

New Queer Politics in the New India: Notes on Failure and Stuckness in a Negative Moment*

Oishik Sircar**

I. A Dangerous Common-Sense

What happens when queers become democracy's 'favourite minority' championed by the capitalists, the liberals, the conservatives, and the leftists, all singing in the language of rights? It marks the inauguration (or culmination?) of a moment that is not *bad* but *dangerous*. "If everything is dangerous," Michel Foucault wrote, "then we always have something to do. So my position leads not to apathy, but to a hyper- and pessimistic activism."¹ The common-sense opposite of bad is good—and the good in this situation, of all of these apparently oppositional political positions becoming strange bedfellows to turn queers into rights-bearing subjects, as I will argue, is what makes this a dangerous common-sense.

In this article, I both describe and critique the emerging intimacies between queer politics, the Hindu Right and neoliberalism in what I am calling the New India (and its global mutations) as a concentrated instance of the way 'queer'—both as identity and

* I acknowledge that the land of the University of Melbourne on which this piece was written belongs to the Wurundjeri People of the Kulin Nation, to which their sovereignty has not been ceded. I dedicate this piece to the memory of Sharmila Rege (1964-2013), teacher extraordinaire, who taught me to appreciate both the possibilities and perils of intersectional politics. This piece has been in gestation for a long time, with earlier versions presented at the Osgoode Hall Law School, Toronto, the Institute for Cultural Inquiry, Berlin, and Centre for Policy Research, Delhi in 2010; the National University of Juridical Sciences, Kolkata in 2012; the Melbourne Law School (MLS) in 2010, 2012 and 2014; and at the Australia India Institute at the University of Melbourne in 2015. I am immensely grateful to Rahul Rao for his close reading and very helpful comments on the piece, and to Debolina Dutta, Dianne Otto, Joan Nestle and Claire Oppermann for our continuing conversations about this, that and everything queer. I also thank Aziza Ahmed, Ratna Kapur, Rajgopal Saikumar and Maddee Clark for agreeing to read and share their thoughts on the piece; and Dipika Jain for our collaborative editing projects on queer politics. Special thanks are due to the participants at the "Economies of Desire" and "Gender in Postcolonial Legal Orders" Pro Seminars convened by Janet Halley at Harvard Law School's Institute for Global Law and Policy in 2011 and 2013 respectively, where many of these ideas were critiqued with care and kindness. I have learned much from the discussions at the Melbourne Queer Theory Reading Group, and the Feminist Jurisprudence Reading Group at MLS, and I thank the participants there for the keen engagement with some of the arguments developed in this piece. Without Shivangi Sud's excellent research assistance and Ethan Stevenson's editorial support, I could not have completed the piece. All errors and claims to judgment, facts and politics remain mine.

** Assistant Professor, Jindal Global Law School and Doctoral Scholar, Institute for International Law and the Humanities, Melbourne Law School. osircar@jgu.edu.in.

¹ Michel Foucault, Hubert L. Dreyfus & Paul Rabinow, *Afterword: On the Genealogy of Ethics: An Overview of Work in Progress*, in HUBERT L. DREYFUS & PAUL RABINOW, MICHEL FOUCAULT: BEYOND STRUCTURALISM AND HERMENEUTICS, 252 (2d ed. 1983).

discourse—is being depoliticized, individualized and responsabilized. This article is a demonstration of my hyper- and pessimistic activism that eventually leads to an acknowledgement of failure. I did not set out with this intention, but that is what it has come to—as you will see.

The combination of the methods of description and critique as a particular philosophical orientation,² is aimed at (to quote Foucault again) “mak[ing] visible precisely what is visible, that is to say, to show that which is so close, which is so immediate, which is so intimately linked to us, that because of that we do not perceive it.”³ This methodological and political orientation,⁴ thus, does not claim to reveal anything new—it calls for paying slow attention to that which we always look at and hear, but not necessarily always see and listen. My allusion to the newness of an India, and of queer politics, is not a discovery, but the acknowledgement of an already existing continuum’s emerging mutations.

The article is written in the form of a bricolage of descriptive refractions that have animated my practices of *queerfeministmarxistpostcolonial* critique and activism both inside and outside the legal academy over the last decade, especially through a period where I have had to negotiate and account for the contradictions of my own politics and the complicities that have contaminated any claim to purity.⁵ It carries tinges of the experiential,⁶ but it is not written as such. Which explains my use of the expression refraction, instead of reflection. Reflection has the possibility of being a self-contained engagement—on the other hand, refraction is a project with the potential to destabilize and bend our disciplined contours of thought. Refraction doesn’t necessarily suggest a ‘moving away’ from issues at stake, but a critical engagement that confronts not one, but competing truths that give rise to the affective paradoxes of failure and stuckness.⁷

² Sundhya Pahuja, *Laws of Encounter: A Jurisdictional Account of International Law*, 1 LONDON REV. INT’L L. 1, 63–98 (2013) (Pahuja characterizes the method as “critical redescription”). See also Anne Orford, *In Praise of Description*, 25 LEIDEN JOURNAL OF INTERNATIONAL LAW 609, 609–25 (2012).

³ Michel Foucault, *La philosophie analytique de la politique*, in 3 DITS ET ÉCRITS, 1954–1988 534, 540–41 (Daniel Defert & François Ewald eds., Anne Orford trans., 1994). I also find instructive Margaret Davies’ definition of critique in this regard: “... I see the aim of “critique” to be a detailed analysis of the foundations of the way we understand the things we think about, whatever they are. Critique is useful and necessary to all forms of theory, because it exposes the assumptions we make as being not natural or neutral but, rather, associated with our particular position in the world. Critique can therefore enable us to understand, at least, that our own view is partial.” Margaret Davies, *ASKING THE LAW QUESTION* (3rd ed. 2008), 199.

⁴ I use the term ‘orientation’ as it has been theorized by Sara Ahmed. See SARA AHMED, *QUEER PHENOMENOLOGY: ORIENTATIONS, OBJECTS, OTHERS* (2006), 1. (“... how is it that we come to find our way in a world that acquires new shapes, depending on which way we turn. If we know where we are when we turn this way or that way, then we are orientated.”)

⁵ See Oishik Sircar, *Of Complicity and Contamination in the Neoliberal Academy*, KAFILA (Jan. 30, 2013), <https://kafila.online/2013/01/30/of-complicity-and-contamination-in-the-neoliberal-academy-oishik-sircar/>; See also Oishik Sircar, *Doing and Undoing Feminism: A Jurisdictional Journey*, L ECON. & POL. WKLY. 44 (2015).

