Vanita, Kidwai Eds., pp. 77-78, p.78n5.

(regarded as a sin), also women as bearers of purity, race, and caste<sup>140</sup> - sexuality was cultivated socially<sup>141</sup>.

### 3.6. Sexuality, Sexual Emotion and Behaviour of Same-Sex People in Perso-Urdu Tradition<sup>142</sup>

With Indian Buddhism at the decline<sup>143</sup>, flourishing Bhakti<sup>144</sup>, Islam became absorbed into the melting pot of traditions<sup>145</sup>. The form, closer to Islamic mysticism - Sufism<sup>146</sup>, contributed to notions of gender and sexuality: first time appearance of eunuchs, reinforcement of purdah, and seclusion of women in harems<sup>147</sup>.

Perso-Urdu period of Delhi Sultanate<sup>148</sup> and the Mughal Empire<sup>149</sup> with its successor states under the British Rule, acclaimed energetic urbanization, domestic, and military slavery<sup>150</sup>. Having that in mind, men striving for same-sex sex became increasingly noticeable, and their behavior was not discussed with a negative tone<sup>151</sup>. At the same time, the position of women-loving women became problematized with Rekhti poetry. In the early Islamic India, as already experienced in the history of the subcontinent, upper caste privileges and heterosexuality set the main arbor of the ethically proper sexual-social collectivity. Therefore, status and location in the

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<sup>140</sup>Imagining women as objects of pleasure/purity was followed by harsher restrictions set on them including seclusion and lowered age of female to be married. Jhingran, Saral. *Aspects of Hindu Morality*. Delhi: Motilal Banarsidass, 1989, pp. 91-99, pp. 91-95.

<sup>141</sup>Thadani, 1999a, pp. 78-79.

<sup>142</sup>The 13th-18th centuries. George, Rosemary Marangoly. Chatterjee, Indrani. Gopinath, Gayatri. Naim, C. M. Patel, Geeta. Vanita, Ruth. Forum, "Tracking "Same-Sex Love" from Antiquity to the Present in South Asia". In: *Gender & History*, Vol. 14, No. 1, 2002, pp. 7-30, p. 9.

<sup>143</sup>From the 7th century BC onwards. Pomerantz, G.S. Cesaritti, Susan Scott, *The Decline of Buddhism in Medieval India*. In: *Diogenes*, 1976, Vol. 24, No. 96, pp. 38-66, p.39.

<sup>144</sup>First Bhakti groups are recorded from the 7th-10th centuries. Timeframe for its high peak development: The 14th-17th centuries.

<sup>145</sup>Penrose, p. 35.

<sup>146</sup>The late medieval period: the 12th-16th centuries. Although, transitioned through time and space, Sufism is still present. Lawrence, Bruce B. *Sufism and Neo-Sufism*. In: Hefner, Robert W. Ed. *The New Cambridge History of Islam, Vol. 6, Muslims and Modernity: Culture and Society since 1800*, 2011, pp. 355-384, p. 355.

<sup>147</sup>Harems were institutionalized during Akbar's rule. Lal, Ruby. *Domesticity and Power in the Early Mughal World*. Cambridge: Cambridge University Press, 2005, pp. 2-3.

<sup>148</sup>Delhi Sultanate dated: 1206-1526. Kumar, Sunil. *Delhi Sultanate*. In: Mahan, Mizra. Crone, Patricia. Böwering, Gerhard. *The Princeton Encyclopedia of Islamic Political Thought*. In: Princeton, N.J.: Princeton University Press, 2013. *eBook Collection*, EBSCOhost. [Access](#).

<sup>149</sup>Mughal Empire dated: 1526-1857. Zaman, Taymiya R. *Mughals*. In: Mahan, Mizra et al. 2013. [Access](#).

<sup>150</sup>Between 14th and 18th centuries. George, Rosemary Marangoly et al. 2002, p.10

<sup>151</sup>Boyce, B., p. 12.



cosmopolitan centers became the ingredients that enabled access to non-conventional pleasures. Yet of course such activity is accounted within all classes<sup>152</sup>, because the axis of consumption with spaces of mingling faiths, castes, with communal meals and social interactions that grew above social stratification and religious divisions, is represented by the spaces open for men to meet other men aspiring to establish same-sex attachment<sup>153</sup>.

### 3.6.1. Institution of Purdah

While *purdah* was introduced to the subcontinent by the Muslim, the custom is not sanctioned in Quran<sup>154</sup>. The later cultural reproduction of the coverage exclusively for women served to protect body from shame<sup>155</sup>, provide economic and personal safety<sup>156</sup>. The practice of *purdah* (or *parda*) unfolds gender and caste identity for some women<sup>157</sup>. Respecting the social practice of symbolic seclusion<sup>158</sup> meant confinement to the spatial location of all-female compartment (*zenana*)<sup>159</sup>. Harem (in Arabic tradition) as well as *zenana* constitute a part of indigenous entity<sup>160</sup> of gendered spaces, creation of which, benefits male members with security of their power privileges<sup>161</sup>. In

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<sup>152</sup>Sarkar, Nilanjan. *Forbidden Privileges and History-Writing in Medieval India*. In: The Medieval History Journal, Vol. 16, No. 1, 2013, pp. 21-62, p. 28.

<sup>153</sup>Kidwai, Saleem. *Introduction: Medieval Materials in the Perso-Urdu Tradition*. In: Vanita, Kidwai Eds., pp. 107-125, p. 108.

<sup>154</sup>Samiuddin, Abida. Khanam, R., Eds. *Muslim Feminism and Feminist Movement: South Asia*. Vol. I India. New Delhi: Global Vision Publishing House, 2002, p. 149, p. 29.

<sup>155</sup>At first respecting *purdah* protected from extreme temperatures. Ibidem.

<sup>156</sup>Mohanty, Chandra Talpade. *Under Western Eyes: Feminist Scholarship and Colonial Discourses*. In: Mohanty, Ed., *Third World Women and the politics of feminism*. Bloomington: Indiana University Press, 1991, p. 343.

<sup>157</sup>The veil, for some people is a relevant cultural marker, symbol of protest, a sexual symbol, religious and ethnic identity sign. Thiruchandran Selvy. *The Crisis of Modernity: Politics of Identity and the Rise of Fundamentalism in Sri Lanka*. In: Katjasungkana, Wieringa Eds., pp. 300-319, p. 310

<sup>158</sup>Burton, Antoinette. *Dwelling in the Archive Women Writing House, Home, and History in Late Colonial India*. New York: Oxford University Press, 2003, p. 11.

<sup>159</sup>In other words: the inner domains of the house. With its evident spacial dimension, prolonged among middle classes in the north of India. Thomas, p. 247. Mines, Lamb, p. 83. Penrose, pp. 3- 39. Interestingly *zenana* constitutes

<sup>160</sup>Vanita, Ed., 2002, p. 252.

<sup>161</sup>Ghosh, Anindita. *A World of Their Very Own: Religion, Pain, and Subversion in Bengali Homes in the Nineteenth Century*. In: Ghosh, Anandita, Ed. *Behind The Veil. Resistance, Women and the Everyday in Colonial South Asia*. Ranikhet: Palgrave Macmillan, 2007, pp. 191- 222, p. 215.

Indian texts the normative well-structured quarters of women or courtesan's residence are spaces identified with amorous liaisons among women<sup>162</sup>.

### 3.6.2. Elements of Sexuality and Gender in Islamic Mysticism and Perso-Urdu

#### Literary Traditions<sup>163</sup>

#### Bhakti Movement<sup>164</sup>

Through envisioning the god as a same-sex lover<sup>165</sup>, bhaktist reverential intimacy raised same-sex relation beyond patriarchal family<sup>166</sup>. Individual bridal mysticism or theistic mysticism (where bride's femininity is divine) becomes known trope in poetry as well as in devotional practice<sup>167</sup>. Vaishnavas, to become one with deity identify themselves with a female (inferior) aspiring to marry a male god (superior)<sup>168</sup>. The stories of poet-mystics, devotees, and saints of both sexes renouncing earthly marriage, the roles of a household patriarch or a humble mother, in favor of celibacy and spiritual, erotically tinted relationship with the divine, recall the realm where homoeroticity is celebrated<sup>169</sup>. Notably, not all the devotees might have been homoerotically inclined - relation with god is indeed based on companionate love, which enables the sense of the sameness.

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<sup>162</sup>Vanita, Ruth. "Married Among Their Companions" - Female Homoerotic Relations in Nineteenth-Century Urdu Rekhti Poetry in India. In: Journal Of Women's History, Vol. 16, No. 1, 2004, pp. 12-53, p. 34.

<sup>163</sup>Islamic mysticism if confined to poetry uses the same tropes as Bhakti movement (inspiration being drawn from Radha-Krishna love poetry). Kugle, Scott. *Sufis & Saints' Bodies. Mysticism, Corporeality, & Sacred Power in Islam*. Chapel Hill: The University of North Carolina Press, 2007, pp.191-199.

<sup>164</sup>Began in the 7th century. Vanita, Kidwai Eds., p. 56.

<sup>165</sup>Interestingly, next to feelings between partners, concept of love includes equally important love in parent-child relation. Ruth. Kidwai, Saleem Eds. p. 62.

<sup>166</sup>Vanita, Kidwai Eds., p. 62.

<sup>167</sup>Similar practices and themes are also mentioned in both Old and New Testament. Sayuki Tiemeier, Tracy. *Engendering the Mysticism of Alvaros*. In: The Journal of Hindu Studies, September 3, 2010, pp. 337-353, p. 339, p. 342, p. 347.

<sup>168</sup>Devotees yearned for the spiritual union through institution of marriage, therefore they see themselves as handmaids of Radha or cowgirls that accompanied Krishna (Vanita, Kidwai Eds., p. 65). The 16th century intimate relationship between Jagannath Das (a female partner of Krishna - avatara of Vishnu) and Shri Chaitanya exemplifies those devotional rituals. Satpathy, Sumanyu. *Jagannath Das (Oriya)* In: Vanita, Kidwai Eds., 2000, pp. 103-105. Here again, the love of the deity is manifested through imagery of male-male amorous relation. Dasgupta, R. K., p. 657.

<sup>169</sup>Vanita, Kidwai Eds., p. 64.

Sages contributing to Mahabharata<sup>170</sup> were well aware of diverse cultures and races among Indo-Aryans, along with relative moral codes. Therefore, the poems are far from uniformizing or condemning view when it comes to laws of custom and ethics of practice, including those of sexuality<sup>171</sup>. Same-sex romance between women might start with friendship as a premarital woman-woman romance and result in co-wifhood or marriage to closely related men, so that the relationship framed within heterosexual matrimony or polygyny might also be a starting point for an alternative passion<sup>172</sup>.

Next to Bhakti movement, other type of personal devotion - Sufism expressed homoeretical-mystical atmosphere of that time<sup>173</sup>. This new pillar of society created a space for marginalized ethnic and religious minorities, people of non-normative sexuality or gender, also women<sup>174</sup>. The practitioners of this popular form of Islam in South Asia<sup>175</sup>; in the name of adjuration cherished homoeretical attraction or used inverted gender roles to express devotion<sup>176</sup>. Mainstream Perso-Urdu love poetry by using the metaphor of romantic partnership, speaks out love towards god (as idealized beloved)<sup>177</sup>. Loving relationships of Sufi existed beyond paper and were ambiguously receipted<sup>178</sup>; for example anal penetration degraded receptive partner to less of a man, though immediate condemnation of such act remains unprovable<sup>179</sup>.

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<sup>170</sup>Mahabharata and The Manual of the Domestic Conduct (the 5th century). Grihya Sutras (part of Vedangas) recognize eight forms of martial ceremonies, with *gandharva vivaha* as the most popular among inter-caste unions and non-Aryan communities. Kamasutra finds this manner of coupling the best, as it is based on mutual consent and attraction. In this manner *gandharva vivaha* might create the space for recognition of the same-sex unions. Vanita, Kidwai Eds., p. 147.

<sup>171</sup>Idem, pp. 8-10, pp. 121-122, p. 170.

<sup>172</sup>Religious storytelling of *Katha* recalls themes of Puranas *Bhagavata Purana* and *Ramayana* in which such unions become possible. Somaprabha and Karunasena in Somadeva Bhatta Kathasaritsagara, Vasavadatta and Padmavati, Mallika and her 12 friends in Kathasaritsagara (the 11th century) set examples of same-sex attraction between women (Vanita, Kidwai Eds., pp. 67-69, p. 85). Bengali *Krittibas Ramayana* compiled in the 14th century serves the passages based on ancient medical *Sushruta Sutra* and *Puranas*. In *Adi Kanda* divinely blessed relationship between two wives of king Dilipa allows them to bring to the world a male descendant: Bhagiratha. Vanita, Kidwai Eds., pp. 100-101.

<sup>173</sup>Siker, p. 6.

<sup>174</sup>Kugle, 2007, p. 267.

<sup>175</sup>Conservative Islam forbids same-sex relations, in the present day, with diffusion of democratization, and pluralism, greater openness supports both further oppression and acceptance within Islamic world. Katjasungkana, Wieringa, p. 29.

<sup>176</sup>Kugle, 2007, p. 208.

<sup>177</sup>*Ghazal* literary tradition of Arabic pre-Islamic origin influenced and became a tool of expression of the Sufi literati. Dasgupta, R. K., p. 657. Petievich. *Rekhti: Impersonating the Feminine in Urdu Poetry*. In: Srivastava, Sanjay, Ed. *Studies on Contemporary South Asia: Sexual Sites, Seminal Attitudes: Sexualities, Masculinities and Culture in South Asia*. New Delhi: Sage, 2004, pp. 123-147, pp. 123-125.

<sup>178</sup>Kugle, 2007, pp. 191-199.

<sup>179</sup>In the context of the 16th century record of such relation between Sufi poet Shah Hussayn and Madho (young brahmin). Idem, p. 217.

Within poetic genre of *ghazals*, although that is not a rule, male poets unambiguously directed their attraction towards younger companions, the verses placed the homoerotic within “other” kinds of desire<sup>180</sup>, unfortunately prestigious literature of romantic love describing non-hetero-love declined with consolidation of the political power of The British Rule<sup>181</sup>, finding one more genre within ghazal obscene - *Rekhti*. Those literary traditions, constituting same-sex love or behavior as part of Islamic socio-cultural reality (patronage of Rajput nobles and politics of Mughals)<sup>182</sup>, though mostly erased from the literary memory and literatures, challenge heterosexism in modern Islam<sup>183</sup>.

### Urdu Ghazals and its Sub Genre Urdu Rekhti Ghazals<sup>184</sup>

While purdah pushes women out of the public, almost complete seclusion out of the literary scene follows. *Rekhti*<sup>185</sup> did something “decadent” - reading conventional grammatical gender of the beloved as “she” instead of assumed yet not directly indicated “he” or “they” in *Rekhta*. Additionally, the verses, structured as ghazal, were told by the female narrator<sup>186</sup>. While authors - men of unknown sexual identity and orientation<sup>187</sup>, and occasionally women who had to write as men to gain audience and respect<sup>188</sup>, by indicating romantic ties between females (sometimes explicitly sexual), made the themes of such love available for the others<sup>189</sup>. Thus, already non-normative

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<sup>180</sup>Poetic activity of Abru (1733), Mir Taqi Mir (1810) and Khusro. Dasgupta, R. K., pp. 658-659.

<sup>181</sup>Boyce, B., p. 13.

<sup>182</sup>Kugle, 2007, p. 207.

<sup>183</sup>Dasgupta, R. K., p. 659.

<sup>184</sup>Love poetry, the 18th-19th centuries. Vanita, 2004, p.12.

<sup>185</sup>Associated with Lucknow, a cultural “place to be” of the 18th century, *Rekhti* poetry amplified from the *Rekhta* tradition (ghazal love poetry in Urdu and common languages of Northern India), in the late 18th century, with collection of Rangin (1755–1835) who named the genre. Dasgupta, R. K. p. 659. Petievich, Carla. *Gender Politics and the Urdu Ghazal: Exploratory Observations on Rekhta versus Rekhti*. In: The Indian Economic and Social History Review, Vol. 38, No. 3, 2001, pp. 223-248, p. 226.

<sup>186</sup>Petievich, 2001, p. 230, Petievich, 2004, p. 132.

<sup>187</sup>For example: Mir Yar Ali, “Jan Saheb” (1817–1896), Shaikh Qalandar Bakhsh, “Jurat” (1748–1810), Insha Allah Khan, “Insha” (1756–1817). Vanita, 2004, p. 15.

<sup>188</sup>Authors of both biological genders who used female pen names practically vanished with colonial and nationalist purification of poetry during the late 19th century and through the 20th century. Vanita, 2004, p. 14, pp. 41-42.

<sup>189</sup>George, Rosemary Marangoly. Chatterjee, Indrani (et. al) 2002, p. 26.

literary works were additionally considered “lesbian” due to the emotive language expressing females’ erotic intimacy<sup>190</sup>.

It is not absolute to state that couplets represent sexual romances of the Muslim and Hindu urban women and courtesans. Yet vernacular vocabulary common in *zenanas*, language of non-elite, terms used within paramour spaces (*bagmati zaban*), also present in dictionaries, prove the erotic occurrences<sup>191</sup>. This type of word stock shaded the sub-genre with both controversy and delight in early reception of the lyrics<sup>192</sup>.

Both emotive, and psycho-physical aspect of female-female connection, are visible in language of Rekhti. Expressions that drew special attention of queer studies scholars are Urdu words *chapti* and its variants (*chapat*, *chipata*, *chapatbazi*) which hint female same-sex activity<sup>193</sup>. The label *Dogana* (*dugana*) leaves a wide avenue for comments, while literally meaning “a fruit with two parts in one shell” – it is a reference to intimate female companion<sup>194</sup>. Lovers are also featured as *Zanakhi* and *Ilachi* (cardamon, symbolic meaning the same as *Dogana*), this again suggests inseparability of the bond.

Rangin describes consumption-related, relationship establishment rituals connected to those taxonomies. *Ilachis* feed each other cardamom seeds, *Doganas* share almonds, and *Zanakhis*, in presence of *Singhana* eat chicken<sup>195</sup>. *Zanakhis* by sharing a chicken and pulling a wishbone, *Ilachis* by counting cardamom seeds (even number - male, uneven - female) and *Doganis* by picking up almond kernel of two sorts: *nar* - for male, *mada* - for female, they divide gender roles in their future exclusive relation<sup>196</sup>.

Rekhti, crossed out from female pre-modern writing and imagined community of Urdu speakers<sup>197</sup> meets approaches of poets towards alleged same-sex attraction or behavior that span from sympathy, playfulness to mockery and criticism. Some

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<sup>190</sup>Carla Petievich questioning Rekhti, struggles with “lesbianism” of Rekhti. Petievich, 2004.

<sup>191</sup>Vanita, 2004, p. 17.

<sup>192</sup>Mostly Lakhnavi male elite. Petievich, 2001, pp. 232-233.

<sup>193</sup>In the late 20th century India, accounts: *Chapti*, *chapati*, *chapatti* or *chipti*, *chapat bazi* were understood as lesbianism, *chapat baz* as lesbians. The meanings of *chapat*, *chipata*, *chapatbazi* are circulating around verbs: “to flatten”, “to cling”, “to press” or “to stick flat”. Vanita, 2004, p. 17

<sup>194</sup>Also *Singhana*, sets triangular tie and is *Dogana*’s other *Dogana*. Idem, pp. 17-18.

<sup>195</sup>Also *Dosti* and *Zahgana* and *Guiyan*, meaning the same. Idem, p. 17-19.

<sup>196</sup>Vanita, 2004, pp. 18-20.

<sup>197</sup>Petievich, 2001, p. 239.

relationships (not uncommonly unwinding during or before opposite-sex marriage), are masked in front of the family as friendship<sup>198</sup>, some exercise meetings only in secret<sup>199</sup>, and some women (un)willingly engage in reproductive sex, action said to put their honor in balance, cure them from wrong attachment<sup>200</sup>.

Secretive rendezvous open space for same-sex relation to happen, in that respect, both Kamasutra and Rekhti poetry understand that what is unseen, is beyond controlling forces<sup>201</sup>; and instances of corrective rape, form of abuse aimed towards queer people are accorded in present day India<sup>202</sup>. While the theme of sexual malevolence remains understudied, so far Human Rights and Women's Studies investigating the subject suggest such reformatory practices are produced only in unique local and historical contexts<sup>203</sup>.