⁶ I do not privilege experience, or disavow it, and remain attentive to the complicated relationship between experience and practices of theorizing. See Joan W. Scott, *The Evidence of Experience*, 17 CRITICAL INQUIRY 4 (1997), 773–797; Johanna Oksala, *In Defense of Experience*, 29 HYPATIA 2 (2013), 388–403; GOPAL GURU & SUNDAR SARUKKAL, *THE CRACKED MIRROR: AN INDIAN DEBATE ON EXPERIENCE AND THEORY* (2012).

⁷ See Oishik Sircar, *Some Paradoxes of Human Rights: Fragmented Refractions in Neoliberal Times*, 2 J. INDIAN L. & SOC’Y 182, 182–228 (2011, Monsoon).

I approach this refractive practice of *queerfeministmarxistpostcolonial* critique and description from what Paul Cilliers would call a “modest position”⁸—one that acknowledges the “limitations of our understanding of this world.”⁹ This is not a position of relativism, but a “counter-position”¹⁰ to “arrogant self-assurance,”¹¹ that engages with complexity without any predetermined technocratic objective of problem-solving.

The article is organized as follows: first, it describes the *mise-en-scène* of the time and place of queer politics that I have characterized as the New India. In doing this I foreground some key places and characters. The attention to place is important because I am not offering a theoretical exegesis which is portable. What I offer might find resonances elsewhere (and I indicate these through the piece); but the political framing cannot be extrapolated unproblematically. However, I am not provincially located—both in terms of my training in common law across continents and the transnational traditions of *queerfeministmarxistpostcolonial* thought and practice that have inspired me.¹² This is especially apparent in the ease with which I deploy ‘queer’ as politics and theory to speak of non-Western locations, even as the term carries complicated, and even violent, legacies in its journeys through the Global South.¹³ Second, I zoom in to closely see how the field of queer politics in India is textured by law’s flashpoints framed by the language of rights, particularly as these are sequestered by the demand surrounding the decriminalization of the colonial anti-sodomy law. I read, see and listen to a set of visual and legal texts to show how these demands reify the intimacies between queer politics, Hindu right wing nationalism, and neoliberalism. I use these reified instances to zoom out and connect with other locations where queer politics has or is taking a similar turn. I establish this connection to suggest how those troubled by these dangerous instances are related through experiences of failure rather than triumph, and that to acknowledge failure responsibly might offer a way of building “affective communities”¹⁴ of queer kinship. I end on a note of hopelessness (not apathy) because resistance and solidarity are romantically overrated, and much of the cause for the dangerous common-sense we have built for ourselves.

⁸ Paul Cilliers, *Complexity, Deconstruction and Relativism*, 22: 5 THEORY, CULTURE & SOC’Y 256 (2005).

⁹ *Ibid.*

¹⁰ Karin Van Marle, *Liminal Landscape: Law, Literature and Landscape in Post-apartheid South Africa*, in GENRES OF CRITIQUE: LAW, AESTHETICS AND LIMINALITY 109, 122 (Karin Van Marle & Stewart Motha eds., 2013).

¹¹ Cilliers, *supra* note 8 at 260.

¹² I do this to guard against my account being read as what Leela Gandhi would call “postcolonial revenge.” This gesture indicates my deep suspicion towards both relativism and universalism. I remain unsure about whether I place myself between these locational indices or beyond. LEELA GANDHI, POSTCOLONIAL THEORY: AN INTRODUCTION x (1998). *See generally* DIPESH CHAKRABARTY, PROVINCIALIZING EUROPE: POSTCOLONIAL THOUGHT AND HISTORICAL DIFFERENCE (2007).

¹³ *See* THE GLOBAL TRAJECTORIES OF QUEERNESS: RETHINKING SAME-SEX POLITICS IN THE GLOBAL SOUTH (Ashley Tellis & Sruti Bala eds., 2015).

¹⁴ LEELA GANDHI, AFFECTIVE COMMUNITIES: ANTICOLONIAL THOUGHT, FIN-DE-SIÈCLE RADICALISM, AND THE POLITICS OF FRIENDSHIP (2006).

II. When was the new?

Of the many photographs of posters and banners at the 2014 Delhi Queer Pride march that flooded social media, there was one that caught my attention because of how appropriately it queered the times we were in. The 2014 Pride march was being held in the aftermath of two events that were of special significance for queer politics in India. The first was the December 2013 *Koushal* judgment¹⁵ of the Supreme Court of India that re-criminalized adult, consensual and private sex by overturning the landmark 2009 Delhi High Court *Naz Foundation* judgment¹⁶ that had ruled Sec. 377 of the Indian Penal Code, 1860 (which criminalizes “carnal intercourse against the order of nature”)¹⁷ to be unconstitutional.

The second event was the election of Narendra Modi of the Hindu nationalist Bharatiya Janata Party (BJP) as the Prime Minister in May 2014. Although the BJP has been driven by a neo-fascist ideology of establishing a Hindu *rashtra* (nation)¹⁸—even through mass violence against Muslims and Christians—for his electoral campaign Modi produced a sophisticated narrative of soft fascism and hard neoliberalism that led to the BJP’s historic win in the 2014 national elections.¹⁹ The BJP’s coming to power is not good news for queer rights in India, since the party has consistently maintained its opposition to homosexuality—characterising it as a Western decadent import that is against their understanding of ‘Indian’ culture—and had strongly supported the *Koushal* decision.

So now about the poster at the 2014 Delhi Pride march: this one depicted Modi’s face painted with rainbow colours, carrying the line: “I love Amit Shah” (Fig. 1).²⁰ Shah is Modi’s right hand man, currently the President of the BJP. Their relationship goes back to the days since Modi was Chief Minister of the state of Gujarat when an anti-Muslim pogrom was orchestrated under their watch in 2002,²¹ followed by the extra-judicial killings, or fake police encounters, of Muslim youths who were alleged to have plotted Modi’s assassination.²² Shah is being investigated for delivering a speech at an election rally in Muzaffarnagar in Uttar Pradesh in 2014, in which he instigated Hindus

¹⁵ *Koushal v. Naz Foundation*, (2014) 1 SCC 1 (India). *available at* <http://indiankanoon.org/doc/58730926/>.

¹⁶ *Naz Foundation v. Govt. of Delhi*, (2009) 111 DRJ 1 (DB).

¹⁷ See generally Suparna Bhaskaran, *The Politics of Penetration: Section 377 of the Indian Penal Code, in QUEERING INDIA: SAME-SEX LOVE AND EROTICISM IN INDIAN CULTURE AND SOCIETY 15* (Ruth Vanita ed., 2002) (historical comment on Sec. 377).

¹⁸ See Marzia Casolari, *Hindutva’s Foreign Tie-Ups in the 1930s: Archival Evidence*, *ECON. & POL. WKLY.*, Jan. 22 2000, at 218 (connecting Hindu nationalism and Fascism); See also MARZIA CASOLARI, *IN THE SHADE OF THE SWASTIKA: THE AMBIGUOUS RELATIONSHIP BETWEEN INDIAN NATIONALISM AND NAZI-FASCISM* (2011); *FASCISM: ESSAYS ON EUROPE AND INDIA* (Jairus Banaji ed., 2016).

¹⁹ See generally Periscope, *Indian Politics under Modi*, *SOCIAL TEXT*, (2015), http://socialtextjournal.org/periscope_topic/indian-politics-under-modi/ (critical analysis of a range of aspects related to Modi’s 2014 win).

²⁰ Stuti Bhattacharya, *Photo Essay - Delhi Pride Parade 2014*, *INPEC MAG.*, Dec. 8, 2014, <http://inpecmagazine.com/2014/12/07/photo-essay-delhi-pride-parade-2014/>.

²¹ See PARVIS GHASSEM-FACHANDI, *POGROM IN GUJARAT: HINDU NATIONALISM AND ANTI-MUSLIM VIOLENCE IN INDIA*, (2012) (rich ethnographic study of the pogrom).

²² Vibhuti Agarwal, *The Ishrat Jahan Case, An Explainer*, *THE WALL ST. J. BLOG* (Jul. 5, 2013, 12:40 PM IST), <http://blogs.wsj.com/indiarealtime/2013/07/05/the-ishrat-jahan-case-an-explainer/>.

to take revenge against Muslims.²³ A queering of the Modi-Shah fascist camaraderie, as a quirky comment on the BJP's anti-homosexual love position, and the charge of the Modi-Shah homosocial intimacy, were what I guess the poster was invoking. Of course, it was also an expression of irreverence, puncturing Modi's hyper-masculinized and deified image in public culture, by playing on the relationship between the Prime Minister and his closest aide.



Figure 1: Queering Modi (Photo: Stuti Bhattacharya)

Around the same time as the Delhi Pride march—which was held in late November—I was in Bombay, travelling in a taxi to the Santa Cruz airport to catch a flight back to Calcutta, my home-town. The traffic was extremely sluggish, as it always is in Bombay. As I approached the airport, two things caught my attention. The first was a huge procession of the Bajrang Dal—the militant youth wing of the Sangh Parivar (Collective Family of Hindu Right Wing outfits)²⁴ of which the BJP is also a part. A resounding slogan in Hindi being shouted on loudspeakers by those in the procession was: “*Katwa Pachtayega Ram Ram Chillaye Ga*,” which translates as: the circumcised Muslim will repent; he will have to cry out Lord Ram’s name.²⁵ The fascist insinuation was unambiguous.

²³ Press Trust of India, *Second FIR against Amit Shah for Muzaffarnagar ‘Revenge’ speech*, LIVE MINT, April 6, 2014, <http://www.livemint.com/Home-Page/bAa6OEGxWGs2k1TRcXr8hL/Amit-Shah-booked-for-revenge-speech-under-EC-scrutiny.html>.

²⁴ See generally THE SANGH PARIVAR: A READER (Christophe Jaffrelot ed., 2nd ed. 2005).

²⁵ The Hindu god Ram was the mythological figure who was deployed by the BJP in 1992 to mobilize militant groups of *Kar Sevaks* (pilgrims) in the city of Ayodhya to raze to the ground the Babri Mosque, built in 1527, on the pretext that the mosque was built exactly where Ram was born. The demolition of the Babri Mosque was followed by widespread rioting in many

Closer to the airport, I saw posters of the Shiv Sena—another militant Hindu fascist political party that carried out the anti-Muslim violence in Bombay in 1992²⁶—pasted on street walls. The posters carried the photos of Bal Thackeray,²⁷ the late Shiv Sena supremo,²⁸ alongside B.R. Ambedkar, the Chairperson of the Indian Constitution’s drafting committee, and an inspiring leader of the anti-caste movement.²⁹ Ambedkar has been the beacon of the Dalit movement in India, and for all his life was a very strong critic of Hindu religion, which he has argued, was the basis of caste oppression.³⁰ Although ideologically oppositional, to see Ambedkar and Thackeray together wasn’t altogether surprising, because this was clearly the Shiv Sena’s way of appealing for votes from the Dalit constituency in Maharashtra, and thereby mobilizing and consolidating an anti-Muslim electorate.³¹ However, this projection of Hindu-Dalit solidarity was not only a marker of the Hindu Right’s attempts at forging new identitarian intimacies, but also a means to achieve its old desire of establishing Hindu Raj (rule) by eliminating the Muslim.³²

In his tract *Pakistan or the Partition of India*, published in 1940, Ambedkar had cautioned against what I understand as a constitutive foundation of the New India. Ambedkar predicted: “If Hindu Raj does become a fact, it will, no doubt, be the greatest calamity for this country. No matter what the Hindus say, Hinduism is a menace to liberty, equality and fraternity. On that account it is incompatible with democracy. Hindu Raj must be prevented at any cost.”³³

parts of India, and particularly in Bombay where the Shiv Sena—a Hindu fascist political party—carried out a well-planned attack on the city’s Muslim population.

²⁶ See MEENA MENON, *RIOTS AND AFTER IN MUMBAI: CHRONICLES OF TRUTH AND RECONCILIATION* (2011) (detailed study of the 1992 anti-Muslim riots in Bombay).

²⁷ “... in an interview in the *Time* magazine in the immediate aftermath of the Bombay riots of 1993, Thackeray did not mince words on his agenda for the Muslim minority in India. When questioned on the role of the Shiv Sena in the riots, Thackeray replied: ‘I want to teach Muslims a lesson’. When questioned on the fact that Muslims were fleeing Bombay in droves, Thackeray replied ‘If they are going, let them go. If they are not going, *kick them out*’. In an exchange that reflects his long-standing admiration of the Hindu Right for Nazi Germany, he responded to the charge that ‘Indian Muslims are beginning to feel like Jews in Nazi Germany’, by saying ‘Have they behaved like the Jews in Nazi Germany? If so, there is nothing wrong if they are treated as Jews were in Germany’.” BRENDA COSSMAN AND RATNA KAPUR, *SECULARISM’S LAST SIGH? HINDUTVA AND THE (MIS)RULE OF LAW* (2001), 8-9 (emphasis in original).