### 3.7. Sexuality in Indian-Islamic Space

Within power relations: master-servant, same-sex attraction appears equally accepted and equally promiscuous to opposite-sex inclination<sup>204</sup>. The modes reflected in the literature<sup>205</sup>, corpus of medieval poetry in Persian and Urdu depicts a poet (free prerogative) erotically glorifying a slave, next, political texts instructing sultans<sup>206</sup>, historical works on events and activities of a ruling class of Islamicate (Tarikh), indicate “social depravity” of the royals engaging in romances with practitioners of anal sex and eunuchs<sup>207</sup>.

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<sup>198</sup>Vanita, 2004, pp. 21-22.

<sup>199</sup>Idem, pp. 24-25.

<sup>200</sup>Idem, p. 30.

<sup>201</sup> Idem, p. 31.

<sup>202</sup>Jain, Rupam. *Parents Use “Corrective Rape” to “Straight”en Their Gay Kids*. In: The Times of India (online), Hyderabad Issue, May 31, 2015. [Access](#).

<sup>203</sup>Morrissey, Megan E. *Rape as a Weapon of Hate: Discursive Constructions and Material Consequences of Black Lesbianism in South Africa*. In: Women's Studies in Communication, Vol. 36, No. 1, 2013, pp. 72-91, p. 81.

<sup>204</sup>Boyce, B., p. 13.

<sup>205</sup>With rapid development of the paper-making industry, books became more available for some. Dasgupta, Anannya. “Do I Remove My Skin?” *Interrogating Identity in Suniti Namjoshi's Fables*. In: Vanita, Ed., 2002, pp.100-111, p. 108.

<sup>206</sup> Fatawa.

<sup>207</sup>Chronicles accord prominent rulers of Delhi Sultanate (including the founder) and their sons treasuring male lovers Shams-ud-din Iltutmish, Khalaji, Khizir Khan, Bughra Khan. Sarkar, N., pp. 31-33.

Male brothels are well-established institutions at that time, whereas Quran disallows, Shariat (religious unwritten law) considers a crime<sup>208</sup> and Hadith (traditions, sayings of the Prophet) punishes by death through stoning non-heterosexual activities (here: anal penetration)<sup>209</sup>. Scholars suggest prohibitions<sup>210</sup> did not shift into the everyday reality, because death sentence prosecution after breaking the Quranic law and engaging in same-sex lovemaking is rare<sup>211</sup>. One of the reasons behind the dissonance is purely pragmatical: “any crime cannot be penalized without eyewitnesses”; it was therefore easy for consensual, private male-male relations to materialize<sup>212</sup>. Although conservative Islam limits same-sex relations<sup>213</sup>, progressive critics consider present day Islam a space encompassing transgender and non-heterosexual men and women<sup>214</sup>.

In the course of development of the moral and legal codes within Indian-Islamic world, anal sex became strongly entangled with male to male intercourse<sup>215</sup>, pinned to category of sodomy - therefore punishable<sup>216</sup>. Within cultural considerations, institution of marriage was primarily functional to fulfil socio-religious responsibilities<sup>217</sup>. In terms of sexuality, the utility of legal unions was to up bring progeny, while sexual pleasure placed in semi-private, semi-public realms of courts, coffee houses, bath, and steam houses<sup>218</sup>. The records recall sultans engaged candidly in “licentious” acts: parading naked or in female clothing, suggestively kissing and seductively touching

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<sup>208</sup>Kidwai, p. 110.

<sup>209</sup>Debate on religious injunctions complicates knowing that Quran promises forbidden gratifications in Heaven, mainly: wine and young beautiful boys. Sarkar, N., p. 27.

<sup>210</sup>Within Islamic law that judged which actions in what places are obligatory, forbidden or allowed according to gender. Idem, pp. 45-46.

<sup>211</sup>Sarkar, N., p. 28.

<sup>212</sup>Kidwai, p. 111.

<sup>213</sup>Katjasungkana, Nursyahbani. Wieringa E. Saskia. *The Future of Asian Feminisms*. In: Katjasungkana, Wieringa, Eds. *The Future of Asian Feminisms: Confronting Fundamentalisms, Conflicts and Neo-Liberalism* Newcastle upon Tyne: Cambridge Scholars Publishing, 2012, pp. 16-36, p. 29.

<sup>214</sup>Wieringa, Saskia E. *Gender Variance in Southeast Asia: Discourse Contestations and Legal Implications*. In: Katjasungkana, Wieringa Eds., pp. 447-475, p. 468.

<sup>215</sup>Kugle, 2007, p. 213.

<sup>216</sup>Kidwai, p. 111.

<sup>217</sup>Similarly to Hindu social dharma.

<sup>218</sup>Sarkar, N., p. 29.

another male(s) in the open<sup>219</sup>. The political urban culture of Delhi Sultanate (with gifting-consumption rites at the core), made longing for male lovers less a matter of personal inclination, and more of a public display of kingship<sup>220</sup>.

“Sodomists” (Sans. *mukhannashaan*) and their practice are recognized by law and chronicle-writers including Biruni, according to whom, “homosexuals” should be exiled (but not killed)<sup>221</sup>; in addition, the king indulging himself in carnal lust can still uphold his religious and leadership duties<sup>222</sup>. Heterosexual masculinity of the 13th-16th centuries’ Indian-Islamic elite was sanctioned by the guidance abilities, alliances, and patronages. Affection of an older man towards a boy was understandable, while homoerotic performativity was condemned.

This preference of the aristocracy, combined with relation: guru-student, openly expelled homoerotic attraction slated for younger men in Sufi and Bhakti poetry<sup>223</sup>, and might have fueled the colonial prejudice of pederasty at the subcontinent<sup>224</sup>. Within general overview of Perso-Urdu convention, being “unmanly” in pre-modern India did not suggest effeminacy<sup>225</sup>, there is also no homosexual identity recognized by Indian Islam. What emerges though is vastly described behavior including desire between men<sup>226</sup>. As suggested by Wieringa “Islam is not concerned with sexual orientation but with sexual behavior”<sup>227</sup>.

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<sup>219</sup>The 11th century homoerotic trope of Mahmud-Ayaz love, exemplifies one of many same-sex master-servant relations between adult men. Dasgupta, R. K., pp. 656-659. Bhaskaran, Suparna. *Politics of Penetration: Section 377 of the IPC*. In: Vanita, Ruth Ed. *Queering India: Same-Sex Love and Eroticism in Indian Culture and Society*. New York: Routledge, 2002, pp. 15-29, p. 28.

<sup>220</sup>O'Hanlon, Rosalind. *Manliness and Imperial Service in Mughal North India*. In: *Journal of the Economic and Social History of the Orient*, Vol. 42, No. 1, 1999, pp. 47- 93.

<sup>221</sup>Sarkar, N., p. 37.

<sup>222</sup>Idem, p. 38.

<sup>223</sup>More about perceived as homoerotic Bhakti poetry of Surdas (Hawley, Juergensmeyer, pp. 91-116), Tulsidas (Idem, pp. 143-173), Mirabai (Idem, pp. 119-140) and selection of translated poems: Hawley, John S., Juergensmeyer, Mark. *Songs of the Saints of India*. New York, Oxford, Oxford University Press, 1988.

<sup>224</sup>Dasgupta, R. K., pp. 657-658.

<sup>225</sup>An accusation of homoerotic inclinations did not underestimate maleness. However servants in Delhi Sultanate were often chosen on the basis of their age and physical attributes, beardless companions were more welcome than those with masculine features at the court. Sarkar, N., p. 28.

<sup>226</sup>Sarkar, N., p. 41. Siker, p. 9.

<sup>227</sup>Wieringa, 2012, pp. 447-475, p. 468.



### 3.7.1. Revised Notions of Masculinity in Mughal Empire (Early Modern Period 1526-1857)

Although “homosexual” behavior became more written about with arrival of Turkic group<sup>228</sup>, and the first half of the 16th century was “marked” with homosocial lifestyle<sup>229</sup>. In the following years what was not out of ordinary as a sexual practice in Delhi Sultanate and the early Mughal period, was redefined with “heterosexual” profile of political culture of the later Mughal Empire<sup>230</sup> and its pure bodily male virtue<sup>231</sup>. In this political ethic range of love, men-men relations did not fix “homosexual identity”<sup>232</sup>, instead those men became stigmatized as the type of desire indexed manhood<sup>233</sup>.

The accords of male same-sex intimacy among the rulers overshadow cases of common folk<sup>234</sup>. Sexual behavior was once again sanctioned to reproductive function within marriage<sup>235</sup>. Unimaginability of female-female unions confirms itself throughout the period with disappearance of the notions of “lesbian” love<sup>236</sup>. “Masculine female” (a lesbian), because of her active role while lovemaking, was acquired to the concept of “third gender” or transvestism<sup>237</sup> – in this line: femininity should be “passionless”. With the image of disciplined sexuality bereft of emotion<sup>238</sup>, secrecy of non-conventional eroticism, Mughal Empire clashes with the British.

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<sup>228</sup>Dasgupta, R. K., p. 656.

<sup>229</sup>Lal, R., p. 70.

<sup>230</sup>O'Hanlon, 1999, p. 47.

<sup>231</sup>O'Hanlon, Rosalind. *Kingdom, Household and Body History, Gender and Imperial Service under Akbar*. In: *Modern Asian Studies*, Vol. 41, No. 5, 2007, pp. 889-923, p. 910, p. 917.

<sup>232</sup>Islamic and pre-islamic period within general approach, did not see sexuality as identity (modern Western sense), it was vastly the European imperialism transforming notions on sex and gender (Rahman, p. 97) as both processes unfolded side by side. Mercer, Kobena. Julien, Isaac *Race, Sexual Politics, and Black Masculinity: A Dossier*. In: Chapman, Rowena. Rutherford, Jonathan, Eds. *Male Order: Unwrapping Masculinity*. London: Lawrence & Wishart, 1988, pp. 97–164, p. 106. Cited in: Massad, Joseph Andoni. *Desiring Arabs*. Chicago and London: The University of Chicago Press, 2007, p. 7. More: Rahman, Momin. *Sexual Diffusions and Conceptual Confusions. Muslim Homophobia and Muslim Homosexuality in the Context of Modernity*. In: Picq Lavinia, Manuela. Thiel, Markus, Eds. *Sexualities in World Politics. How LGBTQ Claims Shape International Relations*. London: Routledge, 2015, pp. 92-107.

<sup>233</sup>O'Hanlon, R. 1999, pp. 47-93, p. 49.

<sup>234</sup>Sarkar, N., p. 42.

<sup>235</sup>Lal, R., p. 154.

<sup>236</sup>O'Hanlon, 2007, p. 918.

<sup>237</sup>For Example serving as personal bodyguards of kings and queens in male clothing. Penrose, p. 4.

<sup>238</sup>Lal. R., p. 155.

### 3.7.2. Eunuchs and Hermaphrodites During Islamic India

Historical community of eunuch slaves (Khwajasara) took the in-between social space, regarding both power relations and sexuality. The possessors of “non-men” status became not only highly regarded “commodity”<sup>239</sup>, but also trusted servants of the ruling power<sup>240</sup>. Sexuality of eunuchs remains questionable as they were at first considered sexually inactive, and during Mughal supremacy, they were heard to be engaged in relations with females and not uncommonly, with rulers or their sons<sup>241</sup>.

With the advent of Islam, where servants were mostly eunuchs<sup>242</sup>, this group set rather positive image of (what we would call today) an alternative gender<sup>243</sup>. Although well honoured for intelligence, diplomatic, and military roles, with changes in family formation, decreasing demand on slaves, their nobleman status was lost. In the end, the advent of implementation of sexual politics by the British Rule<sup>244</sup> contributed towards further marginalization<sup>245</sup>.

Relatively unseenable group of those who presumably lack qualities specific for their gender, were accounted to non-heterosexual males - a subgroup of eunuchs<sup>246</sup>. The 13th century Sufi legend from South India recalls potent sexuality of hermaphrodite and neglect of acquiring gender binary scheme to the intersex<sup>247</sup>. Personas of unclear sexual “identity”, biologically ambiguous in medieval Indo-Muslim scholarly dispute were seen not that much as a medical object of refinement, but to a greater extent a

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<sup>239</sup>Sarkar, N., p. 45.

<sup>240</sup>Although various, domestic or political functions within Islamic princely kingdoms and the Mughal Empire oscillated mostly around positions of political advisers, courtiers, administrators and harem guardians. Ghosh, Apoorva. *LGBTQ Activist Organizations as “Respectably Queer” in India: Contesting a Western View*. In: *Gender, Work and Organization*. Vol. 22 No. 1, 2015, pp. 51-66, p. 54. They are mostly known for guarding harems and *zenanas* occupied by the elite women. More: Reddy, Gayatri. *Men Who Would Be Kings: Celibacy, Emasculation, and the Re-Production of Hijras in Contemporary Indian Politics*. In: *Social Research*, Vol. 70, No. 1, 2003, pp. 163-200, p. 185. Sylvia Vatuk, *Bharattee's Death: Domestic Slave-Women in Nineteenth-Century Madras*. In: Chatterjee, Indrani. Eaton, Richard, Eds. *Slavery and South Asian History*. Bloomington & Indianapolis: Indiana University Press, 2006, p. 215.

<sup>241</sup>There are instances of slaves becoming rulers. George, Rosemary Marangoly. Chatterjee, Indrani (et. al) 2002, p. 25.

<sup>242</sup>Kidwai, p. 109.

<sup>243</sup>Nanda, 1990, pp. 22-23.

<sup>244</sup>With 1871, Criminal Tribes Act, “eunuch” became an umbrella term for transgender communities, category registered and controlled by the government. Ghosh, A., 2015, p. 54.

<sup>245</sup>Hinchy, Jessica. *The Sexual Politics of Imperial Expansion: Eunuchs and Indirect Colonial Rule in the Mid-Nineteenth-Century North India*. In: *Gender & History*, Vol. 26, No. 3, 2014, pp. 414-437.

<sup>246</sup>As the 17th century chronicles from Jahangir's court prove. Sarkar, N., p. 45.

<sup>247</sup>Idem, p. 44.

cause of common fear based on a question: “How to acquire hermaphrodites to religious borders of approbation, in a community that distinguishes only two sexes?”<sup>248</sup> Physicians, natural philosophers along with religious thinkers, although none of the voices can be considered *ex officio*, held with plurality and flexibility in their conclusions on sex and gender<sup>249</sup>.

### 3.8. Colonial (De)sexualization of the “Other”: Notions of Gender and Body During British Rule

At first indirect, British Rule in India<sup>250</sup> adhered interventionist sexual politics of imperial expansion by reading Indian bodies through fear and pseudo-science<sup>251</sup>. Not unexpectedly, power system made masculinity one of the replacement modes for autochthonous political practice and administration with colonial bureaucratic forms, so that the territorial takeover convoluted with the politics of sex<sup>252</sup> and race<sup>253</sup>. The process, related to growing intimacy with the “Other”<sup>254</sup>, went both ways, with British perception being shaped by the indigenous considerations<sup>255</sup> of Hindu patriarchy (social hierarchy).

As colonialists in general selectively appreciated Indian history<sup>256</sup>, nationalism<sup>257</sup> - colonialism interplay resulted in specific construction of the past<sup>258</sup>, and the norms of the Hindu orthodoxy were eased as a standard<sup>259</sup>.

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<sup>248</sup>Gadelrab, Sherry Sayed. *Discourses on Sex Differences in Medieval Scholarly Islamic Thought*. In: *Journal of the History of Medicine*, Vol. 66, 2011, pp. 40-81, p. 45.

<sup>249</sup>Idem, p. 81.

<sup>250</sup>Even though the British claimed non-interference into the personal laws, they did in retrospect organize the common law for all the citizens, based on Brahmanical (socio-religious) laws and own prejudice, but also customary personal laws. These regulations across India, though could have been less strict towards minorities. Narrain, Arvind. *“That Despicable Specimen of Humanity”: Policing of Homosexuality in India*. In: Kannabiran, Kalpana. Singh, Ranbir, Eds. *Challenging the Rule(s) of Law: Colonialism, Criminology and Human Rights in India*. New Delhi: Sage India, 2008, pp. 48–77, p. 52.

<sup>251</sup>Petievich, 2001, p. 142.

<sup>252</sup>Hinchy, p. 431.

<sup>253</sup>John, Nair, p. 11.

<sup>254</sup>Crane, Ralph. Mohanram, Radhika. *Imperialism as Diaspora: Race, Sexuality, and History in Anglo-India*. Liverpool: Liverpool University Press, 2013, p. 108.

<sup>255</sup>Gupta, Charu. *Sexuality, Obscenity, Community: Women, Muslims, and the Hindu Public in Colonial India*. New York: Palgrave, 2002, p. 32.

<sup>256</sup>John, Nair, p. 32. For instance, seeing Muslim Rule as degenerative ingredient within sacred high culture of ancient India (John, Nair, p. 37). Or in case of hijras: The relation to the centuries long traditions presented in Mahabharata, to myths connected to Shiva (Ardhanarishvara), Vishnu (Mohini), incarnations of Krishna (Jagannatha), some of the Tantric sects and importance at the Hindu and Muslim courts, was heavily overlooked by the 19th century actors. Nanda, Serena. *Hijras: An Alternative Sex and Gender in Role India*. In: Herdt, Ed., 1994, pp. 373-418, pp. 395-397.

Keepers of ethnicity and race, beholders of reproductive functions, females, were controlled within the household and beyond it<sup>260</sup> - phenomena observable globally<sup>261</sup>. Obscure as it might seem, reconsolidation of the Indian elite coincided with<sup>262</sup> middle-class-home becoming an important space of sexuality containment for Indian nationalists<sup>263</sup>. Distinction between public and private<sup>264</sup>, gendered segregation of those spaces especially in the 18th century<sup>265</sup>, centrality of the family unit in both cultures<sup>266</sup>, with high value of fertility and marriage<sup>267</sup> - as a crucial mode of sustaining the caste and hence society<sup>268</sup>, might have reinforced animosities around sexuality, which became an essential cultural emblem of British India<sup>269</sup>.

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<sup>257</sup>National integrity and passion towards one country were now in contraposition to immorality and deviance destroying community. Stoler, Ann. L. *Sexual Affronts and Racial Frontiers: European Identities and the Cultural Politics of Exclusion in Colonial Southeast Asia*. In: Cooper, Frederick. Stoler, Ann L., Eds. *Tensions of Empire. Colonial Cultures in a Bourgeois World*. Berkeley: University of California Press, 1997, pp. 198-237, p. 205.

<sup>258</sup>Especially through the 19th century. During that time, public space became overwhelmed with the British presence. Chatterjee, P. *The Nationalist Resolution of the Women's Question*. In: Sangari, Kumkum. Vaid, Sudesh, Eds. *Recasting Women: Essays in Colonial History*. Delhi: Kali for Women, 1989, pp. 233-253, p. 233, p. 236. Thadani, 1999a, p. 67.

<sup>259</sup>John. Nair, p. 125. More: Robinson, Catherine A. *Tradition and Liberation. The Hindu Tradition in The Indian Women's Movement*. Richmond: Curzon Press, 1999, p. 30-31.

<sup>260</sup>John, Nair, p. 8. More: Walby, Sylvia. *Theorizing Patriarchy*. Oxford and Cambridge: Blackwell Publishers, 1990, p. 24. While cataloguing household within the private sphere (private patriarchy - micro level), scholar classifies it as the primary patriarchal structure, with employment, schools, the state, sexuality, churches, violence, and culture as secondary repercussions (public patriarchy - macro level).

<sup>261</sup>Ghosh, A., 2007, p. 26.

<sup>262</sup>Tanika Sarkar's claim in Kapur. Kapur, R. *Postcolonial Erotic Disruptions Legal Narratives of Culture, Sex, and Nation in India*. In: *Colombia Journal of Gender and Law*, Vol. 10, No. 2, 2000-2001, pp. 333-384, p. 338. Sarkar, T. *Colonial Law Making and Lives/Deaths of Indian Women: Different Readings of Law and Community*. In: Kapur, Ratna, Ed. *Feminist Terrains in Legal Domains: Interdisciplinary Essays on Women and Law*, 1996, pp. 210-238.

<sup>263</sup>"In 1925 Indian nationalists had already been able to organize one of the largest mass movements in history". Sarkar, Tanika. *Women, Community, Nation. A Historical Trajectory for Hindu Identity Politics*. In: Jeffrey P. Basu A., Eds. *Resisting the Sacred and the Secular. Women's Activism and Politicized Religion in South Asia*. New Delhi: Kali For Women, 1999, pp. 89-104, p. 95.

<sup>264</sup>Dasgupta, R. K., p. 633.

<sup>265</sup>Hansen, Kathryn. *A Different Desire, A Different Femininity: Theatrical Transvestism in the Parsi, Gujarati, and Marathi Theatres 1850-1940*. In: Srivastava, Ed., 2004, pp. 99-120, p. 107.

<sup>266</sup>Ghosh, Durba. *Sex and the Family in Colonial India: The Making of Empire*. Cambridge: Cambridge University Press, 2006, p. 13.

<sup>267</sup>Within Indian thought personhood is not full if an individual did not marry or is infertile. Nanda, 1994, p. 394.

<sup>268</sup>Chandra, Shefali. *The Sexual Life of English. Languages of Caste and Desire in Colonial India*. Durham and London: Duke University Press, 2012, p. 1.

<sup>269</sup>John, Nair, p. 7.

Family reveals the locus of oppression, especially for some lesbians<sup>270</sup>. With highly rooted ritualization of restrictions over Indian female upper caste body, colonial rule only accentuated the burden as it was in line with Victorian mores<sup>271</sup>.

Ambiguously Hindu men were considered inferior, due to sexualization<sup>272</sup>, they were both considered “promiscuous” and “unmanly”<sup>273</sup> consequently disciplining the bodies, differed at the district level as did personal say-so of the officials<sup>274</sup>. Historical denotation of the body, with its personal aftereffect is negotiated through unsteady socioeconomic, political mechanisms<sup>275</sup>, again sexuality is culturally cultivated<sup>276</sup>, not founded on desire itself<sup>277</sup>.

Essentially femaleness was polar to maleness<sup>278</sup> and homosexuality was considered a threat to masculinity<sup>279</sup>, hence biological sex, gender, and sexual preference came under subjection of imperialism<sup>280</sup>, as any other activity considered sexual, to maintain inter-mutual identity of the collective. New political economy filled the body with meanings and uses<sup>281</sup>, creating space of resemblance between colonizers and Indian bodies<sup>282</sup>.

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<sup>270</sup>Narrain, A., 2008, p. 52.

<sup>271</sup>Chandra, 2012, p. 18. More: Control over Hindu sexuality in the arena of political economy and its new power tools. The body becomes filled with meanings and uses. Sturman, Rachel. *The Government of Social Life in Colonial India: Liberalism, Religious Law and Women's Rights*. New York: Cambridge University Press, 2012, p. 14.

<sup>272</sup>Sexualization as the act of defining one's being through sex or sexuality. De-sexualization would be therefore, denying one's being of sexual aspect.

<sup>273</sup>Stoler, Ann. *Making Empire Respectable: The Politics of Race and Sexual Morality in 20th-Century Colonial Cultures*. In: *American Ethnologist*. Vol. 16, No. 4, November 1989, pp. 634-660, p. 641. [Access](#).

<sup>274</sup>Hinchy, p. 277.

<sup>275</sup>Those dynamics include imperialism. The processes, as pointed out by Ballantyne and Burton, real or imagined, influence conscious or unconscious individual actions. Ballantyne, Tony. Burton Antoinette. *The Politics of Intimacy in an Age of Empire*. In: Ballantyne, Burton, Eds. *Moving Subjects. Gender, Mobility, And Intimacy in an Age of Global Empire*. Urbana and Chicago: University of Illinois Press, 2009, pp. 1-28, p. 9.

<sup>276</sup>Thadani, 1999a, p. 79.

<sup>277</sup>The meaning of the body therefore does not contain itself in “reproduction, work, conversion, legislation and travel”. Ballantyne, Burton, p. 9.

<sup>278</sup>Vanita, Ruth, Sharma, Pandey Becana. *Chocolate and Other Writings on Male Homoeroticism*. Durham: Duke University Press, 2009, XXXVII.

<sup>279</sup>Dasgupta, R. K., p. 661.

<sup>280</sup>This echoes in the present day “in many parts of the world dominant sexual ideologies are themselves the products of earlier imperialist expansion”. Altman, Dennis. *Global Sex*. Chicago: University of Chicago Press, 2001, pp. 42-43.

<sup>281</sup>Sturman, 2012, p. 14.

<sup>282</sup>Crane, Mohanram, p. 135.

The colonial constructions of same-sex attachments and out of binary genders were utilized as national resistance-liberation tactic<sup>283</sup>. Appliance of the ancient scripts, shaded with androcentric, heterosexist, phallogocentric tone<sup>284</sup>, shaped stigma partially as a nationalist tool<sup>285</sup>. Heterosexualization of the nation in form of re-invented tradition caused restraint of “anormative”<sup>286</sup>, but also the need of preservation against homosexuality<sup>287</sup>, as it sets a threat to the nation.

In this frame, “desexualized reproductive body is wanted and moral, procreation is an exclusive aim of sexual activity and consent to marry is consent to have sexual intercourse throughout the marriage”<sup>288</sup>.

Overall, those dynamics created a unique context, historically and sociologically different<sup>289</sup> from those in the West<sup>290</sup>. Moreover, India was not alienated with the Section 377, the regulation is confirmed through the constitutions of the post-colonial states of Asia<sup>291</sup>. Though reinforcing discrimination mostly against gay men<sup>292</sup>, the section does not attack “homosexuals” directly.

### 3.8.1. Hijras in Anglo-India

With the significant reinforcement of power in the mid-19th century, image of cross-dressing, transgender, emasculated, or intersex performers (hijra) drew upon the colonial premise of their habitual “sodomy”, effeminacy and/or lack of male set of

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<sup>283</sup>Rahman, p. 97.

<sup>284</sup>Puri, p. 181-182.

<sup>285</sup>Sjoberg, Laura. *Conclusion: LGBTQ Politics/Global Politics/International Relations*. In: Picq, Thiel Eds., 2015, pp. 155-171, p. 167.

<sup>286</sup>Puri, p. 183.

<sup>287</sup>Srivastava, Sanjay. *Passionate Modernity. Sexuality, Class and Consumption in India*. New Delhi: Routledge, 2007, p. 17.

<sup>288</sup>Idem, pp. 12-13.

<sup>289</sup>Picq, Thiel, p. 17.

<sup>290</sup>See also: *Appendix 1*.

<sup>291</sup>Article 377a in Malaysia (Penal Code, 1998), describes non-reproductive carnal intercourse "gross indecency" (p. 15n71). Section 377a in Singapore, Section 377 of Pakistan as "carnal knowledge against the order of nature" (p. 16n76). Heinze, Eric. *Sexual Orientation: A Human Right*. An Essay on International Human Rights Law. Dordrecht: Martinus Nijhoff Publishers, 1994, pp. 15-16. also Bangladesh (Section 377, Penal Code 1860), and Myanmar (Section 377, Penal Code 1860). Sharma, Alankaar. *Decriminalising Queer Sexualities in India: A Multiple Streams Analysis*. In: *Social Policy and Society*, Vol. 7, No. 4, 2008, pp. 419-431, p. 420. and Nepal (Article 16, Country Code, 1963). Dambach, Mia. *The International Legal Context Governing Intercountry Adoptions by Gay Men and Lesbians*. In: *Adoption & Fostering*, 2011, Vol. 35, No. 1, pp. 65 – 77, p. 71.

<sup>292</sup>Kapur, R., 2000-2001, p. 369. What makes it more complex is that the section has its legal value today, as it is one of few laws “protecting” underage from same-sex rape. Kapur, R., 2000-2001, p. 334.

genitalia. While customarily, the latter is said to be endowing hijras in divine ascetic (*tapas*) and goddess powers (*shakti*)<sup>293</sup>.

The attempt of erasure from the public, from socio-cultural imagination, in form of prohibition against fulfilling prime social roles was evident. For instance: transvestic, artistic, and/or syncretic Muslim - Hindu religious performing was forbidden. In addition, children were taken away from hijra communities. Those tactics were built upon colonial sexual anxieties, and were aimed to make hijras vanish<sup>294</sup>.

Moreover, dancing in female clothing is equaled to an invitation to “sodomy”, considered sodomy itself and as such being “unnatural”/contagious<sup>295</sup>. Unthinkable for the governance “neither male nor females”, or both<sup>296</sup>, hijras intersected notions of gender causing intimidation to Victorian moral masculine ideal of preferably asexual or sexually decent male, only by the virtue their presence<sup>297</sup>.

Part of urban public culture: theatrical cross-gender role play (transvestism)<sup>298</sup>, casted a shade of acceptance over alternative sexuality<sup>299</sup>. Males replicating their voices and gestures as females, dressing as such were not only welcome, but also needed by the public<sup>300</sup> – with appearance of women on the stage ambiguity stopped<sup>301</sup>. At the same time reversed transvestism and androgyny of women was causing the feelings of anxiety<sup>302</sup>.

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<sup>293</sup>Nanda, 1994, p. 393.

<sup>294</sup>Another recorded strategy was embezzlement of children (beholders of hijra tradition) living in hijra households. Hinchy, pp. 275-276, p. 288.

<sup>295</sup>Idem, p. 281.

<sup>296</sup>Nanda, 1994, p. 393.

<sup>297</sup>Crane. Mohanram, p. 109.

<sup>298</sup>Srivastava, 2007, p. 20.

<sup>299</sup>Hansen, p. 122.

<sup>300</sup>Hansen, p. 100.

<sup>301</sup>Idem, p. 122.

<sup>302</sup>Penrose, p. 32.

### 3.8.2. Through the British Eye: Legal Conceptualization of Indian Sexuality and Gender

“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 a term, which may extend to ten years, and shall be liable to fine”.

Explanation.

Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this Section.<sup>303</sup>

When Britain first introduced the anti-sodomy law in 1860, it restricted same-sex contacts in India, while in England the regulation abolished executions of homosexuals<sup>304</sup>. Those irregularities were supported by the claim that physical differences between the natives and the British disallowed the governance to treat both as legally equal<sup>305</sup>. “Universal” colonial provisions considered a “quasi-moral” judgement, representation of society's values<sup>306</sup>, thus unwind the mood towards same-sex sex, also (till lesser extent) approaches towards same-sex partnership. Until the appearance of colonial force, even if same-sex relations or its expressions were disapproved, they have never been penalized by the common law<sup>307</sup>.

Following insights given by the legal, gender, race, or cultural circumstance when a crime was committed suggests that accusations of sodomy differed depending on perceived class and ethnicity<sup>308</sup>. Legislature reflected in commentaries, digests, case records side by side with medicine reports and ethnographic knowledge pathologized

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<sup>303</sup>The Indian Penal Code (Act XLV of 1860): With Notes. Full Text. [Access](#).

<sup>304</sup>First attempt to penalize sodomy occurred with Act for Improving the Administration of Criminal Justice in the East Indies (1828), where the “abominable crime of buggery” supposed to meet death penalty. Notions of queerness were worked upon in 1830's within the framework of the Penal Code. Boyce, B., p. 1. Section 377 written by authored by Lord Macaulay - the President of the Indian Law Commission. The Section entered the force in 1862. Misra, Geetanjali. *Decriminalizing Homosexuality in India*. In: *Reproductive Health Matters*, Vol. 17, No. 34, 2009, pp. 20–28, p. 21.

<sup>305</sup>Arondekar, Anjali. *For the Record. On Sexuality and the Colonial Archive in India*. Durham and London: Duke University Press, 2009, p. 77. The extent of the act on British subjects is unknown, records were classified and the offenders were mostly sent back to England (Arondekar, p. 82, p. 84), advised to marry, they were (if at all) subjected not to the physical examinations (of the anus) as the natives were, their immorality was not considered “habitual”, but seen as a mental tendency. Arondekar, p. 82.

<sup>306</sup>Narrain, A., 2008, p. 52.

<sup>307</sup>Boyce, B., pp. 15-16.

<sup>308</sup>Arondekar, p. 67.



same-sex desire making it “essentially indigenous phenomena”<sup>309</sup>, so that “wearing women’s clothes, subtended anus (or sodomy wounds), and the presence of syphilis”, also “indeterminacy of the physical gender” were sufficient to subject of sodomy and to set the indefinite tone of “natives” sexuality<sup>310</sup>. Decision of the court outlined suspect’s criminality without an eyewitness or a victim, with no time or place specified. While “Macaulay’s Law” aims at clearness of expression, for the sake of linguistic appropriateness, “unnatural offences” were not implicit – not to “attract individuals to such indecencies”<sup>311</sup>.

Legislative landscape after implementation of the Section 377 as well as The Criminal Tribes Act (1871)<sup>312</sup>, was marked with undeniable confusion: blurry borders of what sodomy is, attribution of innate atrocity to Indian society<sup>313</sup> as well as denied cultural value autonomy of the body – now a mere suspect of physical examination<sup>314</sup>, contributed to ambiguities on already problematic same-sex desire and sex, moreover devoured queer of moral and social recognition<sup>315</sup>. Interestingly, Edwardes recalls there was no strong public opinion on unnatural offences among lower classes, what is more number of such incidents in both Muslim, Hindu, and other communities is no less than in Europe<sup>316</sup>.

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<sup>309</sup>Narrain, A., 2008, p. 49. Arondekar, p. 85.

<sup>310</sup>Arondekar, p. 68, p. 71, p. 88.

<sup>311</sup>Idem, pp. 79-80, p. 89. Jordan, Mark. *The Invention of Sodomy in Christian Theology*. Chicago: Chicago University Press, 1997, p. 7.

<sup>312</sup>Mainly, the 1897 amendment to the Criminal Tribes Act of 1871 (denotified in 1952), subtitled: An Act for the Registration of Criminal Tribes and Eunuchs’ enacted by the British. This law targeted eunuchs as impotent men. State would develop a register of names and addresses of some of the eunuchs (Section 24), who often fall under suspicion of kidnapping children for the purposes of castration, but also those who would engage in unnatural offences under Section 377 of the IPC. Section 26 of the Act in reference to registered eunuch “dressed or ornamented like a woman in a public street or who dances or plays music or takes part in any public exhibition, in a public street [could] be arrested without warrant and punished with imprisonment of up to two years or with a fine or both”. PUCL. *Human Rights Violations against the Transgender Community. A study of kothi and hijra sex workers in Bangalore, India*. Bangalore: People’s Union for Civil Liberties, September 2003. [Access](#).

<sup>313</sup>Especially lower classes, eunuch, and hijras. Arondekar, pp. 87-88.

<sup>314</sup>Jabbar, Naheem. *Policing Native Pleasures: A Colonial History*. In: *The British Journal of Sociology*, Vol. 63, No. 4, 2012, pp. 704-729, p. 706.

<sup>315</sup>Ghosh, A., 2015, p. 54.

<sup>316</sup>Milford, Humphrey. *Crime in India. A Brief Review of the More Important Offences Included in the Annual Criminal Returns with Chapters on Prostitution & Miscellaneous Matters*. London: Oxford University Press, 1924, pp. 33-34. Interestingly the number of convicts under the Section 377 between years 1860-1992 is 30. Hunt, Stephen J. *Conservative Hindu Reactions to Non-Heterosexual Rights in India*. In: *International Journal of Sociology and Anthropology*, Vol. 3, No. 9, 2011, pp. 318-327, p. 319.

## Conclusion

Those questioning same-sex desires recall Mahatma Gandhi as the speaker against homosexuality and see transnational and national expanding queer activism as emissary of the West<sup>317</sup>. Looking at the unstable flows of how attitudes towards people desiring same-sex partners transitioned through constructs class, ethnicity, and gender unfold the meanings attached to identity or behavior, constitute a negotiation between the public and an individual<sup>318</sup>, therefore gender identities/emotional preferences are not of foreign origin<sup>319</sup>.

Borderlands of sexuality have therefore social and cultural meaning<sup>320</sup>. The identities and behaviors may not always find a definition in available or socially recognizable forms within social institutions, legislature, and economic distribution of power or “national” pressure to beget offspring<sup>321</sup>. The narratives of homoerotically inclined go beyond the conditioning of politics<sup>322</sup>, yet gender and sexuality are now both systems of the modern<sup>323</sup>, output of the authorizing/prohibiting state<sup>324</sup>. The burning point within the next chapter is accommodation of individual differences within citizenship inclusive of right to be complex, beyond hierarchies based upon the way of living<sup>325</sup>.

With the raise of Hindu nationalism, drawing on cultural elements, and those borrowed from the cults, the attitudes towards gender and sexuality sharpened<sup>326</sup>. The semen anxiety recount<sup>327</sup>, which battles penile intercourse between men pervades, and continues throughout the 20th and 21st centuries supported in majority by the groups

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<sup>317</sup> Bhaskaran, 2002, pp. 15-16, p. 27.

<sup>318</sup> Nagel, pp. 49-51. Weeks. p.41.

<sup>319</sup> For instance: indigenous *kothi*, *pareekh* or *dulpi* constitute some of many categories to classify socioeconomically forgotten Indian queer man. Ghosh, A., 2015, p. 53. Puri, p. 184.

<sup>320</sup> Weeks, p. 41.

<sup>321</sup> Nagel, pp. 49-51.

<sup>322</sup> Puri, p. 176.

<sup>323</sup> Bosia, p. 39.

<sup>324</sup> Idem, p. 46.

<sup>325</sup> Donovan, C. et al., p. 692, p. 708.

<sup>326</sup> Kapur, Jyotsna. *Love in the Midst of Fascism: Gender and Sexuality in the Contemporary Indian Documentary*. In: *Visual Anthropology*. Vol. 19, No. 3-4, 2006, pp. 335-346, pp. 337-338.

<sup>327</sup> As well as other narratives of purity, showed as rooted in Vedas, Brahmanical scriptures and post-Vedic 3rd BCE - 7th CE (golden age, Indian antiquity). Puri, pp. 176-177.

which through bio power<sup>328</sup> shape the image of the body as a representation of the national-cultural identity<sup>329</sup>.

Personal experiences, national, racial histories, multiple socio-cultural sources influence how we create the tale about ourselves – identity. Acquiring different gender expressions, feeling attraction towards, or pursuing erotic activity with same-sex person does not always mark one's identity<sup>330</sup>. Yet, queer politics are at vast identity politics, exploited by the modern state, which next to global capitalism set the wider context for the development of attitudes towards sexual minorities today<sup>331</sup>.

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<sup>328</sup>Narrain, A., 2008, p. 73.

<sup>329</sup>Puri, p. 2.

<sup>330</sup>Summers, Claude. *Homosexuality and Renaissance Literature, or the Anxieties of Anachronism*. In: *South Central Review*, Vol. 9, No. 1, 1992, pp. 2-23, p. 2. More: Nagel, 2003. Kannabiran, Singh, 2008.

<sup>331</sup>Kapur, J. 2006, p. 335.

## Chapter 4

### Debate on Sexuality in Modern India

*“Identities (...) are about mapping values the values of relationship, belonging, difference, diversity, continuous possibilities for invention and reinvention open process through which change can happen”*<sup>332</sup>

#### Introduction

Although some scholars overestimate the contribution of HIV/AIDS<sup>333</sup> discourse on existing taboos about sexuality<sup>334</sup>, nevertheless health care related gender and identity based struggle has opened numerous polemics significant for the legislative change and political context shift<sup>335</sup>. Increasingly acknowledged concern of gender, sexuality, and sexual orientation, stimulates changes in everyday lives of some of the people who challenge sexual norms<sup>336</sup>. The exertion of traditional values<sup>337</sup> is a characteristic of both nationalists<sup>338</sup> and activists<sup>339</sup> – recalling universalizing and

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<sup>332</sup>Weeks, Jeffrey. *History, Desire, and Identities*. In: Parker, R. Gangon, J. Eds. *Conceiving Sexuality. Approaches to Sex Research in a Postmodern World*. New York and London: Routledge, 1995, pp. 33-50, pp. 44-45.

<sup>333</sup>Kapur, R., 1999, pp. 369-371.

<sup>334</sup>Ramasubban, Radhika. *Culture, Politics, and Discourses on Sexuality: A History of Resistance to the Anti-Sodomy Law in India*. In: Parker et. al, 2007, pp. 91-126, p. 91.

<sup>335</sup>Narrain, A., 2008, p. 73.

<sup>336</sup>Idem, p. 65.

<sup>337</sup>“Asian values should not be deployed as an excuse for cruelty, denial of civil and human rights” words of Ibrahim, Anwar - Former Prime Minister of Malaysia (1996) quoted in: Altman, Dennis. *The Emergence of “Modern” Gay Identities and the Question of Human Rights*. In: Hilsdon, Anne-Marie. Macintyre, Martha. Mackie, Vera. Stivens, Maila, Eds. *Human Rights and Gender Politics: Asia-Pacific Perspectives*. London and New York: Routledge, 2006, pp. 211-228, p. 213.