²⁸ See SUJATA ANANDAN, *SAMRAT: HOW THE SHIV SENA CHANGED MUMBAI FOREVER* (2014) (close journalistic account of Bal Thakrey and the Shiv Sena).

²⁹ See CHRISTOPHE JAFFRELOT, *DR AMBEDKAR AND UNTOUCHABILITY: ANALYSING AND FIGHTING CASTE* (2005) (historical account of Ambedkar’s political life).

³⁰ B.R. AMBEDKAR, *ANNIHILATION OF CASTE: THE ANNOTATED CRITICAL EDITION* (2014).

³¹ See BADRI NARAYAN, *FASCINATING HINDUTVA: SAFFRON POLITICS AND DALIT MOBILISATION* (2009) (documenting the mobilization of Dalits by the Hindu Right in India to serve its anti-Muslim agenda).

³² Since having come to power the BJP has been trying very hard to appropriate Ambedkar’s legacy to forward its fascist agenda, even as Hindu Right groups have been unleashing egregious forms of violence against Dalits. See Anand Telumbe, *Modi’s Faux Pas on Ambedkar*, 51 *ECON. & POL. WKLY.* 16 (2016).

³³ B.R. AMBEDKAR, *PAKISTAN OR THE PARTITION OF INDIA* (1940), available at http://www.columbia.edu/itc/mealac/pritchett/00ambedkar/ambedkar_partition/. It is necessary to note here that at the time that Ambedkar wrote this, he considered the Indian National Congress to be as much a vehicle for establishing Hindu Raj as the BJP is today. See B. R. AMBEDKAR, *RIDDLES IN HINDUISM: THE ANNOTATED CRITICAL SELECTION* (2016).

Narendra Modi's election as Prime Minister in 2014 was a chest-thumping³⁴ return of Hindu Raj (in its repackaged neoliberal avatar)³⁵ to majority power after a decade.³⁶ And if one takes even a cursory look at the attacks on dissent and diversity that the new BJP government (or those part of its patronage networks within the Sangh Parivar) have carried out or legitimated in its two years in office, that is enough evidence to recognize that Indian democracy is in for a raw deal as far as the treatment of its religious minorities are concerned.³⁷

Some of these incidents of hate and bigotry have included the banning of beef eating in BJP ruled states, because the cow is considered as holy for Hindus by the current political dispensation (despite the fact that it is a staple source of protein for the poor across religious denominations, is part of Islamic and indigenous culinary cultures in India, and historically Hindus have been beef eaters³⁸); to the attack on churches, to the lynching of a Muslim man in Uttar Pradesh by a mob of Hindus for allegedly storing beef in his fridge, to the intimidation and murders of activists and intellectuals for speaking and writing against the Hindu Right's fascist politics; to the slapping of the draconian sedition law to incriminate students and academics as 'anti-national' at the Jawaharlal Nehru University in Delhi for questioning India's armed occupation of Kashmir; to a vigilante Hindu cow-protection group's public flogging of Dalit youth for allegedly skinning a dead cow in Gujarat; to legally establishing India as the land of the Hindus by bringing an amendment to the Citizenship Act, 1955 which will grant asylum only to persecuted Hindus from other countries in South Asia; to blacklisting human rights organisations and activists who have been critical of the government by cutting off their access to foreign funding; to name just a few.

In response to some of these events in 2015 many prominent writers, artists and filmmakers protested by returning the awards that they had received from the Indian state previously (and not necessarily from the BJP government) in recognition of their work. Author and activist Arundhati Roy, on returning her national award, wrote:

³⁴ Modi has been quoted as saying: "Only a man like me with a chest of 56 inches could achieve what I did in 2002 in Gujarat." As Harsh Mander writes: "The macho metaphor of the 56-inch chest (chappan chaati) returned frequently in Modi's election speeches when he sought re-election in the winter of 2007." See HARSH MANDER, *FEAR AND FORGIVENESS: THE AFTERMATH OF MASSACRE* (2009), 48.

³⁵ See MEERA NANDA, *THE GOD MARKET: HOW GLOBALIZATION IS MAKING INDIA MORE HINDU* (2009) (astute analysis of the combined rise of Hindu nationalism and neoliberalism in India).

³⁶ Since the BJP's coming to power several smaller Hindu Right groups have publicly supported Donald Trump's politics of hatred against Muslims. One of these groups, notably the Hindu Sena, has even celebrated Trump's birthday by cutting a cake, and also bursting crackers when Trump won the US elections. Much like the bigoted machismo of Modi that is hailed by the Hindu Right, the Hindu Sena has called Trump a "fighter and saviour of humanity." See AFP, *Hindu Sena celebrates Trump's victory in US presidential election*, HINDUSTAN TIMES (Nov. 9, 2016), <http://www.hindustantimes.com/india-news/hindu-sena-celebrates-trump-s-victory-in-us-presidential-election/story-z4DkWJRITC06cvDnfyUemJ.html>.

³⁷ JOHN DAYAL, *300 DAYS: DOCUMENTING SANGH HATE AND COMMUNAL VIOLENCE UNDER THE MODI REGIME: INTERIM REPORT* (2015), available at <http://www.sabrang.com/news/2015/ReportModi300days.pdf>.

³⁸ See D.N. JHA, *THE MYTH OF THE HOLY COW* (2009).

I want to make it clear that I am not returning this award because I am “shocked” by what is being called the “growing intolerance” being fostered by the present government. First of all, “intolerance” is the wrong word to use for the lynching, shooting, burning and mass murder of fellow human beings. Second, we had plenty of advance notice of what lay in store for us—so I cannot claim to be shocked by what has happened after this government was enthusiastically voted into office with an overwhelming majority. Third, these horrific murders are only a symptom of a deeper malaise. Life is hell for the living too. Whole populations—millions of Dalits, Adivasis, Muslims and Christians—are being forced to live in terror, unsure of when and from where the assault will come.³⁹

Roy’s comment bears testimony to the fact that other political forces, particularly the parliamentary Left in India have failed miserably to prevent the advent of *Hindutva*⁴⁰ politics. This recognition requires that questions be asked about the Left’s own insidious complicities with the ideologies and practices of both *Hindutva* and its vicissitudes in neoliberalism.