<sup>338</sup>The conservative agenda of fundamentalist political groups privileges hyper masculinity: Vedas, colonialism (nationalism) (Adamczyk, Pitt, 2009, p. 338). Anti-colonial nationalist discourses were replete with normative constructions of gendered identities and roles drawn from select elements of Brahmanical scriptural tradition and the question of women’s rights was not only subordinate to but also easily displaced by questions of what constituted authentic tradition (Madhok, p. 228). On the other hand, some of the Indian nationalists now support some of the claims of LGBTQ community. Gupta, M., 2015. Adamczyk, Amy. Pitt, Cassidy. *Shaping Attitudes about Homosexuality: The Role of Religion and Cultural Context*. Social Science Research, Vol. 38, No. 2, 2009, pp. 338–351.

<sup>339</sup>An advocacy groups and individuals with an agenda till some extent critical towards patriarchy, dominant masculinity and sexual violence - the forces that together govern both the subordination of women, the repression of alternative sexualities (Adamczyk, Pitt, p. 338). “They Simultaneously argued that homosexuality had always constituted a part of Indian culture as was evident from passages in the Kama Sutra. Once again the cultural move that denies the existence of homosexuality in India is challenged through a counter-cultural move which argues that homosexuality has always existed in Indian culture”. Kapur, R., 1999, p. 370.

particularizing narratives to uphold their claims<sup>340</sup>. This exercise connects pre-colonial past with the present.

#### 4.1. The Shifting Role of the Indian State

The need of subordinating the body to control populations, the idea of bio power is still sound in post-independence India<sup>341</sup>. Theoretically Indian state tends to assist secularism, concurrently (since the early 1980's)<sup>342</sup>, it enhances religious nationalism<sup>343</sup>, next to Muslim communal politics<sup>344</sup>, it has taken the prime voice in gender issues dispute<sup>345</sup> as it has polarizing, metaphoric power to transform personal beliefs and traditions<sup>346</sup>, given by the practice of overwriting the myths circulating in the national common sense<sup>347</sup>, pursuit similar to colonialists<sup>348</sup>.

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<sup>340</sup>Picq, Thiel, p. 18.

<sup>341</sup>Narrain, A. 2008, p. 73. Puar, Jasbir, K. *Homonationalism - Citation and Censorship: The Politics of Talking About the Sexual Politics of Israel*. In: Feminist and Legal Studies, Vol. 19, No. 2, 2011, pp. 133–142, p. 135.

<sup>342</sup>Hasan, Zoya. *Gender Politics, Legal Reform, and the Muslim Community in India*. In: Jeffrey, Basu, Eds. *Appropriating Gender: Women's Activism and Politicized Religion in South Asia*. New York: Routledge, 1998, pp. 71-88, p. 71. In the West: "Assimilated into the mainstream, the same-sex family is normalized and made central to the nation as the economic and social unit of reproduction. Homosexuality operates as a biopolitical discourse of nationalism and modernization where gayness is used to manage life through the norms of marriage and reproduction". Yue, p. 275.

<sup>343</sup>Basu, Amrita. *Appropriating Gender*. In: Jeffrey, Basu Eds., 1998, pp. 3-14, p. 4. Bacchetta, Paola. *When the (Hindu) Nation Exiles Its Queers*. In: Social Text, Out Front: Lesbians, Gays, and the Struggle for Workplace Rights, No. 61, Winter 1999, pp. 141-166, p. 141. Growth of the politicized religion represents a response to broader economic and political changes - Hindu nationalism as a "kickback to the growth of class and caste struggles in the early 20th century" (Basu, p. 13). Trouble with rights in Indian case is dependence upon pre-existing identities (such as religion). Madhok, p. 229.

<sup>344</sup>More about the inner tensions within Muslim sites and Muslim querness: Kolig, Erich. *Islam and Orientalism in New Zealand: The Challenges of Multiculturalism, Human Rights and National Security—and the Return of the Xenophobes*. In: Kolig, Erich. Angeles, Vivienne SM. Wong, Sam, Eds. *Identity in Crossroad Civilisations. Ethnicity, Nationalism and Globalism in Asia*. Amsterdam: University Press, 2009. pp. 219-240, p. 230. Habib, Samar. *Queer-Friendly Islamic Hermeneutics*. In: SIM Review 21, Spring 2008, pp. 32-33. [Access](#).

<sup>345</sup>Hasan, 1998, p. 71.

<sup>346</sup>Bosia, p. 41.

<sup>347</sup>Hasan, p. 71. Jeffrey, p. 239. Feminists within the religious community or the nation can be accused of inauthenticity, and feminists outside can be charged with intervening in other people's business. In general, religion based fundamentalist factions tend to use theology to validate patriarchal authority (Katjasungkana, Wieringa, p. 27). In the eye of feminism, blocks which do not shelter humanitarian values must be eliminated. "Outlook and prescribed sexual practices of most religious fundamentalist groups are characterized by rigid standards around the binary interpretation of sex and gender as well as on the hegemonic concept of heteronormativity (Idem, p. 31). There is a justified worry about the gender prejudicial nature of religiously based laws. Madhok, p. 230.

<sup>348</sup>Dasgupta, R. K., p. 664.

Much as the institutions of marriage and family<sup>349</sup> expand the sites of unequal citizenship, class in connection with sexuality borders them further<sup>350</sup>. Spaces of safeguarding sexuality and directing desire are permeated with various political and social flows, so that personal intersects with political<sup>351</sup>. In essence, citizenship became hierarchically structured upon sexuality<sup>352</sup>, gender and religious specific<sup>353</sup>. Equating sexuality with morality contribute to the sources of fear of the sexual “other” on a wider scale<sup>354</sup>.

Aside the state<sup>355</sup> or backed up by the power of the state: the criminal law<sup>356</sup>, both the media<sup>357</sup>, education system<sup>358</sup> have their share in the process of outlining the norms and supporting stigmatization<sup>359</sup>. Therefore, these heterocentric frameworks, next to cultural institutions, international agencies, constitute an advocacy targets for queer movement.

The conservative agenda of fundamentalist political groups is said to privilege hyper masculinity, gender and preference binary<sup>360</sup>. Anti-colonial nationalist discourses were replete with normative constructions of gender identities and roles drawn from

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<sup>349</sup>Moran, Leslie. *Affairs of the Heart: Hate Crime and the Politics of Crime Control*. In: *Law and Critique*, Vol. 12, No. 3, 2001, pp. 331-344, p. 336.

<sup>350</sup>Narrain, A., 2007, p. 62.

<sup>351</sup>Altman, Dennis. *Global Gaze/Global Gays*. In: Hawley, John C., Ed., *Postcolonial and Queer Theories. Intersections and Essays*. Westport, CT etc.: Greenwood Press, 2001a, pp. 1-18, pp. 1-3.

<sup>352</sup>Narrain, A., 2007, p. 62.

<sup>353</sup>Madhok, p. 229. More about heteroproper family: Patel, G. *Advertisements, Proprietary Heterosexuality, and Hundis: Postcolonial Finance, Nation-State Formations, and the New Idealized Family*. In: *Rethinking Marxism: A Journal of Economics, Culture & Society*, Vol. 24, No. 4, 2012, pp. 516-535. Bergeron, Puri, 2012.

<sup>354</sup>Narrain, A., 2008, p. 72. Bacchetta, p. 142.

<sup>355</sup>Srivastava, Sanjay. *Passionate Modernity. Sexuality, Class and Consumption in India*. New Delhi: Routledge, 2007, pp. 248-249. Srivastava underlines the state as the main actor.

<sup>356</sup>Criminal law has a regulatory, instrumental or utilitarian aspect: in other words: it prohibits certain things on grounds of public health/safety or for economic or political reasons and sees the purpose of punishment as deterrent that behaviour (Narrain, A., 2008, pp. 52-53). According to Weeks, society and laws stand against behavior, not the person. Weeks, 1981.

<sup>357</sup>Srivastava, 2007, pp. 248-249. The keyword *media* is here understood as “popular cultural technologies (Internet, broadcast media, political campaigns)” (Rahman, p. 95). According to Dutta, MSM and kothi as vulnerable groups. Dutta, Aniruddha. *An Epistemology of Collusion: Hijras, Kothis and the Historical (Dis)continuity of Gender/Sexual Identities in Eastern India*. In: *Gender & History*, Vol. 24, No. 3, 2012, pp. 825–849, p. 831.

<sup>358</sup>Wara, Rynthlin Jennifer. Alberta, Sandra. *Sexuality and “Silence” Among Khasi Youth of Meghalaya, Northeast India*. In: *Culture, Health & Sexuality*, Vol. 15, No. S3, 2013, pp. 351–364. Bacchetta, p. 160.

<sup>359</sup>Mankekar, Purnima. Schein, Louisa. *Introduction: Mediated Transnationalism and Social Erotics*. In: *The Journal of Asian Studies*, Vol. 63, No. 2, 2004, pp. 357-365, p. 358. Narrain, A., 2008, p. 52.

<sup>360</sup>Adamczyk, Pitt, p. 338. Katjasungkana, Wieringa, p. 31.

select elements of Brahmanical scriptural tradition. What is more, the question of women's rights was not only subordinate to but also easily displaced by questions of what constituted authentic tradition<sup>361</sup>. In general, religion based fundamentalist fractions tend to use theology to validate patriarchal authority<sup>362</sup>. There is a justified worry about the gender prejudicial nature of religiously based laws<sup>363</sup>. Yet, the image of religious fundamentalism and nationalism drawn by feminists is being continuously deconstructed through social experience, since now Indian nationalist, patriotic, or conservative parties support the claims of LGBTQ community<sup>364</sup>.

Additionally, the multiplicity of autochthonous cultures, right to privacy<sup>365</sup> (recently upheld by The Supreme Court<sup>366</sup>), should secure equal rights<sup>367</sup> and break the dramatized by the constitutional injunctions<sup>368</sup> silence set upon people's emotion<sup>369</sup>. Pitt claims that subjective well-being, quality of life, self-expression<sup>370</sup>, seen in relation to the new orientations following industrialization and modernization shift, scholarly writing, political debates, legislature attitudes<sup>371</sup>, is making tolerance for non-normative behaviors not only possible<sup>372</sup>, but yet included within neoliberal capitalism<sup>373</sup>. Nevertheless, these phenomena might send those on the edge of economic

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<sup>361</sup>Madhok, p. 228.

<sup>362</sup>Katjasungkana, Wieringa, p. 7.

<sup>363</sup>Madhok, p. 230.

<sup>364</sup>Gupta, M., 2015. Bajoria, Jayshree. *Making Transgender Rights a Reality in India*. In: India Cultural Forum. Resources. Reports & Essays, November 17, 2017. [Access](#).

<sup>365</sup>The Supreme Court's decision officially supports the right to privacy. Next to that, readers of Section 377 suggest that "there is no violation of fundamental liberty as long as any act of homosexuality/lesbianism is practiced between two consenting adults in privacy as in the case of heterosexuality" (Kole, 2007). Recognized by The Supreme Court Idea of privacy corresponds with svaraj - the struggle for individual autonomy. Boyce, B., p. 40.

<sup>366</sup>Duggal, Pavan. *Right to Privacy: Supreme Court Judgment Mirrors People's Aspirations*. [Access](#).

<sup>367</sup>Boyce, B., p. 4.

<sup>368</sup>Weeks, 1981, p. 103.

<sup>369</sup>In the context of lesbians: Thadani, Giti. *Silence and Invisibility*. In: Ashwini Sukthankar, Ed. Facing the Mirror. Lesbian Writing from India. New Delhi: Penguin Books, 1999, pp. 149-152, p. 152.

<sup>370</sup>For example, more recognizable "self-expression through consumption in the market". Rao, Rahul. *Global Homocapitalism*. In: Radical Philosophy, Vol. 194, 2015, pp. 38-49, p. 43.

<sup>371</sup>Adamczyk, Pitt, p. 338.

<sup>372</sup>Ibidem, pp. 339-340.

<sup>373</sup>Then there is the function of capitalism. The neoliberal accommodationist economic structure engenders niche marketing of various ethnic and minoritized groups, normalizing the production". Puar, Jasbir. *Rethinking Homonationalism*. In: International Journal of Middle East Studies. Vol. 45, No. 2, 2013, pp. 336-339, p. 338.

comprehension into the shadow of denial, as legal considerations mean recognition and entitlement to socio-economic redistribution<sup>374</sup>.

#### 4.2. West in the Context of Indian Queer Mobilization<sup>375</sup>.

Although relation between Western and South Asian feminists<sup>376</sup>, LGBT/queer<sup>377</sup> advocacy groups is seen as an alliance based on presumption that gender issues are global. In India, connotations with LGBTQ, in general, raise question of cultural authenticity<sup>378</sup>, and create the atmosphere of prejudice based on the idea that queer is contrary to the cluster of Asian ideals. Correspondingly<sup>379</sup>, in India, in majority, it is urban middle or upper class that engages in and represents social movements<sup>380</sup>, advocacy groups and trans-/local NGOs entangled in global threads<sup>381</sup>.

The intention is justice and legal rights acquisition<sup>382</sup>, followed by consciousness-raising<sup>383</sup>, providing freedom from unlicensed detention<sup>384</sup>, violence, exploitation, monocultures, patriarchy, and all other hierarchies<sup>385</sup>.

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<sup>374</sup>Bergeron, Puri, p. 496.

<sup>375</sup>"*Twentieth century India still frames same sex desires as an import from the West*". Dasgupta, R. K., p. 667.

<sup>376</sup>The contemporary or autonomous feminist movement in India is often regarded to have come into its own in the 70's. Madhok, p. 225.

<sup>377</sup>See: *Glossary*.

<sup>378</sup>Madhok, p. 227.

<sup>379</sup>"Human rights run ideological pressure driven from the global north, they empower the rich and powerful across the global divide - resulting in epistemic discontinuity between the human rights advocates located in the south and the subaltern groups whose rights they seek to defend". Spivak in Madhok, p. 226.

<sup>380</sup>On the example of women's movement in India. Madhok, Sumi. *Rights Talk and the Feminist Movement in India*. In: Roces, Edwards Eds., 2010, pp. 224-241. "Both social movements and NGOs [...] occur within the larger arena of society termed 'civil society'". De Souza, Rebecca. *NGOs in India's Elite Newspapers: A Framing Analysis*. In: Asian Journal of Communication, Vol. 20, No. 4, 2010, pp. 477-493, p. 479.

<sup>381</sup>Some of the NGOs. Packard Foundation, MSF, FXB, Pathfinder International, Engenderhealth, ICW, HIVOS, International HIV/AIDS Alliance, Packard Foundation, local NGOs: Sahodaran Community-Oriented Health Development Society. Kole, 2007. Elouard et al., 2013.

<sup>382</sup>Dave, 2012, p. 30.

<sup>383</sup>Roces, p. 15.

<sup>384</sup>Narrain, A., 2008, p. 69.

<sup>385</sup>Bhasin, Kamla. *Feminist Reflections on Neo-Liberalism, Fundamentalism and Survival*. In: Katjasungkana, Nursyahbani. Wieringa, Saskia E. Eds. *The Future of Asian Feminisms: Confronting Fundamentalisms, Conflicts and Neo-Liberalism*. Newcastle upon Tyne: Cambridge Scholars Publishing, 2012, pp. 1-8, p. 7.



Despite manifold framework of the rights, the fight for rights must not abandoned, as they constitute an important way for some of the marginalized to rally<sup>386</sup>. “There is not a single country which fully respects LGBT or queer rights”<sup>387</sup>, in the West, these are considered indexes of progress, and gender, and desires of sexual minorities are often seen as Western issues alone<sup>388</sup>, or as means of managing “world society” through NGOs<sup>389</sup>, treaties on minority protection, under “the cover human rights or development agenda”<sup>390</sup> in globalization<sup>391</sup> and capitalism-focused tensions<sup>392</sup>.

In the West claims for equal marital rights for LGBTQ people conform to monogamous heteronormative order, exclusive citizenship and (also socio-economic) privilege of coupledoms<sup>393</sup>, similar uncertainties raised in India<sup>394</sup>. Both economic and social control over non-normative<sup>395</sup>, through modern sexual law reform<sup>396</sup>, caused a backlash in the West in the form of homonationalism<sup>397</sup>, and hurried further marginalization of for example hijra and kothi communities in India<sup>398</sup>.

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<sup>386</sup>Madhok, p. 236.

<sup>387</sup>Langlois, Anthony L. *Human Rights, LGBT Rights, and International Theory*. In: Picq, Thiel Eds., 2015, pp. 23-37, p. 23.

<sup>388</sup>Katjasungkana, Wieringa. The Future of Asian Feminisms. In: Katjasungkana, Wieringa Eds., 2012, pp. 16-36, p. 28. More: Dave, Naisargi. *To Render Real the Imagined: An Ethnographic History of Lesbian Community in India*. In: Source: Signs, Vol. 35, No. 3, 2010, pp. 595-619, p. 599. For statistical data: The ILGA RIWI 2016. *Global Attitudes Survey on LGBTI people in partnership with LOGO*. [Access](#).

<sup>389</sup>Western institutions of international development, aid agencies, donor organizations and international NGOs. With reference to international development. Kole. 2007. Altman, 2001, p. 95.

<sup>390</sup>Burchardt et al., p. 614. Rao, R., pp. 38-39.

<sup>391</sup>Globalization is shifting the norms of sexual behavior, constructs gender or sex on the basis of traditional and modern (Altman, 2001, p. 99, p. 138). Global forces sharpen the edges of opinions within Indian society. Adamczyk, Pitt, p. 340.

<sup>392</sup>Madhok, p. 227. More: Rahman, 2015. Picq, Lavinia Manuela. *Peripheral Prides: Amazon Perspectives on LGBT Politics*. In: Picq, Thiel Eds., 2015, pp. 108-123. Presently capitalism is more likely to be linked with sexuality. Altman, 2001, pp. 104-105, p. 95. Rao, R., p. 37.

<sup>393</sup>Bergeron. Puri, p. 495. “The focus on partnership rights is largely the result of living in a society where participation and inclusion in most aspects of citizenship is based on being a member of a couple within a particular type of family”. Donovan, C. et al., p. 706. Podmore, Julie. *Critical Commentary: Sexualities Landscapes beyond Homonormativity*. In: Geoforum, Vol. 49, 2013, pp. 263-267.

<sup>394</sup>Reddy, Chandan. *Asian Diasporas, Neoliberalism, and Family: Reviewing the Case for Homosexual Asylum in the Context of Family Rights*. In: Social Text, Vol. 23, No. 3–4, 2005, pp. 101–119, p. 114. [Access](#). Bosia, pp. 69-71.

<sup>395</sup>Becoming a socioeconomic unit manageable under the nation state. Bergeron, Puri, p. 492.

<sup>396</sup>Yue, p. 275

<sup>397</sup>Ibidem.

<sup>398</sup>Reddy, Gayatri. *Geographies of Contagion: Hijras, Kothis, and the Politics of Sexual Marginality in Hyderabad*. In: Anthropology & Medicine, Vol. 12, No. 3, 2005, pp. 255-270, p. 266.

### 4.3. Sexuality Through the Scope of Legal Regulations

Reading the law, institutional decisions showcase how sexuality is governed. The petition of New Delhi NGO Naz Foundation<sup>399</sup>, against the Union of India<sup>400</sup>, challenges Section 377, underlines that criminalization restrains AIDS prevention and care campaign<sup>401</sup>, and calls for reading of the Constitution within the areas of children's rights<sup>402</sup>, rape, personal freedom, equity of self-expression, privacy, and autonomy<sup>403</sup>. Testimony of the Voices Against 377 coalition<sup>404</sup> highlights how sodomy legislation nourishes violence against LGBTQ people.

The High Court of Delhi, aided by Indian cultural and legislative heritage, comparative and foreign law decisions<sup>405</sup>, and international human right declarations, concluded that “decriminalization would not affect the spread of HIV”, the law which discriminates on the basis of sexual orientation and criminalizes private consensual relations violates constitutional guarantees<sup>406</sup>, and constitutional morality<sup>407</sup>, what is more, it expands the range of harassment and victimization<sup>408</sup>.

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<sup>399</sup>The appeals in question recalled international and foreign law (Khosla, p. 912), were represented by the public-interest Lawyers Collective (Boyce, B., p. 29) and were supported by broad coalition of queer groups, women's groups, children's rights groups, HIV/AIDS intervention groups, and human rights organizations (Reddy, G., 2005, p. 267). Khosla, Madhav. *Inclusive Constitutional Comparison: Reflections on India's Sodomy Decision*. In: American Journal of Comparative Law, Vol. 59, 2011, pp. 909-934.

<sup>400</sup>The Union of India represented by two governmental bodies: Ministry of Home Affairs (which claims that decriminalizing sex between men would increase exposure to HIV; it reaffirmed that Section 377 exists to protect children from rape and sexual abuse, and is in fact the mirror of popular morality and Indian values) and Ministry of Health and Family Welfare (which supports public health AIDS/HIV prevention concerns presented by NAZ through the National AIDS Control Organization (NACO). Boyce, B., pp. 29-30.

<sup>401</sup>HIV/AIDS prevention is set the main goal on Naz Foundation agenda. The Joint United Nations Programme on AIDS (UNAIDS), agendas of UNAIDS and the Government of India, and the Union Minister of Health uphold that claim. Boyce, B., p. 29, p. 34.

<sup>402</sup>Narrain, A., 2008, p.139.

<sup>403</sup>Boyce, B., p. 30.

<sup>404</sup>Voices Against 377 (coalition of human rights groups), “represented by attorneys in the Bangalore-based Alternative Law Forum” (Boyce, B., p. 30). “...is a coalition of twelve women's rights, child rights and LGBT groups which was dedicated to ending Section 377's criminalisation of the lives of LGBT persons. In their affidavit, they advanced the argument that Section 377 creates an association of criminality towards people with same sex desires and that its continued existence creates and fosters a climate of fundamental rights violations of the LGBT community”. Boyce, B., p. 30n4.

<sup>405</sup>Boyce, B., p. 40. Khosla, M., 2011, pp. 914-915. Bosia claims that international law constitutes a homophobic heterocentric system as the rights to marry or to privacy conform to heteronormative standards and the language used tends to be pejorative towards gender and sexual minority groups. Bosia, pp. 69-71.

<sup>406</sup>The rights of personal liberty, right to dignity, autonomy and privacy (Article 21 right to life), right to equality (Article 14), rights against sex-based discrimination - both state and private discrimination (Article 15). Boyce, B., p. 31.

The criminal law might influence lived reality<sup>409</sup>, by its nature, codified semi-moralistic judgement tends to set unofficial sexual customs aside<sup>410</sup>, state what is normal<sup>411</sup>, and support gendered reality with sexual bias embedded in it. As the Section 377, offspring of the British Rule, came into force of with The Constitution and remains today, it is imprecise to state that it expresses social opinion, it rather contributes to victimization<sup>412</sup>, shapes social reality with anxiety for those criminalized<sup>413</sup>.

#### 4.3.1. Further Reading of Potentially Discriminatory Laws

This sub-section marks provisions, which although may not explicitly indicate relation to one's gender or sexuality, have relevant discriminatory capacities. Besides, laws regulating the police support arrest or detention and other forms of punishment, hinging on these broadly expressed laws<sup>414</sup>.

Inequality within employment is severe, therefore seeking charity and sexual/erotic labor became the means of earning for a share of transgender people. This economic situation is deepened by the stigma attached to such sorts of self-support. Moreover, people of ambiguous gender are perceived as sex workers and beggars, even when their occupation differs<sup>415</sup>. Laws punish begging with arrest, fines<sup>416</sup>, sex work

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<sup>407</sup>Boyce, B., p. 35.

<sup>408</sup>The 2009 Delhi High Court Judgment on Section 377. p. 7. [Access](#). Narrain, Arvind. *Challenging the Anti-Sodomy Law in India: Story of a Continuing Struggle*. In: Dubel, Ireen. Hielkema, André, Eds. *Urgency Required: Gay and Lesbian Rights are Human Rights*. 2008, pp. 136-149, p. 138. [Access](#).

<sup>409</sup>Dutta, A., p. 831.

<sup>410</sup>Srivastava, 2007, p. 7. In some communities family law meets requirements of what citizenship law does for the state. Shachar, Ayelet. *Entangled: Family, Religion and Human Rights*. In: Holder, Cindy. Reidy, David, Eds. *Human Rights, Hard Questions*. Cambridge: Cambridge University Press, 2013, pp. 115-135, pp. 122-123.

<sup>411</sup>Narrain, A., 2008, p. 66.

<sup>412</sup>Ghosh, A., 2015.

<sup>413</sup>Anxiety, followed by chronic fear, mental distress, conscious modification of one's actions, an internal policing, issues with getting a job, loss of social status, and fear from police, having to have sex in public spaces. Narrain, A., 2008, pp. 67-68.

<sup>414</sup>International Commission of Jurists. "Unnatural Offences" *Obstacles to Justice in India Based on Sexual Orientation and Gender Identity*. February, 2017, p. 22. [Access](#). The Immoral Traffic (Prevention) Act, 1956. [Access](#). The Immoral Traffic (Prevention) Act Amendment, 2006. [Access](#). In addition, The Army Act, 1950. Contains a passage on unnatural acts under Certain forms of disgraceful conduct. This law also leaves broad field for interpretation and abuse. [Access](#).

<sup>415</sup>Ramasubban, p. 114. International Commission of Jurists.

<sup>416</sup>Laws that criminalize begging include: The Bombay Prevention Of Begging Act, 1959 [Delhi Extension]; The Telangana Prevention Of Begging Act, 1977; The Andhra Pradesh Prevention Of Begging Act, 1977; The Maharashtra Prevention Of Begging Act, 1959; The Goa, Daman and Diu Prevention of Begging Act,

regulation, refers to “soliciting” and “living on the earnings of prostitution”<sup>417</sup>, while nuisance law<sup>418</sup>, sanction and arrest because of “public annoyance”<sup>419</sup>.

Anti-discrimination and Equality Bill<sup>420</sup> (2016) describes “protected characteristic” as inclusive of sex, gender identity, sexual orientation, HIV status of the citizen<sup>421</sup>. Moreover, in relation to “gender identity: transgender people, hijras, and gender non-conforming”, and “sexual orientation: gays, lesbians, bisexuals, kothis, and other sexual minorities” are grasped under “disadvantaged group”<sup>422</sup>.

### 4.3.2. Comment on Marital Unions

For the last few decades marital unions between same-sexes are accounted, reception, and consequences vary from enforced separation, imposed heteronormative marriage or even tragic joint-suicide attempts<sup>423</sup> to warm acceptance and blessing from local communities and families<sup>424</sup>. North Indian practice of *maitri karar*<sup>425</sup>, where with community as a witness, temple as a space, two same-sex individuals exchange garlands as a symbol of commitment, might be as well seen as marital union<sup>426</sup>.

Supreme Court’s Judgement of 2014 recognizes “third gender” when it comes to education, while applying for passports, voting, obtaining driving license, but leaving

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1972; The Gujarat Prevention Of Begging Act, 1959; The Tamil Nadu Prevention Of Begging Act, 1945; The Indian Railways Act, the Bombay Prevention of Begging Act, Karnataka Prohibition of Beggary Act, 1975. The Railways Act, 1989, [Access](#).

<sup>417</sup>The Immoral Traffic (Prevention) Amendment Bill, 2006 - Bill further to amend the Immoral Traffic (Prevention) Act, 1956.

<sup>418</sup>“A person is guilty of a public nuisance who does any act or is guilty of an illegal omission which causes any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right”. Section 268 of the IPC.

<sup>419</sup>International Commission of Jurists., p. 22.

<sup>420</sup>Anti-Discrimination and Equality Bill, 2016. [Access](#).

<sup>421</sup>Protected characteristic, widely described, as follows: “or (ii) any other personal characteristic which,— (a) is either outside a person's effective control, or constitutes a fundamental choice, or both; and (b) defines at least one group that suffers or is in danger of suffering widespread and substantial disadvantage, when compared with other groups defined by the same characteristic; or (iii) a combination of any of the above”. Anti-Discrimination and Equality Bill, 2016.

<sup>422</sup>Anti-Discrimination and Equality Bill, 2016.

<sup>423</sup>Mental health issues in relation to transgender community have been widely avoided. Some of the issues include: suicidal tendencies, lack of social support, depression, and feeling of shame, fear, social pressure to conform and self-imposed limitations on expression or aspirations. Chakrapani, Venkatesan M. *Hijras/Transgender Women in India: HIV, Human Rights and Social Exclusion, United Nations Development Programme (UNDP)*. India Issue Brief, December 2010, pp. 4-6. [Access](#).

<sup>424</sup>More: Vanita, 2002, 2010.

<sup>425</sup>Friendship agreement. Ghosh, A., 2015, p.53.

<sup>426</sup>Khanna, Akshay. *Three Hundred and Seventy Seven Ways of Being - Sexualness of the Citizen in India*. In: Journal of Historical Sociology, Vol. 26, No. 1, 2013, pp. 120-142, p. 123, p. 140. Vanita, Kidwai Eds., p. 147.

out the right to marry. Of course hijras do marry between each other and outside the community, yet such unions are legal if a transgender person chooses their gender identification to be female, in case of marrying a man, instead of now optional “third gender”.

There are several marriage laws in present day India<sup>427</sup>. Depending upon specific region and marriage type, registration is necessary, otherwise constituting an illegal act. Even though some of the interpretations of the policies do not explicitly state that same-sex partnership is illegal<sup>428</sup>, there is no recognition of attracted by the same-sex<sup>429</sup>, as the martial union is customarily read as occurrence between man and a woman (husband and wife respectably), therefore naturalizing gender binary (with its reproductive capacities) and the difference between masculine and feminine<sup>430</sup>. Those limitations<sup>431</sup> did not prevent some of the official same-sex marriages from happening. Recent draft of the uniform civil code (2016)<sup>432</sup>, suggests such recognition, allowing at least some of the sexual minorities, not only to access further legal consequences of marriage: inheritance, custody, employment benefits, pension, but also to adopt<sup>433</sup>.

#### **4.4. Responses to Sexuality and Gender Identity Based Discrimination and Violence**

It was partially inquiry upon civil and state violence, undertaken by informal support groups and individuals, which later rushed CBOs and NGOs<sup>434</sup>. Recently,

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<sup>427</sup>Ghosh, A., 2015, p. 2-3. Special Marriage Act, 1954. [Access](#). Indian Christian Marriage Act, 1872. [Access](#). Hindu Marriage Act, 1955. [Access](#). Dissolution of Muslim Marriages Act, 1939. [Access](#). Parsi Marriage and Divorce Act, 1936. [Access](#).

<sup>428</sup>Some of the voices in that group call for juridically confirmed marriage. It is not a crime for same-sex couple to become married with the permission of family and the priest, yet it can not be registered by the state. Vanita, 2005, p. 65.

<sup>429</sup>Chakrapani, Venkatesan M. *The Case of Tamil Nadu Transgender Welfare Board: Insights for Developing Practical Models of Social Protection Programmes for Transgender People in India. Policy Brief*. Report submitted to UNDP-India, 2012, p. 38. [Access](#).

<sup>430</sup>Bosia, p.50.

<sup>431</sup>Dash, Dipak Kumar. Yadav, Sanjay. *In a First, Gurgaon Court Recognizes Lesbian Marriage*. In: The Times of India, July 29, 2011. [Access](#).

<sup>432</sup>Dey Anurag. *A New UCC for a New India? Progressive Draft UCC Allows for Same Sex Marriages*. October 13, 2017. [Access](#).

<sup>433</sup>“The draft also bars more than one such partnership at a time”. Ibidem. Therefore, supporting monogamy.

<sup>434</sup>Narrain, A. 2008, p. 50. Kole, 2007. Dutta, p. 831, Narrain, A. 2007, p. 68. Ganguli, Dibyendu. *Criminalization of Homosexuality and the Struggle for Self-Respect: A Socio-Legal Analysis on Section 377 of Indian Penal Code*. In: International Multidisciplinary Research Journal. Indian Streams Research Journal, Vol. 4, No. 2, 2014, pp. 1-5.

within global homocapitalism framework<sup>435</sup>, it became apparent that sexuality based hate<sup>436</sup> costs The World Bank money<sup>437</sup>. Manifestations of hatred and stigma, next to familial and societal violence<sup>438</sup>, rooted in the state and civil society, have public origin and consequence<sup>439</sup>. Homophobia, now political and transnational phenomena<sup>440</sup>, is seen as the opposite of social equality of LGBTQ within the processes of democratic, secular state<sup>441</sup>. It is therefore the Western institutions<sup>442</sup> claim to “liberalize sexually repressed communities in traditional homophobic societies”<sup>443</sup>, assembling the hierarchy of nations based upon their “progressiveness”<sup>444</sup>. At the same time, word “homophobia” does not have an equivalent in Indian languages<sup>445</sup>.

Additionally, the behavior which challenges the norms of gender and sexuality is classified crimes. As the deed is conflated with the person or identity (a tendency in Indian courts), personal identity and identity of political resistance become equated, sexual identity governmentalized<sup>446</sup>.

One of the dramatic, locally diffuse and variegated consequences of anti-sodomy law is the feeling of entitlement towards brutality pursuit against presumed or actual LGBTQ individuals<sup>447</sup> – colonial influence, is now internalized by modern

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<sup>435</sup>A critique of gay assimilationist politics in the USA and Western Europe (Rao, R., p. 47). The term “homocapitalism” has been in circulation for some time, largely on social media, and largely as a critique of gay assimilationist politics in the USA and Western Europe. In its everyday usage, it builds on concepts like homonormativity and homonationalism to signify the selective incorporation of some race-, class- and gender-sanitized queers into capitalism and the disavowal of others through a liberal politics of recognition that obviates the need for redistribution. Rao, R., p. 43, p. 47.

<sup>436</sup>While Herek expresses reservations about the term “homophobia” on account of “its tendency to individualize and pathologize the affect it seeks to describe”. Rao, R., p. 43.

<sup>437</sup>Rao, R., p. 38-39.

<sup>438</sup>Thadani, 1999, p. 152.

<sup>439</sup>Narrain, A., 2008, p. 70.

<sup>440</sup>Rahman, p. 92.

<sup>441</sup>Idem, p. 94. Some of the scholars underline that questions of democratization and political economy will gain more impact of gay/lesbian movements in Asia. Altman, 2001, p. 52. More: Kole, 2007.

<sup>442</sup>Kole, 2007. Altman, 2001, p. 95.

<sup>443</sup>Rao, R., p. 38.

<sup>444</sup>Yue, Audrey. *Queer Asian Mobility and Homonational Modernity: Marriage Equality, Indian Students in Australia and Malaysian Transgender Refugees in the Media*. In: *Global Media and Communication*, Vol. 8, No. 3, 2012, pp. 269–287, p. 270.

<sup>445</sup>Kole, 2007.

<sup>446</sup>Narrain, A. 2008, p. 51, p. 59.

<sup>447</sup>Idem, p. 71.

Indian<sup>448</sup>. While the toll of exposure seems to polarize society, nations informed by foreign experience of sexuality, co-build homophobic tension within<sup>449</sup>, most scholars suggest Western/colonial origin of hostility, since India customarily tends to accept same-sex attraction<sup>450</sup>.

Queer mobilization<sup>451</sup>, NGOs, and sexual minority groups, an answer to HIV epidemic came from simultaneously emerging individual<sup>452</sup> and collective efforts<sup>453</sup>. Establishment of fixed identities (LGBT, MSM, hijra<sup>454</sup>) through language of HIV/AIDS debate<sup>455</sup>, helped mobilize diverse sexualities. Whereas, sewing hijra and other identities onto MSM label<sup>456</sup> and marking it as “risk group”<sup>457</sup> (therefore sexualized<sup>458</sup> and sexually different<sup>459</sup>), provided a ground for homophobia<sup>460</sup>, and further exclusions.

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<sup>448</sup>Dasgupta, R. K., p. 663.

<sup>449</sup>Katjasungkana, Wieringa, p. 29. Girard, Françoise. *United Nations - Negotiating Sexual Rights and Sexual Orientation at the UN*. In: Parker, Richard. Petchesky, Rosalind. Sember, Robert, Eds. *Sex Politics - Reports from the Front Lines*. New York: Sexuality Policy Watch, 2007, pp. 311-358, p. 354.

<sup>450</sup>Cohen, p. 297.

<sup>451</sup>Crucial for the spread of new ideologies and overcoming taboos were media. Roces, p. 15.

<sup>452</sup>“...there are several individual efforts, informal support groups, collectives and agency of indigenous queer communities that operate outside HIV/AIDS/sexuality funding”. Kole, 2007.

<sup>453</sup>Moreover, efforts made by LGBT organizations have resulted in relatively low HIV prevalence among MSMs in India. Kole, 2007. Narrain, A., 2007, p. 68.

<sup>454</sup>Hijras are the community of transgenders that may include transvestites, transsexuals, drag queens and intersexed, and they are structured around guru-shishya (teacher-disciple) hierarchies (Ghosh, A., 2015, p. 54). Hijras and kothis demanded and somewhat negotiated their sexual (Reddy, G., 2005, p. 258) and civil rights (voting right in 1994). The judgment of Supreme Court on 15 April 2014 that recognizes transgenders as a “third sex” (hereinafter NALSA judgment, as the petition was filed by the National Legal Services Authority [NALSA]) acknowledged a diverse and plural transgender population that includes several community groups spread across India, besides hijra: aravanis and tirunangis, kothis, jogtas and jogappas, shiv shaktis, and kinnars. Ghosh, A., 2015, p. 54. Dave, 2012, p. 2.

<sup>455</sup>At the same time, the mobilized “actively undertaken to define ‘real’ or ‘authentic’ hijras as a minority in collusion with NGOs and the media” (Rao, R., p. 38). AIDS/HIV representation crisis first occurred in the West. Bersani, Leo. *Is the Rectum a Grave?* In: *AIDS: Cultural Analysis/Cultural Activism*, Vol. 43, 1987, pp. 197- 222. Dutta, A., p. 831.

<sup>456</sup>“The category called MSM essentially targets the subaltern group of hijras and kothi (along with female sex workers) who were seen to be spreading the epidemic.” Narrain, A., 2007, p. 68.

<sup>457</sup>Reddy, G., 2005, pp. 257 -258, p. 263.

<sup>458</sup>Idem, p. 258.

<sup>459</sup>“It is the particular acts that MSM engage in, and the risks associated with those acts that condition their inclusion within this category”. Idem, p. 265.

<sup>460</sup>Asthanaa, Sheena. Oostvogels, Robert. *The Social Construction of Male “Homosexuality” in India: Implications for HIV Transmission and Prevention*. In: *Social Science and Medicine*, Vol. 52, 2001, pp. 707–721, p. 709.

#### 4.4.1. The Role of Development: CBOs and NGOs

Since the 1980s, what is called now LGBTQ activism and organizations advanced<sup>461</sup> throughout South Asia<sup>462</sup>. Community networks, CBOs and NGOs through 1990's<sup>463</sup> focused on sexual health and civil rights<sup>464</sup>. Collectivized gay and lesbian politics surfaced entangled in the anti-politics and heteronormative politics of development<sup>465</sup> (with processes of globalization<sup>466</sup>, neoliberalism marketing activism, growing inter-influence of the postcolonial institutional networks: NGOs, the state and the patrons)<sup>467</sup>, intercontinental health setup<sup>468</sup>. NGOs have been said to exercise Western influence<sup>469</sup> and have a significant knowledge productive<sup>470</sup> and norm-establishing power. Their agendas, partially under constraint and permissions of

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<sup>461</sup>Related activism moves are predicted to increase within the next few years. Deo, Nandini. *Structure and Strategies: Two Faces of Civic Activism in India*. In: Journal of Civil Society, Vol. 3, No. 2, 2007, pp. 137-157, p. 151.

<sup>462</sup>Ghosh, A. 2015, p. 55.

<sup>463</sup>Kole, 2007.

<sup>464</sup>Like in the West, the state has seen a growing movement for the civil rights and sexual health of sexual minorities since the early 1990s. Dutta, p. 831.

<sup>465</sup>"Development itself remains a hetero-normatively grounded ideology" (Bergeron, Puri, p. 496), "Focused on regulation and risk management, the development industry has tended to ignore the more positive and affirmative dimensions of sexuality. And it has, until recently, been deeply heteronormative in its understanding of desire". Rao, R., p. 38.