A few months into 2015, from within the grim shadows of Modi-rule in India emerged two instances of queer visibility and assertion in full rainbow radiance. The first was what has been called India’s first gay matrimonial advertisement that the daily *Mid-Day* published (after being rejected by several other newspapers).⁴¹ It was inserted by Padma Iyer, mother of Harish Iyer. Harish is a prominent gay rights activist and media personality. Through the advertisement Padma was seeking a groom for her son. Media outlets from around the world covered it as an event of radical significance in conservative India, and social media started celebrating it as a landmark for gay rights in a post-*Koushal* and Modi-fied India. The ad read: “Seeking 25-40, Well-Placed, Animal-Loving, Vegetarian, GROOM for my SON (36, 5’ 11”) who works with an NGO, Caste no Bar (Though IYER Preferred)” (Fig. 2).⁴²

What makes the advertisement worthy as a marker of its time in the New India, is not only that a gay matrimonial appears in mainstream English media in a country where non-procreative sex stands criminalized, but also that this gay marriage solicitation carries a Brahmanical qualification in parenthesis (Iyers are Tamil Brahmins, mostly middle classes, but the top-most in the graded hierarchy of Hindu castes)⁴³ which reinforces the very hierarchies of caste and endogamy legitimated by Hindu religion that Ambedkar had fought against.

³⁹ Arundhati Roy, *I am returning my award because I’m ashamed of what’s happening in India*, THE GUARDIAN (Nov. 6, 2015, 12:17 GMT), <http://www.theguardian.com/commentisfree/2015/nov/06/returning-award-ashamed-india-arundhati-roy>.

⁴⁰ See DIBYESH ANAND, HINDU NATIONALISM IN INDIA AND THE POLITICS OF FEAR 1 (2011) (“[H]indutva (“Hindu-ness”, shorthand for Hindu nationalism) in India is a chauvinist and majoritarian nationalism that conjures up the image of a Hindu Self vis-à-vis the threatening minority Other.”).

⁴¹ Rohit Inani, *Mother Posts India’s First Gay Marriage Advert to Seek Groom for Her Son*, TIME (May 21, 2015), <http://time.com/3891962/india-gay-homosexual-lgbt-rights-marriage-advert/>.

⁴² Andre Borges, *This Guy’s Mom Wanted to Find Him a Husband, So She Placed India’s First Gay “Groom Wanted” Ad*, BUZZFEED (May 19, 2015, 12:42 PM), <http://www.buzzfeed.com/andreborges/first-gay-matrimonial-groom-wanted-ad#.erywMDn6W>.

⁴³ See C.J. FULLER & HARIPRIYA NARASIMHAN, TAMIL BRAHMANS: THE MAKING OF A MIDDLE-CLASS CASTE (2014).

These hierarchies that have for many years been propagated with celebratory zeal by the huge market for heterosexual matrimonials,⁴⁴ were now being wholeheartedly embraced by queers. On social media, the celebrations surrounding the advertisement were also accompanied by—though not in as many numbers—criticisms of its embedded casteism.⁴⁵ In response Harish Iyer tweeted: “that was not discriminatory tho [sic]. :) that’s more like knowing someone from a familiar territory.”⁴⁶ Of course, since when did listing personal preferences for soliciting a prospective spouse become discriminatory? Yet, Iyer’s claim to “familiar territory” in this case seemed to have been deployed as an alibi for reifying the insidious violence of sexual, caste and class normativities, in the name of achieving marriage equality—much like the way in which race violence in Charleston was displaced by the celebrations surrounding the US Supreme Court decision in *Obergefell v Hodges*⁴⁷ legalizing same-sex marriage in June 2015.⁴⁸

The second was an instance of another first. This time, it was a video called *The Visit*⁴⁹ for the ethnic wear brand Anouk, touted as “India’s first lesbian ad.”⁵⁰ (Fig. 3). It shows a young urban couple, relaxed and confident in their skins, wearing *Anouk* apparels, in their very tastefully decorated house (with a poster of *A Clockwork Orange*, fluttering curtains and the soft glow of the setting sun streaming in), waiting to welcome the parents of one of them. The couple speak in English with each other—because they don’t speak the same language, thus implying their cross-cultural relationship—and in the vernacular to the parents (on the phone), thus suggesting the ease with which they traverse between tradition and modernity (something that Anouk as a brand wants to stand for).

The video builds up a calm anticipation of a coming-out encounter, where the couple are going to tell the parents about their romantic relationship. One of them

⁴⁴ See Abhijit Banerjee, Esther Duflo, Maitreesh Ghatak and Jeanne Lafortune., *Marry for What?: Caste and Mate Selection in Modern India*, 5 AM. ECONOMIC J. 2, 33-72 (2009).

⁴⁵ See Sayan Bhattacharya, *The Cool Queers*, KINDLE (June 23, 2015), <http://kindlemag.in/cool-queers/>.

⁴⁶ Harish Iyer (@hiyer), TWITTER, (May 19, 2015, 3:00 AM), https://twitter.com/hiyer/status/600601846722334720?ref_src=twsrc%5Etfw.

⁴⁷ *Obergefell v. Hodges*, 135 S. Ct. 2584 (2015), available at http://www.supremecourt.gov/opinions/14pdf/14-556_3204.pdf.

⁴⁸ The Iyer advert and the *Obergefell* decision are not equivalent events. I compare them because of the identical responses that they have generated: of how queer celebrations have come to mask caste/ race violence and prejudice. Commenting on the *Obergefell* judgment on her Facebook page, Kimberlé Crenshaw wrote:

[N]ine dead people – killed while worshipping – are now afterthoughts, to be squeezed into the celebration of American Democracy. So now... Black people can marry whomever they please, but we can’t vote, worship, represent our people, swim, shop, or walk the streets without fear of being discriminated against or even killed. So on this day of sorrow and celebration, this is what democracy looks like.

Kimberle Crenshaw, FACEBOOK (Jun. 26, 2015), <https://www.facebook.com/kimberle.crenshaw/posts/10153367636743851?ref=nf>.

⁴⁹ Anouk: Bold is Beautiful, *The Visit*, YOUTUBE (May 28, 2015), <https://www.youtube.com/watch?v=Ef27m5ocK6Q>.

⁵⁰ Vikram Johri, *India’s first lesbian ad is actually wonderful*, DAILY O (June 10, 2016), <http://www.dailyo.in/lifestyle/myntra-anouk-ad-bold-is-beautiful-lesbians/story/1/4243.html>.

asks: “Are you sure about this?” The one whose parents are on their way replies: “I am sure about us, and I don’t want to hide it anymore.” The video ends with the words “Bold is Beautiful” on the screen, and the couple holding hands walk out of the frame to meet the parents, who we don’t see.

While both the advertisements locate the normalization of queer liberation in domestic monogamous conjugality—which is a dream for many, and might in fact be a pretty powerful public assertion to challenge the compulsorily heteronormative idea of the family—access to the domestic space and the relationship of conjugality is mediated through caste and endogamous marriage in the first, and in the second, through class as the marker of queer consumerism. Interestingly then, even while queering the discursive pitch, as it were, both the advertisements reinforce some of the very foundations that form the base of the idea of the New India, particularly that of privatization of liberation, and in effect marks a smooth spread of the “epistemic violence”⁵¹ of the caste-class-sexuality complex from heteronormativity to “homonormativity.”⁵²

How does one make sense of this moment in India’s present, especially in the context of how it might impact queer politics, and the renewed legal struggles to decriminalize gay sex? Commenting on the simultaneous rise in the decriminalization of sodomy and legalization of gay marriage across several Western countries on the one hand and that of the spread of queer imperialism on the other, Nikita Dhawan wrote in a 2013 essay: “For queer politics, it is the best of times, and it is the worst of times.”⁵³ Her remark is apposite for the New India—where the ostensible conservatism of Hindu right wing nationalism and its declared homophobia is coexistent with the narratives of queer liberation championed by neoliberalism. What, however, makes this moment of immense significance for queer politics in India is not so much the polarisation between the best and the worst of times, but the growing intimacies between them—even as they might seem to be in opposition.

My thoughts on queer politics in the New India are a response to a persistent discomfort with the emerging intimacies between claims for queer rights on the one hand and the conjoined narrative of *acche din* or good days that right wing Hindu nationalism and neoliberalism currently espouse.⁵⁴ It is this ongoing phase of the simultaneous workings of *Hindutva* and neoliberalism—that I characterize as the New India—inaugurated, if one has to identify a temporal marker, in the early 1990s—with the liberalization of the Indian economy in 1991, which also coincided with the chronological end of the Cold War and the beginning of the World Bank-initiated Structural Adjustment Programmes in India, the escalation of militarisation of Kashmir

⁵¹ Gayatri Chakravorty Spivak, *Can the Subaltern Speak?*, in *MARXISM AND THE INTERPRETATION OF CULTURE* 271 (Cary Nelson et al. eds., 1998).

⁵² Lisa Duggan, *The New Homonormativity: The Sexual Politics of Neoliberalism*, in *MATERIALIZING DEMOCRACY: TOWARD A REVITALIZED CULTURAL POLITICS* 175 (Russ Castronovo et al. eds., 2002), 179. (“Homonormativity: a politics that does not contest dominant heteronormative assumptions and institutions—such as marriage, and its call for monogamy and reproduction—but upholds and sustains them while promising the possibility of a demobilized gay constituency and a privatized, depoliticized gay culture anchored in domesticity and consumption.”).

⁵³ Nikita Dhawan, *The Empire Prays Back: Religion, Secularity and Queer Critique*, 2 *BOUNDARY* 2, 191, (2013).

⁵⁴ “*Acche din aane waale hain*” (Good days are coming) was the campaign slogan for the BJP in its run up to the 2014 elections.

by the occupying Indian Army, and the demolition of the Babri Mosque in Ayodhya by huge Hindu militant mobs a year later in 1992, led by key BJP politicians. The state supported 2002 anti-Muslim pogrom in Gujarat under Narendra Modi's leadership as chief minister and home minister; the Congress government's armed offensive against *adivasis* to forcefully clear them off mineral rich lands for acquisition by mining companies during its rule from 2004–2014; and Modi's win in 2014, are all part of this new India's curated continuum.

Queer politics have not been immune from these key events in contemporary Indian history. Which is why, the articulation of queer rights claims cannot be understood through the unproblematized opposition that is generally drawn between the conservatism of non-Western primitive cultures and religions and non-heteronormative sexualities on the one hand, and the happy marriage between queer rights and the modern, neoliberal, militarized and corporatized Indian nation-state on the other. Needless to say, the story is more complicated than that.

Although there have not been many attempts to write an historiography of the contemporary queer movement in India,⁵⁵ it is necessary to emphasize that the movement is not of recent origin, and has had very diverse and vibrant political roots. Having sustained its struggles despite not finding allies in both communists and feminists in India through many of its initial years—both these groups “decrying lesbianism as an elitist deviation from real political issues”⁵⁶—the movement continues to negotiate with such fraught encounters. In fact, I feel this historiographical “lack”—to borrow from Dipesh Chakrabarty—could be read “otherwise,”⁵⁷ as a productive impossibility perhaps that is a testimony to the co-existence of many queer movements in India (not necessarily even called by this name), which resist the imposition of a homogenous historical narrative for the sake of academic intelligibility or curatorial desire.

While it is true that the queer movement is not homogenous in character,⁵⁸ there is certainly an urban, anglicized, and elite dominant voice within it—particularly those that have led the legal struggles against the anti-sodomy law—that gains most visibility and stands in for what has come to be identified globally as *the* Indian queer movement. This is the movement that I have been a part of—as an activist, academic and intervener as a group of law professors in the Supreme Court in support of the *Naz Foundation*

⁵⁵ See ANJALI ARONDEKAR, FOR THE RECORD: ON SEXUALITY AND THE COLONIAL ARCHIVE IN INDIA (2009); NAISARGI DAVE, QUEER ACTIVISM IN INDIA: A STORY IN THE ANTHROPOLOGY OF ETHICS (2012); JYOTI PURI, SEXUAL STATES: GOVERNANCE AND THE STRUGGLE TO DECRIMINALIZE HOMOSEXUALITY IN INDIA (2016) (some notable recent projects that attempt to do this).

⁵⁶ Nivedita Menon, *Outing Heteronormativity: Nation, Citizen, Feminist Disruptions*, in *SEXUALITIES* 23 (Nivedita Menon ed., 2007); See also Sharmila Rege, *Homophobia in the name of Marxism*, 31 *ECON. & POL. WKLY.* 1359 (1996).