<sup>466</sup>"Global order main actors: intergovernmental organizations (IGOs), such as the UN, the World Trade Organization (WTO), the World Bank, and the IMF, and their various treaties; NGOs and their activism; multinational corporations (MNCs) and their operation; state governments". Ho, Josephine. *Is Global Governance Bad for East Asian Queers?* GLQ: A Journal of Lesbian and Gay Studies, Vol. 14, No. 4, 2008, pp. 457-479.

<sup>467</sup>Dave, 2012, pp. 10-11. Ho, 2008, p. 459. Shah, Svati P. *Queering Critiques of Neoliberalism in India: Urbanism and Inequality in the Era of Transnational "LGBTQ" Rights*. In: Antipode, 2015, Vol. 47, No. 3, pp. 635-651. [Access](#). Dutta, p. 826. More: deSouza, Peter R., Ed. Contemporary India-Transitions. New Delhi: Thousand Oaks, 2000.

<sup>468</sup>The advent of globalized health care, harmonized with the economic liberalization (1991), the global anti-AIDS/HIV campaign and propaganda (Dave, 2012, p. 13). There is a possibility that the virus spread through global economy processes: rapid urbanization and population changes. Altman, 2001, p. 52.

<sup>469</sup>Ho, J., p. 459

<sup>470</sup>Shah, p. 638.



donors<sup>471</sup> and states<sup>472</sup>, might add to further governmentalization, and support fixed ideas upon sexuality<sup>473</sup>.

#### 4.4.2. Homonationalism

Queer constituting part of the mainstream politics<sup>474</sup> – insistence on human rights, liberal rights<sup>475</sup>, from (at least a part of) LGBTQ community, is seen as act of mirroring<sup>476</sup>, instead of opposing eurocentric<sup>477</sup> heteronormative structures (economy, sociality, family<sup>478</sup>), and rather manufacturing cultural and legal citizenship<sup>479</sup> (for instance, through fetishised fear of the homosexual<sup>480</sup>) is called homonormativity<sup>481</sup> (with application to the nation: homonationalism<sup>482</sup>). On the basis these historical assimilationist<sup>483</sup> shifts that homocapitalism was coined in the West, indeed offering liberal politics of queers, economic inclusion but only in discriminatory terms

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<sup>471</sup>To meet donor agencies criteria, organizations formulate their agendas in expected manner. Hui, Tan Beng, 2012, pp. 12-13.

<sup>472</sup>There are informal support groups, collectives and agencies of indigenous queer communities that operate outside HIV/AIDS/sexuality funding, and outside the state. Kole, 2007. Ho, J., p. 460. DeSuoza, p. 478.

<sup>473</sup>In India they are not religious organizations. In further critique of NGOs: NGOs wasteful procedures: “[...] top-heavy bureaucracies, which resemble multinational corporations because of their large media departments, government lobbying, and competition in government tenders; [...] economic interests have led to competition among NGOs; NGOs with overlapping missions, values, and target groups often compete with each other, thereby resulting in unnecessary duplication of services, disruption of each other’s projects, and increased costs”. Tellis, Ashley. *Disrupting the Dinner Table: Re-Thinking the “Queer Movement” in Contemporary India*. In: Jindal Global Law Review, Vol. 4, No. 1, 2012, pp. 142-156, p. 143. DeSuoza, p. 478.

<sup>474</sup>Meghani, Shamira A., *Queer Theory a Queer Theory and Sexualities*. In: Year’s Work in Critical and Cultural Theory, 2010, Vol. 18, No. 1, 2010, pp. 97-119, p. 103-104.

<sup>475</sup>“Especially family related rights (marriage, adoption), citizen rights. The sexualized nationalism of homonational modernity is evident in global marriage equality debates and politics. Marriage equality exemplifies queer mobility as rights based process of recognizing same-sex relationships as sexually legal and gays and lesbians as equal citizens”. Yue, p. 273.

<sup>476</sup>Bakshi, Kaustav. Sen, Parjanya. *India’s Queer Expressions On-Screen: The Aftermath of the Reading Down of Section 377 of the Indian Penal Code*. In: New Cinemas: Journal of Contemporary Film, 2012, Vol. 10, No. 2- 3, pp. 167–183, p. 177.

<sup>477</sup>Meghani, pp. 103-104.

<sup>478</sup>Bakshi, Sen, p. 176.

<sup>479</sup>Schippert, Claudia. *Implications of Queer Theory for the Study of Religion and Gender: Entering the Third Decade*. In: Religion and Gender, 2011, Vol. 1, No. 1, pp. 66-84, p. 78. [Access](#). Puar, p. 337.

<sup>480</sup>Yue, p. 270. Rao, R., p. 43.

<sup>481</sup>Shah, p. 626.

<sup>482</sup>Puar recalled by Meghani: “In particular, this exceptional form of national homonormativity is extended through and against Orientalist constructions of a perversely sexualized and racialized Muslim population (pedophilic, sexually lascivious and excessive, yet perversely repressed)”. Meghani, p. 102.

<sup>483</sup>Podmore, p. 264.

regarding class, race<sup>484</sup> and gender<sup>485</sup>. These geopolitical features of modernity drew critical attention of scholars and activists<sup>486</sup>, also in India, as they continue to conceal economic inequalities<sup>487</sup>.

#### 4.5. Problematic Language of Sexuality

Foreign construction of the binary: gay/homosexual-straight has little application to South Asian context<sup>488</sup>. Indian society follows gender division rather than segregating people with lines of sexual orientation (the West)<sup>489</sup>. Miscellaneous indigenous sexualities<sup>490</sup>, with their original nomenclatures, beyond the range of officially administered Indian languages<sup>491</sup>, and are clustered under unjust fixed terms.

At large Indian activists acquired the Anglo-American concept “queer” or abbreviation *LGBTQ*, to reflect multidimensionality of genders and sexualities<sup>492</sup>. The identitarian terms “lesbian”, “gay”, “homosexual”, marked with multiple meanings, resonate with the minority of same-sex lovers, as this vocabulary connotes with upper class, white, and Western<sup>493</sup>. The efforts focus on nativizing nomenclature, partially to diminish stigmatizing trends<sup>494</sup>, and bringing to an end production of multiple unrealistic categories<sup>495</sup> some of which can be oppressive<sup>496</sup>.

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<sup>484</sup>Yue, p. 271, p. 275.

<sup>485</sup>Rao, R., p. 43, p. 47.

<sup>486</sup>Puar, p. 366

<sup>487</sup>Yue, p. 273.

<sup>488</sup>Sedgwick, p. 271.

<sup>489</sup>Cohen, pp. 297-298. [Access](#).

<sup>490</sup>Other traditional identities lack specific cultic associations and are instead connected to particular sexual practices or gender representations. Boyce, B., p. 25.

<sup>491</sup>Census of India. Language. Scheduled and Non-Scheduled Languages. [Access](#).

<sup>492</sup>Waites, 2010, p. 976.

<sup>493</sup>Altman, 2001a, p. 1. Sukthankar, Ashwini, Ed. Facing the Mirror. Lesbian Writing from India. New Delhi: Penguin Books, 1999, XIX, XXXVI. It is also term “homosexual identity” relating to mostly middle class. Altman, 2001, p. 91.

<sup>494</sup>Thadani, 1999a, p. 86.

<sup>495</sup>Weeks, 1995, p. 42.

<sup>496</sup>Stychin, Carl F. Law's Desire. Sexuality and the Limits of Justice. London and New York: Routledge, 1995, p. 142.

Historically confirmed, erotically shaded terms *sakhi* and *saheli* were purified to express females' friendship<sup>497</sup>. Next to *samlaingik log* (Sans. "those of the same sex" or "homosexuals")<sup>498</sup>, "the *khush* sexualities"<sup>499</sup>, "*humjinsi*" and Hindi *aisi mahila jodusri mahilion ki taraf aakarshith hoti hai*<sup>500</sup> have been used by Sangini<sup>501</sup> to accredit for same-sex sexuality<sup>502</sup>, and more importantly to veto politicized "lesbian"<sup>503</sup> – term circulating since the late 20th century<sup>504</sup>. Autochthonous phrasing, or nomenclatures proposed by pro-LGBTQ groups, as accurate as it may seem, does not always represent individual desire<sup>505</sup>. Some of the terms include: (Urd.) *dogana*, (Hind.) *samlain-gik* or *samlingbhogi*, meaning: "enjoying, eating of the same-sex", and (Hind.) *samlaingikta* denoting a homosexual.

Kothi, panthi or hijra relations between men are often unjustly confined to "gay", or MSM<sup>506</sup>. Although terms emerged as symbols of identity marked with HIV/AIDS stigma<sup>507</sup>, desire and fear, it is the language familiarized by Indian activists, which grants funding from international mainstream organizations and the state<sup>508</sup>. Mainly expression "queer", a substitute for the broad array of non-normative gender and sexual identities<sup>509</sup>, next to "LGBTQ" advanced by the metropolitan intellectuals and activists, now both supply political fabric by challenging heteronormativity,

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<sup>497</sup>Sukthankar, A., Ed., 1999, XVI.

<sup>498</sup>Dave, 2012, p. 17.

<sup>499</sup>"Khus" (Hind. "happy"). Dave, 2012, p. 19, after: Bhaskaran, Suparna. *Made in India Decolonizations, Queer Sexualities*, Trans/National Project. New York: Palgrave Macmillan, 2004.

<sup>500</sup>Meaning: "the kind of woman who is attracted to other women". Dave, 2012, pp. 18-19.

<sup>501</sup>Lesbian Collective. Dave, p.18.

<sup>502</sup>Lesbian Collective from Mumbai at first *Stree Sangam* "a confluence of women", now calls itself LABIA (Lesbians and Bisexuals in Action). Ibidem.

<sup>503</sup>"Women who love women" and "single women" constitute suggestions of some feminist and lesbian activists, because in their view "lesbian" is politicized and sexually spectated. Dave, 2012, p. 19.

<sup>504</sup>Idem, p. 17.

<sup>505</sup>Dave, p. 18, p. 208n13.

<sup>506</sup>Ghosh, A., 2015, p. 52.

<sup>507</sup>According to Altman prevention and education programs, as they used gay or MSM identities, based on western assumptions, contributed towards emergence of international globalized gay identity as well as globalization of groups based on these identities by diffusion of language around sexual identities and sexuality. Altman, 2001, p. 74, p. 86.

<sup>508</sup>Cohen, p. 298-299. Tellis, p. 146. Ho, Josephine. *Is Global Governance Bad for East Asian Queers?* In: *GLQ: A Journal of Lesbian and Gay Studies*, Vol. 14, No. 4, 2008, pp. 457-479.

<sup>509</sup>Includes transgressions such and: such as sadomasochism, non-monogamy, intersexuality, kink, leather play, transsexuality, BDSM. Ghosh, A., 2015, p. 52.

patriarchy, and neo-colonialism<sup>510</sup>, though the queers continue to identify themselves as hijras and kothis and other. Therefore, researching local vocabulary, senses of identity and belonging attached to it, is crucial<sup>511</sup>.

#### 4.6. State Responses and Initiatives in Tamil Nadu

The situation of traditional transgender and alternative sexualities<sup>512</sup> within all regions of India, might be difficult to comprehend, and unfortunately remains beyond the scope of this study. Tamil Nadu, as a network of socio-linguistic, historical and cultural ties<sup>513</sup>, retains active engagement in bettering at least some of the transgender lives. The following paragraph attempts to serve a context to state initiatives.

##### 4.6.1. Legal Advancements on Behalf of “Third Gender”

Recent legal advancements include “third gender” option in passport application forms (2005), voting rolls and voter identity cards (2009)<sup>514</sup>. The legal recognition of transgender as a “third gender” in Indian law<sup>515</sup>, was expressed with The Supreme

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<sup>510</sup>Normalization, heteronormativity, patriarchy, and neo-colonialism are often seen as threat to both the hegemonic masculinities and femininities that constitute the heteronormative patriarchal order of mainstream human rights. Parisi, Laura. *Gender Mainstreaming Human Rights*. Holder, Cindy. Reidy, David Eds., 2013, pp. 436-457, p. 449. Ghosh, A, 2015, p. 52.

<sup>511</sup>Weeks, 1995, p. 47. Faucette, Avory Judith. *Human Rights in Context: The Lessons of Section 377 Challenges for Western Gay Rights Legal Reformers in the Developing World*. In: *The Journal of Gender, Race & Justice*, Vol. 13, No. 2, 2010, pp. 413-440.

<sup>512</sup>Traditional transgender sexualities under hijra term, some of which do not embrace emasculation. Boyce: The jogs, or golgappas and jogits, sakhi-bhavas/sahi bekhi, shiv-shaktis (Boyce, B., p. 25). The judgment of Supreme Court on 15 April 2014 and NALSA petition recognizes transgenders as a “third sex” and acknowledges diverse transgender population (Hijras, Aravanis and Tirunangis, Kothis, Jogtas and Jogappas, Shiv Shaktis, and Kinnars). Kavi, Ashok Row. *The Rise of the Third Set: LGBT Community is by no Means Returning to the Closet*. In: *Hindustan Times*, May 4, 2014. [Access](#). The Humsafar” Trust (NGO) estimates there are between 5 and 6 million transgender in India. Subbiah, Ashokan. Velusamy, Madasamy. *Social & Legal Issues and its Development Scenario of Transgender People in the Modern Society with Special Reference to Tamil Nadu*. In: *Journal of Social Work Education and Practice*, Vol. 2, No. 2, 2017, pp. 35-40. See also: *Glossary*.

<sup>513</sup>In one of the main spaces, significant for Hinduism, Tamil Nadu, Buddhism, Islam, Christianity, Jain, and Bhakti have been embraced for centuries and, to various extent mark their presence today. Juergensmeyer, Mark. Roof, Wade Clarke. *Encyclopedia Of Global Religion*. Thousand Oaks, Calif: SAGE Publications, Inc; 2012, pp. 137-139.

<sup>514</sup>At first the voters card, passports etc. claimed hijra/transgender under strongly opposed by most transgenders considered “eunuch”, later “other”, often, before accurate legislation in the state of Tamil Nadu and elsewhere hijras would vote as a “woman”. Chakrapani, Venkatesan. Narrain, Arvind. *Legal Recognition of Gender Identity of Transgender People in India: Current Situation and Potential Options*. UNDP India, 2012. [Access](#).

<sup>515</sup>Other South Asian states: Pakistan, Nepal, Bangladesh also recognized “third gender”. *Trans Rights: Meet the Face of Nepal's Progressive “Third Gender” Movement*. In: *The Guardian*, February 12, 2016. [Access](#). Day, Aaron. *Bangladesh: Third Gender Hijra to be Recognised in Official Documents*. In: *The Pink News*, 12 November, 2013. [Access](#). Brocklebank, Christopher. *Pakistan Allows Trans Men and Women Their own Gender Category*. In: *Pink News*, April 27, 2011. [Access](#).

Court judgement (2014)<sup>516</sup>, and re-assured with The Transgender Persons (Protection of Rights) Bill guarding the constitutional rights of transgender people. The Bill (2016)<sup>517</sup>, proposes certificate of identity (similar to TGWB card), recalls right to self-identity (right to choose one's own)<sup>518</sup>, and other principles<sup>519</sup>, to be guarded by National Council for Transgender.

The Supreme Court's ruling of 2014 is similar of that issued 10 years before by the Madras High Court. This state of affairs suggests that Tamil Nadu is the state, where provisions are granted not only by TGWB, but also through individual efforts, local groups, and private institutions<sup>520</sup>, who (by now) successfully urge courts to revisit existing official guidelines.

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<sup>516</sup>The Supreme Court judgement on Transgender Rights (NALSA vs Union of India) [Access](#). The judgement recalled domestic and international law. "Domestic Law: *The Constitution of India*: Article 14 (equality before law), Article 15 (non-discrimination), Article 16 (equality of opportunity in matters of public employment), Article 19 (freedom of expression), Article 21 (right to life); International Law: *International Covenant on Civil and Political Rights* (ICCPR): Article 6 (right to life), Article 7 (prohibition of torture or cruel, inhuman or degrading treatment), Article 16 (recognition before the law), Article 17 (right to private and family life); *Universal Declaration of Human Rights* (UDHR): Article 6 (right to life); *Convention against Torture and Other Cruel, Inhuman Or Degrading Treatment or Punishment* (CAT): Article 2; *Yogyakarta Principles*: Principles 1 (universal enjoyment of human rights), 2 (rights to equality and non-discrimination), 3 (right to recognition before the law), 4 (right to life), 6 (right to privacy), 9 (right to treatment with humanity while in detention), 18 (protection from medical abuses); *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW): Articles 11 (discrimination in employment) and 24 (commitment of State parties); *Convention for Protection of Human Rights and Fundamental Freedoms* (*European Convention of Human Rights*): Article 8 (right to respect for private and family life) and 14 (non-discrimination); *Vienna Convention on the Law of Treaties*: Articles 31, 32 (Interpretation of International Conventions)". Italics/underline added.

<sup>517</sup>"Transgender person means a person who is—(A) neither wholly female nor wholly male; or (B) a combination of female or male; or (C) neither female nor male; and whose sense of gender does not match with the gender assigned to that person at the time of birth, and includes transmen and transwomen, persons with intersex variations and gender-queers". Transgender Persons Bill, 2016. [Access](#).

<sup>518</sup>Subbiah, Velusamy, 2017, p. 37.

<sup>519</sup>"The appropriate Government and local authorities shall (...) take the following necessary steps to secure for transgender persons: Guiding Principles: (a) respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons; (b) non-discrimination; (c) full and effective participation and inclusion in society; (d) equality of opportunity; and (e) accessibility; (f) Inclusive approach". Transgender Persons Bill, 2016.

<sup>520</sup>Again, in that respect Tamil Nadu is not alienated as a state. Of importance are also Kerala. Chaturvedi, Aishwarya. *Story of the Less Talked About Gender*. In: Blog. South Asia Journal, July 31, 2016. [Access](#).

#### 4.6.2. Social Protection Welfare Schemes and Legal Protections for Transgender in Tamil Nadu

It was in Chennai, where the first AIDS occurrence in India<sup>521</sup> was identified and responded to with rigid policies provided by Tamil AIDS State AIDS Society Control Society (TANSACS). AIDS Control Society spread its influence over other states, rushing more liberal rights-based (primarily health) regulation was commenced by indigenous human rights activists, World Bank and WHO<sup>522</sup>. These policies, since 2008 guided by a TGWB<sup>523</sup>, enabled the access to State and Central government social protection schemes, and are considered a precedential move on behalf of alternate gender identities recognition<sup>524</sup>. Prior to those events, an effort of local groups of hijras in Tamil Nadu, granted them voting, education, income, and adoption rights, and legal recognition as “third gender”<sup>525</sup>.

Beyond national aid for transgender community, Tamil Nadu is one of the first states implementing independent interventions for hijras/TG<sup>526</sup> offering free medical consult<sup>527</sup>, subsidizing sex reassignment surgery (removal of male genitalia, and

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<sup>521</sup>First occurrence took place in 1986. As for 2004: “Six states within India - Tamil Nadu, Maharashtra, Karnataka, Andhra Pradesh, Manipur, and Nagaland - fall under the category of 'high prevalence' states, where HIV prevalence among antenatal clinic attendees has crossed the one percent mark”. Regional HIV and Development Programme. *From Involvement to Empowerment. People Living with HIV/AIDS in Asia Pacific*. UNDP, 2004, p.10. [Access](#).

<sup>522</sup>At that time the risk group (drug users, sex workers, MSM) became the target of multiple initiatives. Tamil Nadu authorities forced (mostly) sex workers to test and jailed some of them. Kole, 2007.

<sup>523</sup>Governance and Structure Tamil Nadu TGWB functions under the leadership of: Minister of Social Welfare; Special Commissioner and Secretary of Social Welfare and Nutritious Meal Programme Department; and Director of Social Welfare - who are President, Vice-President and Member Secretary, respectively, of TGWB. The board has official and non-official members. The official members are the representatives from the various government bodies that include: Department of Finance, Department of Law, State Women Commission, Police Department, Human Rights and Social Justice Commission, Women Development Corporation, Department of Higher Education, Department of Medical Education, and Department of Employment and Training. Out of the eight non-official members, 7 are TG community leaders, and one person is a NGO leader. Chakrapani, 2012, pp. 6-7. [Access](#).

<sup>524</sup>Ibidem. Reddy, Bhavya. Sen, Gita. *Breaking Through the Development Silos: Sexual and Reproductive Health and Rights, Millennium Development Goals and Gender Equity – Experiences from Mexico, India and Nigeria*. In: *Development Alternatives with Women for a New Era*, 2012, pp. 18-31, p. 28.