⁵⁷ DIPESH CHAKRABARTY, PROVINCIALIZING EUROPE: POSTCOLONIAL THOUGHT AND HISTORICAL DIFFERENCE 34 (2000).

⁵⁸ My identification of something by the name of the *queer* movement might in fact be the imposition of a homogeneity that I have cautioned against. Both in terms of identity and politics, the word queer has had a troubled journey in India, especially in the way in which it subsumes within itself a whole range of non-elite and indigenous sexualities that resist neat identification. My use of the word is meant to both indicate my own class position that enables me to use it with such ease, as well as the class dynamics of what is now called the queer movement in India. On this point see Ashley Tellis, *Disrupting the Dinner Table: Rethinking the “Queer Movement” in Contemporary India*, 4 *JINDAL GLOBAL L. REV.* 1, 142–56 (2012).

judgment⁵⁹—and my reflections in this article emerge from these engagements. My aim is to do an “otherwise” reading of queer politics in India, but not with the aim of romanticizing the idea of the “lack,” or by resisting it. While I remain committed to the movement against Sec. 377, I am troubled by the fault lines that are emerging with the increasing visibility of a homogenous looking and sounding queer movement in India—mobilized around the legal challenge—in these times of *Hindutva* and neoliberalism. *Caveat lector*: In carrying out this task I disclaim any objectivity in my views, as might have already become clear by now.

III. Law’s Flashpoints

The law’s flashpoints have been treated as harbingers of the history of queer politics in the New India. As a result, they have turned into history-vanishing moments: “a centripetal turbulence of illumination so powerful that it may blind the past even as it spotlights the present and lights up the future.”⁶⁰ As I have written with Dipika Jain elsewhere:

[W]hen a history of struggle is reduced to flashpoints like landmark judgments, it is a truncated, blinkered history that results in a sanitized politics that fossilises the past, valorises the present, and simply paints a clean picture: no contradictions, no contestations, no mess. A picture that irons out the unruly creases of historical inexplicability and is ready to adorn the manicured walls of an aesthetically curated memory museum.⁶¹

As is the case in many other parts of the world, the primary visibility for the queer rights movement in India has come from its almost singular engagement with the law, aimed at challenging Sec. 377 of the Indian Penal Code, 1860, an antiquated Victorian provision that criminalises “unnatural” sex, which basically includes all forms non-peno-vaginal, penetrative, non-procreative sex.⁶² There has been a lot of documentation on how this federal law (along with a gamut of local laws), is used, especially by the police, as a tool to persecute the sexually marginalized, especially in public places, whose vulnerabilities are further exacerbated due to their class, caste, gender and religion based marginalities.⁶³ After a very long and sustained legal battle, the Delhi High Court in its July 2009 *Naz Foundation* decision read down Sec. 377 by decriminalizing all forms of adult, consensual and private sex, from the ambit of this

⁵⁹ The text of the intervention application is available at http://orinam.net/377/wp-content/uploads/2014/01/377_ReviewPetition_Ratna-Kapur.pdf.

⁶⁰ JASBIR PUAR, TERRORIST ASSEMBLAGES: HOMONATIONALISM IN QUEER TIMES xviii (2007) (citing David Kazanjian).

⁶¹ Oishik Sircar & Dipika Jain, *Of Powerful Feelings and Facile Gestures*, in *NEW INTIMACIES, OLD DESIRES: LAW, CULTURE AND QUEER POLITICS IN NEOLIBERAL TIMES* (Oishik Sircar & Dipika Jain eds., 2017), xiv.

⁶² See Suparna Bhaskaran, *The Politics of Penetration: Section 377 of the Indian Penal Code*, in *QUEERING INDIA: SAME-SEX LOVE AND EROTICISM IN INDIAN CULTURE AND SOCIETY* 15, 15-29 (Ruth Vanita ed., 2002) (analyzing the law’s colonial legacy.).

⁶³ PEOPLE’S UNION FOR CIVIL LIBERTIES-KARNATAKA, HUMAN RIGHTS VIOLATIONS AGAINST SEXUAL MINORITIES IN INDIA: A PUCL-K FACT-FINDING REPORT ABOUT BANGALORE (2001), <http://www.pucl.org/Topics/Gender/2003/sexual-minorities.pdf>.

law.⁶⁴ Through very creative readings of equality and non-discrimination, the judgment acknowledged, drawing its inspirational basis from B.R. Ambedkar's notion of "constitutional morality" which trumped conservative "public morality" as a test to determine the law's unconstitutionality.⁶⁵

The judgment was hailed, as Anjali Gopalan, founder of the petitioner organisation Naz Foundation exclaimed, "Oh my God, we've finally stepped into the 21st century!"⁶⁶ This symbolic civilizational uplift for India propelled by the judgment, announcing its membership into the moral universe of neoliberal modernity, valorized privacy as the qualifier for queer liberation. The primacy put on private sex—similar to the kind represented in the two advertisements discussed earlier—was the qualifier that enabled the reading down of the law, and effectively excluded from its purview a whole range of non-elite and indigenous sexually marginalized people who do not enjoy the privileges of private space.⁶⁷ The 'privacy' standard is what I have called a "spectacle of emancipation,"⁶⁸ because those who do have access to private space were already outside of the reach of the law.⁶⁹ As Ashley Tellis has rightly questioned: "What is the point of allowing consensual sex between private adults of the same sex when most violations are of us in the public realm: in institutions, on the streets, in parks, toilets?"⁷⁰ Similarly, Jason K. Fernandes has argued that the judgment responds to the interests of urban, English-speaking, middle-class leaders of the queer rights movement in India, by overshadowing those very sexually marginalised (*Hijras, Kothis, Panthis*) who they claim to represent.⁷¹ Anjali Arondekar has raised concerns about how "the reading down of the law may thus now ostensibly allow for same-sex acts within private spaces, yet it ironically offers no protection for same-sex practices outside the normative parameters of home and domesticity."⁷² Transgender activists Raina Roy and Indira have pointed out that "the link between IPC 377 and gay/lesbian criminalisation or liberation is more symbolic than material," because in practice the police "rarely... use legal excuses to harass, abuse or rape socio-economically

⁶⁴ See Danish Sheikh, *The Road to Decriminalization: Litigating India's Anti-Sodomy Law*, 16 *YALE HUM. RIGHTS & DEV. J.* 104, 104-32 (2013) (giving a detailed narrative of the social life of the *Naz* case and its aftermath, and a reading of the judgment).