<sup>525</sup>Reddy, G., 2005.

<sup>526</sup>Some of the privileges obtained by transgender in Tamil Nadu: “free housing program; various citizenship documents; admission in government colleges with full scholarship for higher studies; alternative sources of livelihood through formation of self-help groups (...) and initiating income-generation programmes (IGP)”. Chaturvedi, 2016.

<sup>527</sup>Risk groups consist mainly of MSM, transgender, sexworkers and drug abusers. What is more HIV prevention programs rarely include mental health component (mental health counselling and counselling on sex-change. Chakrapani, 2010, p. 5.

rhinoplasty, therefore for MTF only)<sup>528</sup> in chosen governmental hospitals. In parallel to health care needs, TGWB helps with employment<sup>529</sup>, (higher) education, income<sup>530</sup> and housing, advocates for political parties inclusion, next to clubs, the board supports self-help-groups and police personnel training<sup>531</sup>. Although the status of TGWB identification card is ambivalent, depending on specific claimant-official encounter, it is possible to open a bank account or obtain a passport<sup>532</sup>.

Some of the key limitations of the current official acknowledgements require attention. Multitude of specific identities, are hidden under generalizing captions of hijra, MtF, trans-masculine, and Tamil aravanis or thirunangais<sup>533</sup>. Therefore, one of the challenges here, is to ask how the process of recognition takes place, and how some of the governmental advancements delineate inclusive/exclusive spaces, who should be called aravani/transgender, a woman, and be included in legal provisions and welfare system. It is The District Screening Committee, which decides who receives recognition as a “third gender” this situation leaves out other sexual minorities aside (female-to-male transgender people, sex workers, feminine kothi- identified persons)<sup>534</sup>.

It seems that, SRS became available, to limit post-emasculatation complications (wound infections, death) after non-professional treatment. In addition, the schemes created, at least at first, were more of a HIV preventive tool, rather than the means of expression sex-rights positive attitude towards broader scope of gender variant individuals<sup>535</sup>. The legal improvements in that manner mark the shift from medical to human rights discourse<sup>536</sup>.

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<sup>528</sup>Legal considerations on SRS include Section 320 of the IPC - recalling that emasculation is harmful and therefore one could be punished under Section 325 of the IPC. Section 88 of IPC gives an exception to the above “Nothing which is not intended to cause death is an offence by reason of any harm which it may cause or intended by the doer to cause any person whose benefit it is done in good faith, and who has given a consent...to suffer that harm, or to take the risk of that harm”. Idem, pp. 4-6.

<sup>529</sup>Employment scheme supports alternative sources of livelihood, opens work places in NGOs and CBOs; enables registration in the state government employment exchange; includes transgender people in income generation scheme. Idem, p. 7.

<sup>530</sup>Moreover, ration/food cards that are usually provided to a family are now provided to TG people even if they live alone. Ibidem.

<sup>531</sup>Orinam. *Groups and Mailing Lists in Tamil Nadu Prepared by Orinam*. [Access](#).

<sup>532</sup>Chakrapani, Narrain, A., p. 10.

<sup>533</sup>Boyce, B., pp. 24-25. Loh, n1p. 22, n2p. 22.

<sup>534</sup>Chakrapani, 2012, p. 38.

<sup>535</sup>Reddy, B., Sen, p. 28.

<sup>536</sup>Megala, M., Dharani. S. *Recognition of Transgender as Third Gender*. In: *Eduved International Journal of Interdisciplinary Research*, Vol. 1, No. 7, 2014, pp. 1-5. [Access](#). On April 15, 2014, The Supreme Court

Although it may be true that, what citizenship rights obtained through courts did for hijras, was positive in the light of emancipatory rights (e.g. visibility), however this legal recognition grafts a citizenship marked with sexual difference<sup>537</sup>. The identity cards (state/TGWB card), constitute a proof of identity and address<sup>538</sup>, yet do not extend onto full rights, including right to marry or adopt<sup>539</sup>, and therefore create the space of marginalized non-heteronormative citizenship and narrowed social and cultural participation of transgender people. What certification does though is that, it allows the holder to access TGWB/state government schemes.

### Conclusion

It seems India is now in a moment, where diversity and authenticity gain new shades. Indian sexuality is most definitely not a solved case<sup>540</sup>, as often biological aspect mingles with emotional nature and complex dynamic described throughout this paper. Present day multiplicity of identities most certainly sets a challenge: to negotiate between roles, needs, and dominant power<sup>541</sup>. The LGBT account seems to be influenced by different dynamics, and focusing on metropole centers, avoiding the ethnic-difference discourse<sup>542</sup>, transgressive (unofficial) traditional practices. In this manner postcolonial state, up to some extent (also informed by the global experience), mirrored previous authoritative means of thinking of and managing sexual diversity<sup>543</sup>, contributing to stigma. Tamil Nadu is one of the states nesting religious plurality<sup>544</sup>, it might be valuable for current scholarship to reflect upon this state in that context.

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of India statement "Recognition of transgender as a third gender is not a social or medical issue but a human rights issue". Subbiah, Velusamy, p. 37.

<sup>537</sup>Gayatri, R., 2005, p. 266.

<sup>538</sup>Chakrapani, 2012, p. 38.

<sup>539</sup>Chakrapani, Narrain, A., p. 7.

<sup>540</sup>Srivastava, 2007, p. 20.

<sup>541</sup>Erich Kolig, Sam Wong, Vivienne SM. Angeles. *Introduction: Crossroad Civilisations and Bricolage Identities*. In: Kolig et.al, 2009, pp. 9-20, p. 9.

<sup>542</sup>Puri, pp. 174-176.

<sup>543</sup>More: Srivastava, 2007, p. 7, p. 17.

<sup>544</sup>Anthony, Francis-Vincent. Hermans, Chris A. M. Sterkens, Carl. *1 Comparative Research into Conflict in Tamil Nadu*. In: Religion and Conflict Attribution: An Empirical Study of the Religious Meaning System of Christian, Muslim and Hindu Students in Tamil Nadu, India, Vol. 3, *Radboud Studies in Humanities*, 2015, pp. 7-46, p. 9.



## **Chapter 5**

### **Conclusion**

Previous chapters gave an account on ideas around alternative sexualities. In essence, the way this the thesis approaches alternative sexualities, allows to see how recognition, and acceptance of amorous homosociality within Indian landscape shifted through different discourses, and is a result of complex inclinations.

Indeed, many tropes remain beyond the scope of this exercise. For instance, it is impossible to speculate if India will appropriate a form of homonationalism, based on recent legal advancements of behalf of LGBT community. Next, the attention was given to the global forces stimulating current debate, yet the theme of diasporas and migrant communities was not undertaken. Similarly, the study might have been enriched by accounts on alternative sexualities in Pakistan, Bangladesh, Nepal, and Myanmar. In addition, throughout the inquiry, the supreme value of lived experiences became apparent. Thus far, not many personal stories were included. Still, the study offers deconstruction of some assumptions and as such, it prepares the ground for further considerations. It is therefore an exercise which opens multiple paths of inquiry, couraged by complexity and vast diversity of multiple socio-linguistic, economic, and political contexts. At least partially, the silence within the academia has been challenged, hopefully inspiring the urge of reconsidering those themes in connection to gender identity, and sexuality. It is crucial to notice that spaces of silence have potential of being harmful. Therefore, it is an invitation for further reflections upon India, South Asia and Tamil Nadu.

Through reading of legal, medical, cultural texts, and other literature, certain aspect of human desire came to fore, mainly sexual behavior. Multiple meanings attached to it, are reflected in language. Yet those meanings, are not fixed, they are negotiated through histories, lived stories, politicians, organizations, and therefore become increasingly political. In sum, other categories of sexuality and identity slip out of Western comprehensions and are seen through umbrella terms for sexual practices or gender representations. Interestingly, construction of sexuality does not consciously negate non-reproductive sexual activity, in addition the prevailing significance of two person unions and family, as important part of socio-cultural structure, might support legalization of same-sex marriages in India.

Activists and politicians should never stop questioning the consequences of modelling gender and sexuality. The dynamics considered, development, state action, various mobilizations reinforce persisting discriminating binaries, at the same recognize and introduce specific type of sexual other, similarly to the civil law established by the British Rule, supported by nationalist purification. The present day personal law in India continues to classify people, and sets control over non-conforming bodies, managing diversity. The present day phobias and process of inequality perpetuation are not entirely Western, and not purely up to fundamentalists, the right or conservatives.

Situation of people who identify as hijra has changed drastically in the last years, marking brighter future for those who are often seen through their desires and bodies alone.

Terminology – limits and releases certain identity/sexual/gender related categories, which are recognition-giving and victimizing at the same time. There is a chance for discrimination and stigma to stop, as people feel their rights are being violated, doings of grassroots groups are of importance in that respect. More evidently, it is the certain social context within which LGBT person lives. There are no fixed solutions to the acts of hatred, or easy explanations of the roots of “homo-/trans-phobia”, as feelings remain in the delicate sphere. To continue, families, and close circles of people considered, have power of compassion, and the lessons of real-life experience which may bring brighter days for those who struggle. Transgender people of Tamil Nadu, were the first in India to obtain a certain amount of legal and social recognition, if it’s not up to central state, it is up to judges of state courts, individual decisions of officials, precedential contexts considering people of alternative sexuality. In other words, identity and sexuality might be perceived as a process, manifold and social, therefore, the basis of stigma of socio-cultural nature. To end, the need for enhancement of complexity is there and it must be acknowledged.

## Appendix 1

### Alternative Sexuality in the Western-European Thought

Both the Western and the Indian are not fixed, comparable categories, nevertheless reading the Western constitutes relevant context to the alternative sexuality debate<sup>545</sup>, because present day prejudice in non-Western countries arises partially from the biased western narratives<sup>546</sup>.

### Same-Sex Love in Antiquity

The foundations of Western European way of thinking on sexuality are ethnically and linguistically diverse<sup>547</sup>. The attention paid to male homosexuality in historical sources is greater than females same-sex desire, treated rather derogatory than approbative<sup>548</sup>. Negation of female passion in general played a gross part in this process<sup>549</sup>. Western world at least since Aristotle, acknowledged that same-sex behavior occurs within variety of species, this initial claim neutralizes many of discriminatory assumptions, yet for example suggestions of same-sex youth intimacy were later on misread as pederasty<sup>550</sup>.

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<sup>545</sup> Heinze, p. 26.

<sup>546</sup>Through colonialism, marxism, global capitalism (Heinze, p. 25), Asia, although shares “globally relevant fault lines” with the rest of the world, can not be considered “coherent and homomorphous”, or comparable with the West. Kolig et al., 2009, p. 9.

<sup>547</sup>To specify: It is a mixture of Celtic, Iberian, Slavic, Teutonic traditions, followed by those written down in Hebrew, Roman and Greek. Karlen, Arno. *Sexuality and Homosexuality: A New View*. New York: Norton, 1971, p. 44.

<sup>548</sup>West, pp. 177- 178.

<sup>549</sup>Idem, p. 193.

<sup>550</sup>Boswell, p. 16, pp. 25-26, p. 29.

## Christianity and Same-Sex Relations

Early Christian mission is not opposing amorous relationships between the same biological sexes, including female homoeroticity although there are representatives of the church, who condemn such inclinations; critic is based not on the word of the Jesus, but personal conclusions<sup>551</sup>. There is no religious, nor moralistic panic connected to homosexual behavior<sup>552</sup>. New Testament<sup>553</sup> reproves prostitution more than homosexuality<sup>554</sup>; it states that matters of sex and emotions are of a personal kind<sup>555</sup>. To exemplify, biblical passionate love of Ruth and homosexuals, transvestites, and Naomi, David, and Jonathan is tolerated<sup>556</sup>, yet not described as sexual<sup>557</sup>. The 3rd to 6th centuries mark the period of governmental surveillance over personal ethics. With urban centers fading away together with amplified role of asceticism, Christian church endorsed administrative intrusions making homosexuality concealed, but not greatly penalized<sup>558</sup>.

### Unnatural-Natural

After the rise of Christianity, idealized philosophical and scientific notions of nature created an antagonism: "natural"- "unnatural"<sup>559</sup>. Although those ethical considerations did not prevail in common morality, notions of "natural" and "against nature" started to accord to homosexual people<sup>560</sup>, and constituted historically sanctioned prejudice in the West. Religious beliefs as well as assumption that gay

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<sup>551</sup>Idem, p.1, p. 333.

<sup>552</sup>Summers, Claude. *Homosexuality and Renaissance Literature, or the Anxieties of Anachronism*. In: South Central Review, Vol. 9, No. 1, 1992, pp. 2-23, p. 8.

<sup>553</sup>The 1st century CE.

<sup>554</sup>Surprisingly, the mid-20th century disgust towards alternative sexualities is much more deeply rooted than one against prostitution, according to Boswell the reversal took place around early renaissance era (Boswell, p. 7). Sometimes prostitution, being a single parent, living in celibate or having polyamorous inclinations is included under the umbrella term: alternative sexualities. Weeks, 1981, p. 241.

<sup>555</sup>Boswell, p. 22.

<sup>556</sup>Raymond-Jean, Frontain. *Introduction: Reclaiming the Sacred: The Bible in Gay and Lesbian Culture*. In: Journal of Homosexuality, Vol. 33, No. 3-4, 1997, pp. 1-23, p. 1.

<sup>557</sup>Vanita, Kidwai Eds., p. 28.

<sup>558</sup>Boswell, p. 333.

<sup>559</sup>Idem, p. 14.

<sup>560</sup>Idem, p. 15.

people set a threat to society are supporting prolonging aversion<sup>561</sup>. The imagined danger of same-sex desire lies upon thought it is *a choice* and if followed by humanity, though behavior itself is not entirely non-reproductive (gay people do have children)<sup>562</sup>, it might “increase” same-sex erotic behavior and eventually lead to extinction. While sexually non-normative celibacy of spiritual value is highly esteemed, historical overview suggests that full rights for homoerotically inclined do not increase occurrence of same-sex erotic practice<sup>563</sup> or related sexual crime rates<sup>564</sup>.

### Early Middle-Age Thought

Prescriptive pre-Modern writings documenting sexual acts, treating of love between same-sexes, accord to emotive fantasies<sup>565</sup>. Middle-age Europe<sup>566</sup> is often imagined as intolerant towards any type of non-conformity<sup>567</sup>. While Early Romans published a multitude of “homosexual poetry”<sup>568</sup>, Roman Empire is known for weddings between men<sup>569</sup>. Their successors of the 6th century<sup>570</sup> greeted medicine, morality, and hermaphrodites rather with wonder than dismissal<sup>571</sup>. In the later Latin writings<sup>572</sup>, same-sex carnal love is hardly ever a sin, subsequently, through 8<sup>th</sup> and 9<sup>th</sup> centuries, homosexuality is said to be praised<sup>573</sup>. According to Foucault, themes of exchange of desire and benefit entangled in patriarchal power relations are also present:

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<sup>561</sup>Idem, p. 6, p. 8.

<sup>562</sup>Idem, p. 10.

<sup>563</sup>Idem, pp. 8-9.

<sup>564</sup>There has been no increase in criminality or antisocial conduct in countries that have already decriminalized homosexual acts between consenting adults. Heinze, p. 273.

<sup>565</sup>Vanita, 2005, p. 9.

<sup>566</sup>Middle-age Europe (the 5th-14th centuries).

<sup>567</sup>Boswell, p. 3.

<sup>568</sup>Idem, pp. 22-23.

<sup>569</sup>Vanita, 2005, p. 3.

<sup>570</sup>Early Middle Ages.

<sup>571</sup>Boswell, pp. 184-195.

<sup>572</sup>The 6th-8th centuries.

<sup>573</sup>Boswell, p. 186.

submissive one receives gifts not due to sexual arousal, but due to the inferior position<sup>574</sup>.

### Hermaphrodite, “Third Gender”

Medieval hermaphrodite was a product not of antique considerations<sup>575</sup>, but of alchemy, caught between religious imaginations and time, decapitation, and policing, transport, and esoteric myth. Intersex people were noted as both monsters, signaling the disruption of the norm<sup>576</sup>, objects of curiosity, disfavor<sup>577</sup>, and finally, a perfect combination between masculine and feminine<sup>578</sup>. Influential writings of alchemists and natural philosophers distinguished intersex<sup>579</sup> from sexual deviants and sodomites<sup>580</sup>, seeing them as a threat to the norms – through their ability to perform both or neither of gender roles resting within established gender binary<sup>581</sup>. Expunging them from the society as a consequence of confusion in classical, Christian socio-juridical context followed<sup>582</sup>. Concurrently, perceived uniqueness of a hermaphrodite is widely appreciated, leaving ambiguous attitudes towards those “in between”<sup>583</sup>.

In Europe tales of religious minorities and sexual ones overlap, in most ancient Western societies, sexual minorities<sup>584</sup> were accepted before racial and religious unconformities<sup>585</sup>. Love between male clerics<sup>586</sup> and mystical erotic devotion, are

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<sup>574</sup>Detel, Wolfgang, Wigg-Wolf, David. *Foucault and Classical Antiquity: Power, Ethics, and Knowledge*. Cambridge: Cambridge University Press, 2005, p. 4 Similarly, normative aristocratic masculinity at the brink of modernity, allows men to engage in same-sex romances with younger males (assimilated to female gender), based on the axis of hierarchical superiority of their power - coming from age and stature, rather than gender. McKeon, p. 797.

<sup>575</sup>Nederman, Cary J. True, Jacqui. *The Third Sex: The Idea of the Hermaphrodite in Twelfth-Century Europe*. In: *Journal of the History of Sexuality*, Vol. 6 No. 4, 1996, pp. 497-517, p. 503.

<sup>576</sup>Idem, p. 515.

<sup>577</sup>DeVun, Leah. *The Jesus Hermaphrodite: Science and Sex Difference in Premodern Europe*. In: *Journal of the History of Ideas*, Vol. 69, No. 2, 2008, pp. 193-218, p. 195.

<sup>578</sup>Hermaphrodite was compared to Jesus himself. Ibidem. Idem, p. 203.

<sup>579</sup>Nederman, True, p. 503.

<sup>580</sup>DeVun, p. 197.

<sup>581</sup>Idem, p. 198.

<sup>582</sup>Idem, pp. 216-217.

<sup>583</sup>Nederman, True, p. 506.

<sup>584</sup>Heinze, p. 18.

<sup>585</sup>Boswell, p. 6.

<sup>586</sup>Jordan, p. 16.

known queer traditions of medieval Europe<sup>587</sup>. With formulation of religiously homogeneous regimes, developments of policing, transport, and communication<sup>588</sup>, homosexuality as supposedly private variation from the norm became disregarded<sup>589</sup>.

While the 11th century urban society shines with pride of (spiritually or carnally) openly homosexual dignitaries<sup>590</sup>, by the end of the 12th century though, legal hostility against minorities<sup>591</sup> slowly begins to transpire onto theological literature and moral considerations<sup>592</sup>. With common, torture, or burning are prescribed consequences for anal lovemaking between men<sup>593</sup>, there are also records of executions of homosexuals without a trial<sup>594</sup>. Those instances mark the end of protection of the European cities over gay in the 14th century<sup>595</sup> and growing stigma on the act of “sodomy”<sup>596</sup>.

### Sodomy

The late middle age laws against sodomy<sup>597</sup> defined the act by anal penetration or bestiality<sup>598</sup>. European and the later American legislation, medicine, and manners

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<sup>587</sup>Boswell, p. 333.

<sup>588</sup>Vanita, 2005, p. 10.

<sup>589</sup>Boswell, p. 16.

<sup>590</sup>For instance Spanish kings are known for their emotional relationships celebrated in any way possible with their slaves. Boswell, p. 334.

<sup>591</sup>For example: Jews, heretics, non-Christians. Spreading hostility towards any minorities including sexual ones, led to fabrication of historical works suggesting homoerotic love neglect of gayness materialized in translations of antique writings. Boswell, pp. 17-20.

<sup>592</sup>At the same time the 12th century chronicles accord homosexuality as common in Normandy and England, the 13th century report common homosexual prostitution, transvestism and lesbianism in bigger urban centres (Venice). Karlen, p. 86.

<sup>593</sup>The same type of intercourse between husband and wife results in banishment and few years of jail. Karlen, p. 89.

<sup>594</sup>For example: the 14th century British treatises. Boyce, B., p. 15.

<sup>595</sup>Boswell, p. 38.

<sup>596</sup>Previously, the law was not strict about “out-of-the-norm erotic activities”. For example: usage of phallic objects by women meets low penance, that is: fasting on religious holidays for 1 to 5 years in canonical writings. More severe - but rather socio-religious than physical, punishments were prescribed for male-female anal intercourse. Sexuality and homosexuality penances in relevant handbooks met: people who have sex on Sundays; women who participated in religious rites while menstruating or after childbirth; and man who has sex with menstruating woman. Karlen, pp. 80-81.

<sup>597</sup>Sodomy is now seen as older artefact invented in the 11th century. Jordan, p. 1.

<sup>598</sup>Cocks, p. 38. Interestingly bestiality also meant an intercourse with a non-Christian. Karlen, p. 81.

were fixed upon fearful abstraction surrounding term sodomia (Lat.)<sup>599</sup>, which reflects Western sexual vocabulary<sup>600</sup>. Naming same-sex behavior “Sodom”<sup>601</sup>, attaches prejudice to the practice, sets it as the imported practice of the collective “other”<sup>602</sup>.

### **Religious and Societal Shift Family Within European Societies**

Preference of the majority is equal to the voice of God and since majority does not live an alternatively sexual lifestyle, the outvoted ones are against God, are the sinners and are treated with fructifying animosity<sup>603</sup>. Intersecting categories of rural and urban along with power relations concerning institution of family within those entities can be used as partially generalized explanations of attitudes towards non-heterosexuals. Purity restrictions<sup>604</sup> set above females in kinship communities, are indeed not advancements towards boosted reproductivity, but mechanisms sustaining status within familial structure<sup>605</sup>. That is, why, practicing homosexual behavior might be considered misbehaviors within societies grounded on sexual ties, nevertheless within norms of politically stabilized urban networks, where civil impressions are overlapping familial position and moral individual-based concept, same-sex love is more acceptable<sup>606</sup>.

In the frame of gender roles reference, premodern binary: passive-active, carried through the next chapter of history of sexuality, transgressions – for instance, female being active were considered “unnatural”<sup>607</sup>. Lesbians, cross-dressing women are constructed as a social problem, through their imagined intersexuality or non-reproductivity<sup>608</sup>. Liaisons were over and above falsely mediated as normative gender

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<sup>599</sup>Jordan, p. 1.

<sup>600</sup>Such characteristic is speaking without disclosing. Jordan, p. 7.

<sup>601</sup>Sodom is a half-mythical foreign city of Sodom appears in Genesis, New Testament. West, p. 120.

<sup>602</sup>Jordan, p. 7-8.

<sup>603</sup>Boswell, p. 38.

<sup>604</sup>For example: much preserved in rural areas: celibacy during widowhood, keeping virginity until sacramental marriage, deposition of extramarital relations.

<sup>605</sup>Boswell, p. 32.

<sup>606</sup>Boswell, pp. 32-35. Similarly, political marriages in India during marked with urbanity Delhi Sultanate and early Mughal period, allowed the rulers to be intimate with a person of same-sex. Lal, V., pp. 114-115.

<sup>607</sup>Brooten, pp. 1-2.

<sup>608</sup>Traub, Valerie. *The Renaissance of Lesbianism in Early Modern England*. Cambridge: Cambridge University Press, 2002, p. 50.



role imitation<sup>609</sup>, not by coincidence lesbians in most European societies were scoped as “women behaving as men”<sup>610</sup>.

Renaissance in Europe began with redefined meaning of homosexual acts now enshrined in law as “a crime”, not a sin. The 14th century prosecutions of homoerotically inclined were notions, private, and before, prison, or fetishism, transvestism, and execution continued until the 19th century, financial penalty or imprisonment until the 20th century.

“New Dawn” Europe, characterized by confusion and contradictions, while producing writings on homoeroticallity, showed homosexuality implicitly by allusion or implication<sup>611</sup>, partially this, next to the previous developments created socially and religiously stigmatized homosexual construction. Homosexual emerged, partially, through the exercise of pronouncing, till now barely visible bisexual<sup>612</sup>, and punishment of actresses<sup>613</sup>. Though institutions of family facilitated homoerotic desire and in general poetry praised same-sex love/loving copulation, punishments of the law and rejection of gay were severe<sup>614</sup>. Theatrical transvestism<sup>615</sup>, transvestism of upper and middle class women<sup>616</sup> mirrored those discrepancies. No remarks had been made upon consensual non-heterosexual sex<sup>617</sup>.

In the time of the European imperialism<sup>618</sup>, images of homosexuals were shaped by the discoveries of the native “other”, same-sex behavior in Europe (and its colonies) was not a private matter<sup>619</sup>. The overseas parts of the empires, with all-men spaces<sup>620</sup>

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<sup>609</sup>Idem, pp. 46-49.

<sup>610</sup>Brooten, p. 17.

<sup>611</sup>Summers, p. 6, p. 10.

<sup>612</sup>Karlen, p. 104.

<sup>613</sup>Summers, p. 6.

<sup>614</sup>Cultural regulation of sexuality through marriage became stricter from the 16th century onwards (Detel, Wigg-Wolf, p. 29). The 16th century English court had its own homosexual subculture. Summers, pp. 6-7.

<sup>615</sup>Of the 16th -17th centuries. In: Orvis, David. *Cross-Dressing, Queerness, and the Early Modern Stage*. In: Mccallum, E. L. Tuhkanen, Mikko, Eds. *The Cambridge History of Gay and Lesbian Literature*. Cambridge: Cambridge University Press, 2014, pp. 197-217.

<sup>616</sup>Karlen, p. 123.

<sup>617</sup>What is more, renaissance “sodomy statutes” are enforced against rape, majority instances of which considered a boy and adult male. Orrells, Daniel. *Classical Culture and Modern Masculinity*. Oxford: Oxford University Press, 2011, p. 32. Also: Summers, p. 7.

<sup>618</sup>Towards modernity (the 17th-19th centuries).

<sup>619</sup>Aldrich, 2003, p. 1.

added plenty of opportunities for male homoeroticism and intimate male bonding. Occasional acts next to long-lasting romances were encouraged by the perceived deficiency of women<sup>621</sup>. The imagination of the Orient – place where climate and culture invite for homoeroticity, “feminine character” of the indigenous people and prejudice that sexual freedom<sup>622</sup> along with same-sex attraction is endemic outside the West realm, drew Europeans to liberal approach towards same-sex intimacies<sup>623</sup>. Lesbians of that time were portrayed as scandalous, but more “realistically” addressed compared to previous grotesque notions<sup>624</sup>. Classical modernity brings separation of sexuality from other aspects of human life – it allowed the category of homosexual stand next to heterosexual<sup>625</sup>.

Seeing women as a polar opposite of men, rather than poorer version of what is called “a male”<sup>626</sup>, created sexual binary within common imaginary almost absent in pre-modern era. In the following centuries disputes upon *platonic love*, men’s love and *Socrates love* broke unspeakability of the homoerotic<sup>627</sup>.

Exhibitionism, sadomasochism, fetishism, transvestism and homosexuality were mentioned more and more in public documents and memoirs<sup>628</sup>. Same-sex loving became less of a sin for widows and unmarried women<sup>629</sup>.

Even though practice of a sodomite was deflated as “odd” comparing to a lifestyle of a modern man, homosexuality blended with extravagant upper class space

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<sup>620</sup>For example: spaces of missionary and military stations. Idem, p.3.

<sup>621</sup>Ibidem.

<sup>622</sup>Dasgupta, R. K., p. 660.

<sup>623</sup>Aldrich, p. 5.

<sup>624</sup>West, p. 179.

<sup>625</sup>Meer v. d., Theo. *Premodern Origins of Modern Homophobia and Masculinity*. In: *Sexuality Research & Social Policy Journal of NSRC*, Vol. 1, No. 2, 2004, pp. 77-90, pp. 86-87.

<sup>626</sup>This shift is considered to be earned by the feminist movements, revolutions and free market of the late 17th century. Boswell, pp. 29-30.

<sup>627</sup>Orrells, pp. 36-37.

<sup>628</sup>Karlen, p. 133.

<sup>629</sup>Comparing to married women men of any status or wives (Karlen, p. 137). The dynamic described in this paragraph, as a part of a general tendency of looking back at antiquity in the 17th and 18th centuries (Orrells, p. 8-9), brought historical development of sodomitical subcultures (Idem, p. 29), and reaching back to the ancient libertine tradition of celebrating homosociality and homosexuality. O’Connell, Lisa. *The Libertine, the Rake, and the Dandy: Personae, Styles, and Affects*. In: Mccallum, E. L, Tuhkanen, Mikko, Eds. *The Cambridge History of Gay and Lesbian Literature*, Cambridge: Cambridge University Press, 2014, pp. 218-238, p. 218.

of dandyism,<sup>630</sup> and low-class effeminate male “molly”<sup>631</sup>. The image complicates when for most the label “third gender” meant a sodomite<sup>632</sup>. So that, a woman married to another – disguised as a man, was executed for sodomy<sup>633</sup>.

Year 1885 reshaped British legal system<sup>634</sup>, so that the attempt to commit sodomy, equal to any homophilic action,<sup>635</sup> was an unlawful act itself<sup>636</sup>. People who felt same-sex desire became defined by “innately predisposed” preference<sup>637</sup> and acts<sup>638</sup>, as “homosexuals”. “Lesbian” as a term made its first appearance in 1890<sup>639</sup>. One-time act of same-sex passion did not accord on specific identity, therefore homophilic brothels for men are unsurprising<sup>640</sup>.

In the late 18th century England number of prosecutions for sodomitic acts escalated and continued to grow through Victorian era, which was marked with trials against “unnatural acts”. Though with all certainty effeminacy<sup>641</sup> at that time was not considered a sign of males homosexuality, what was considered a sodomite offence is under a question mark for many historians<sup>642</sup>. The mid-19th century culturally Judeo-Christian writings, theorize that homosexuality is a mental derangement and a trait of

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<sup>630</sup>Orrells, p. 31.

<sup>631</sup>“Molly” — a topos of a homosexual leading mimicry of women’s way of acting. Cocks, p. 39

<sup>632</sup>Here read as sexual practice which included a dildo. McKeon, Michael. *The Seventeenth- and Eighteenth-Century Sexuality Hypothesis*. In: *Signs*, Vol. 37, No. 4, *Sex: A Thematic Issue*, 2012, pp. 791-801, p. 797.

<sup>633</sup>Karlen, p. 145.

<sup>634</sup>Boyce, B., p. 15.

<sup>635</sup>For example: kissing, touching, verbal or written invitation.

<sup>636</sup>Cocks, p. 38.

<sup>637</sup>Sumers, p. 4. Rutherford, Emily. *Impossible Love and Victorian Values: J. A. Symonds and the Intellectual History of Homosexuality*. In: *Journal Of The History Of Ideas*, Vol. 75, No. 4, 2014, pp. 605-627, p. 605.

<sup>638</sup>Koven, Seth. *Slumming: Sexual and Social politics in Victorian London*, 1985, p. 276.

<sup>639</sup>Hallett, Judith P. *Sappho and Her Social Context: Sense and Sensuality*. In: *Signs*, Vol. 4, No. 3, 1979, pp. 447-464, p. 452.

<sup>640</sup>West, p. 130. What is more: Canadian gay men locked between seeking and hiding (Lyle, p. 18) similarly to their European colleagues, searched for affection and paid sometimes interracial sex in semi-private and public all-men spaces of late-opened restaurants, pool rooms, hotels (Idem, p. 34). Dick, Lyle. *The Queer Frontier: Male Same-Sex Experience in Western Canada’s Settlement Era*. In: *Journal of Canadian Studies/Revue d’Études Canadiennes*, Vol. 48, No. 1, 2014, pp. 15-52.

<sup>641</sup>Including male transvestism.

<sup>642</sup>Cocks, pp. 36-37.

morally decayed, ignorant people, who are unable to “decide” otherwise<sup>643</sup>. While transsexualism is understood as homosexuality and confirmed instances of self-awareness of gender and sexual identity existed, either good or bad character of an accused of “a homosexual crime”<sup>644</sup> could save the subject from the punishment<sup>645</sup>.

Actresses and prostitutes had a strong reputation of being lesbians, homoerotic love was common between upper class women<sup>646</sup> – materialized itself in relative novels as part of ordinary world<sup>647</sup>. While homosexuality remained unexplored until the birth of sexology in the 1880’s<sup>648</sup>, concurrently British writers advocate for tolerance towards homosexuals<sup>649</sup>.

### **Towards the Present**

During the late modernity western society sustains definition of masculinity as the opposite to homosexuality, public reveal of homoerotic inclinations led to harsher repercussions than those kept in private<sup>650</sup>. In expectation for the mid-20th century gay and lesbian movements<sup>651</sup>, homosexuals encounter amount of violence never accorded before<sup>652</sup>, prison or hormonal therapy awaits those who continue the practice. Evolving since the 18th century notions of race, defining what is abnormal or normal, were reinforced by the invented by anthropologists link with sexuality<sup>653</sup>. What is more, the publication of homosexually themed literature (due to social anxiety, sexually explicit notions, private and sensitive matters) is forbidden<sup>654</sup>; adding more prejudice on top of

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<sup>643</sup>Here again, same-sex desire is seen as a choice. Idem, pp. 39-40.

<sup>644</sup>Dick, p. 20.

<sup>645</sup>Cocks, pp. 47-48.

<sup>646</sup>Karlen, p. 145.

<sup>647</sup>What is more: *fin-de siècle* in France cherished females loving females with pornographic and sensually imaginative captions. Karlen, p. 199.

<sup>648</sup>Cocks, p. 39.

<sup>649</sup>This appears to be a general tendency of that time, for example: in The Netherlands same-sex sexual activity is legal since 1811, Italy and Vatican followed in 1890. West, p. 130.

<sup>650</sup>Dick, p. 29, p. 31. Legal intervention into private lives was justified with a common good rule. Weeks, 1981, p. 242.

<sup>651</sup>Oram, Alison. Turnbull, Annmarie. *The Lesbian History Sourcebook: Love and Sex Between Women in Britain from 1780-1970*. London: Routledge, 2001, p. 1.

<sup>652</sup>McLaren, p. 187.

<sup>653</sup>Till now the myth of an inferior outsider, just as the tale of “homosexual”, “insane” or “jew”, contain stigma - they are the ones, who lack control over erotic passions. Mosse, pp. 133-135.

<sup>654</sup>Boswell, p. 23.

ensorship interventions and self-censorship of the previous generations<sup>655</sup>. While physical features are ascribed to a sodomite<sup>656</sup>, simultaneously the modern age continuously tries to separate sex from reproduction<sup>657</sup> constituting an important act for emerging gay and lesbian self-identified communities<sup>658</sup>, which allowed further liberation of sexuality<sup>659</sup>. The 20th century experienced an enormous shift: from moral urban middle and upper class “normality”, to sexuality equated to a sociocultural construction<sup>660</sup>.

Especially at the politically burning moments, moral attitudes have the power to turn into a political action<sup>661</sup>. Moral and economical flows of military conflicts, nation states and nationalisms emergence<sup>662</sup>, with the narrative of sodomy being a national catastrophe<sup>663</sup>, set an image of a homosexual either as “states enemy”, while the softening of the boundaries of the gender roles determined a threat to middle class social establishment<sup>664</sup>. Alternatively economic downturn, with stiffer morale, sculptured negative visibility of HIV/AIDS narrative, constructing it visible through identity, gender, and sexual orientation dependent<sup>665</sup>.

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<sup>655</sup>Coleman, Julie. *Love, Sex, and Marriage. A Historical Thesaurus*. Amsterdam-Atlanta: Rodopi, 1999, pp. 145-146.

<sup>656</sup>Upchurch, Charles. *Liberal Exclusions and Sex Between Men in the Modern Era: Speculations on a Framework* In: *Journal of the History of Sexuality*, Vol. 19, No. 3, 2010, pp. 409-431, p. 412.

<sup>657</sup> Hull, p. 5.

<sup>658</sup>Lesbians through the 70's and the 80's, even by some feminists were seen as “being either immature and sado-masochistic” - “overly passionate butch” or as “innocent passive victims” of other women desiring women. In: McLaren, Angus. *Twentieth-Century Sexuality. A History*. Blackwell Publishers, 1999, pp. 184-187.

<sup>659</sup>Canaday, Margot. *LGBT History*. In: *Frontiers: A Journal of Women's Studies*, Vol. 35, No. 1, 2014, pp. 11-19, p. 11.

<sup>660</sup>So that how sexuality is shaped by the power hierarchies and how it interacts with gender, class and race gained more interest. Ritzer, George. *Encyclopaedia of Social Theory*. Thousand Oaks, CA: SAGE Publications, Inc; 2005, pp. 694-698.

<sup>661</sup>Weeks, 1981, p. 15. McLaren attaches politicization of and openness (at first white gay men) towards gender and relates issues to relatively higher prosperity of 60's and 70's (the US). McLaren

<sup>662</sup>Within some of the European nationalisms homosexual individuals were seen as community builders, who can be incorporated in national movements through ideas of socio-political male-to-male friendships, loyalty. Mosse, George L., *Nationalism and Sexuality. Respectability and Abnormal Sexuality in Modern Europe*. New York: Howard Fertig, 1985, pp. 86-89.

<sup>663</sup>Idem, p. 89.

<sup>664</sup>Mosse, p. 86.

<sup>665</sup>Focus here was set on heterosexual white youth. McLaren, pp. 194-197.

Towards the 21st century, attitudes toward same-sex love appear “joyful”, “promiscuous” when female controversy around recognition of same-sex relationships<sup>666</sup>. In the USA and in numerous Western European countries it changed towards more positive outlook, especially when female homosexuality is considered<sup>667</sup>. In the era of growing both awareness and fear, same-sex couples use culture and religion to overcome practical inconveniences of the law, which still often neglects their right to inclusion, recognition, social support and identity<sup>668</sup>. The latter contributes towards continuum, which saw non-heteronormativity as a sin, sickness, and now bringing it to self-defining<sup>669</sup>.

Contemporary Western ideologies on same-sex love underline fluidity and non-exclusivity of practices and emotions<sup>670</sup>, sexual minorities, education, and sexuality is owned by the person, while gender performance gains secondary meaning<sup>671</sup>. Not the preference, nor biology, but social reality foregrounds the notions of “gay”, “lesbian”, “transgender”, “intersex” and all in between. The word “gay” travelled through divergent meanings, from the 14th century the phenomena, throughout the 18th and 20th centuries, to be connoted with a “prostitute”, to focus on sex and desire in the 20th century<sup>672</sup>. After centuries long shifting negation of same-sex love, Western world notices and documents trans historicity and transculturality of the phenomena<sup>673</sup>, in most Western societies, present day animosities around alternative sexualities are being detangled subsequently after solving conflicts of ethnic and belief minorities<sup>674</sup>, education and familiarity are now considered the prime markers of space for sexual nonconformity<sup>675</sup>. Liberal Judeo-Christian theology does not accept homosexuals as

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<sup>666</sup>Hull, E. Kathleen. *Same-Sex Marriage. The Cultural Politics of Love and Law*. Cambridge: Cambridge University Press, 2006, p. 8.

<sup>667</sup>Reiss, Ira L. *Sexual Attitudes and Behavior*. In: Smelser, Neil. Baltes, Paul, Eds. *International Encyclopaedia of the Social & Behavioral Sciences*. Oxford: Elsevier, 2001, pp. 13969–13973, p. 13971.

<sup>668</sup> Hull, p. 24, p. 3.

<sup>669</sup>Coleman, p. 245.

<sup>670</sup>Summers, p. 2

<sup>671</sup>Besnier Niko, Alexeyeff Kalissa, Eds. *Gender on the Edge. Transgender, Gay and Other Pacific Islanders*. Honolulu: University of Hawaii Press, 2014, p. 5.

<sup>672</sup>Coleman, p. 245.

<sup>673</sup>Idem, p. 3.

<sup>674</sup>Boswell, p. 6. Vanita, 2005, p. 25.

<sup>675</sup>Boswell, p. 33.

part of the church<sup>676</sup>, such tendencies cast a shadow of unacceptance over gays in countries where religiosity is a high value<sup>677</sup>.

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<sup>676</sup>West, p. 128.

<sup>677</sup>Pew Research Center. *The Global Divide on Homosexuality Greater Acceptance in More Secular and Affluent Countries*, June 4, 2013, pp. 1-2. [Access](#).

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