⁶⁵ See KALPANA KANNABIRAN, *TOOLS OF JUSTICE: NON-DISCRIMINATION AND THE INDIAN CONSTITUTION* 433-443 (2012).

⁶⁶ Elizabeth Flock, *The Law Breaker*, *FORBES INDIA* (Dec. 26, 2009), <http://india.forbes.com/article/person-of-the-year-09/the-law-breaker/8082/0>.

⁶⁷ See Saptarshi Mandal, *'Right to Privacy' in Naz Foundation: A Counter-Heteronormative Critique*, 2 *NUJS L. REV.* 525, 525-540 (2009) (analyzing the limitations of using the right to privacy argument to decriminalize sodomy).

⁶⁸ Oishik Sircar, *Spectacles of Emancipation: Reading Rights Differently in India's Legal Discourse*, 49 *OSGOODE HALL L.J.* 527, 563 (2012).

⁶⁹ Oishik Sircar, *Questions of Visibility*, 2 *IN PLAINSPEAK* 10, 10-17 (2008).

⁷⁰ Ashley Tellis, *Nothing to celebrate about section 377*, *DAILY NEWS & ANALYSIS* (Jun. 27, 2010, 12:57 AM), http://www.dnaindia.com/lifestyle/comment_nothing-to-celebrate-aboutsection-377_1401765.

⁷¹ Jason Keith Fernandes, *The Dilemma after the Decision: Stray thoughts after Gay Liberation*, *TEHELKA* (Aug. 14, 2009),

http://archive.tehelka.com/story_main42.asp?filename=Ws220809The_Dilemma.asp.

⁷² Anjali Arondekar, *Time's Corpus: On Sexuality, Historiography and the Indian Penal Code*, in *COMPARATIVELY QUEER: INTERROGATING IDENTITIES ACROSS TIME AND CULTURES* 113, 124 (William J. Spurlin et al. eds., 2010).

marginalised transgender and gay people. And when they do, they often evoke other laws concerning public order, decency, sex work or obscenity.”⁷³

It is necessary to note that despite the *Hindutva* hatred of Muslims and other religious minorities in India, when it came to opposing the *Naz Foundation* judgment in the Supreme Court, a look at the list of appellants curiously revealed how right wing Hindu, Muslim and Christian groups had all suddenly become strange bedfellows united in their firm belief that decriminalizing Sec. 377 would shake up the foundations of all religions, and result in the definite degeneration of ‘Indian culture’. Religious groups across denominations came together in solidarity against the *Naz Foundation* judgment as part of the appeal that was filed by Suresh Kumar Koushal. Koushal is a Hindu astrologer from Delhi, and has expressed his thoughts with bigoted creativity on why he challenged the *Naz Foundation* judgment in the Supreme Court. In an interview with *The Hindu*, he had said: “You can’t allow anal intercourse. The back portion of a body is for throwing out the waste of the body. It is like an exhaust fan. If you allow it, then it is like reversing the motion of the earth, like reversing the blood flow.”⁷⁴ Clearly, all the religious groups that joined Koushal in his appeal collectively shared a commitment to such bigotry.

IV. New Emergences

The euphoria of the *Naz Foundation* judgment, however, was short lived, because in December 2013 the Supreme Court in its anti-minority rights *Koushal* decision dismissed it. One of the primary grounds for dismissal was, as the Court defying an empirical impossibility stated: “lesbians, gays, bisexuals or transgenders” are a “miniscule fraction of the country’s population” hence Sec. 377 cannot be said to be adequately discriminatory against them as they do not constitute a reasonably classifiable group of people under the equality clause (Article 14) of the Constitution of India (read with the right against discrimination in Article 15, and the right to life in Article 21), to warrant the law being declared unconstitutional.⁷⁵

The Supreme Court also adopted a hands-off stance in *Koushal*—in strange contradistinction to its own activist histories of protecting Fundamental Rights⁷⁶—by

⁷³ Paul Boyce & Aniruddha Dutta, *Vulnerability of gay and transgender Indians goes way beyond Section 377*, THE CONVERSATION (Dec. 15, 2013, 7:04 PM AEDT), <https://theconversation.com/vulnerability-of-gay-and-transgender-indians-goes-way-beyond-section-377-21392> (quoting Raina Roy and Indira).

⁷⁴ Sangeeta Barooah Pisharoty, *It is like reversing the motion of the earth*, THE HINDU (Dec. 21, 2013, 14:40 IST), <http://www.thehindu.com/features/metropolis/society/it-is-like-reversing-the-motion-of-the-earth/article5483306.ece>.

⁷⁵ The Supreme Court used this logic to also state that because “in last more than 150 years less than 200 persons have been prosecuted (as per the reported orders) for committing offence under Section 377 IPC [...] this cannot be made sound basis for declaring that section ultra vires the provisions of Articles 14, 15 and 21 of the Constitution.” *Koushal v. Naz Foundation*, (2014) 1 SCC 1, available at <http://indiankanoon.org/doc/58730926/>.

⁷⁶ See Upendra Baxi, *Taking Suffering Seriously: Social Action Litigation in the Supreme Court of India*, 4 THIRD WORLD LEGAL STUD. 107 (1985); S.P. SATHE, JUDICIAL ACTIVISM IN INDIA: TRANSGRESSING BORDERS AND ENFORCING LIMITS (2002). See also THE SHIFTING SCALES OF JUSTICE: THE SUPREME COURT IN NEO-LIBERAL INDIA (Mayur Suresh and Siddharth Narrain eds., 2014); ANUJ BHUWANIA, COURTING THE PEOPLE: PUBLIC INTEREST LITIGATION IN POST-EMERGENCY INDIA (2016) (analyses of the conservative and market-friendly turn in judicial activism).

saying that changes to the law should be brought through legislative action by the Parliament, and that it falls outside of the Court's purview to do so. In response to this "jurispathic"⁷⁷ judgment, Pratiksha Baxi powerfully wrote (albeit in a romantic display of "left legalism"⁷⁸) that it "directs law's violence on the body of the Constitution of India. Proclaiming colonial law as constitutional, the Supreme Court negates its role in the making of postcolonial constitutionalism."⁷⁹

The responses to the *Koushal* judgment, particularly on social media and activist circles, generated a discourse that characterized it as backward and the *Naz* judgment as forward. This linear progressive logic was expressed through the hashtag #nogoingback, and an image of 377 captive within a prohibition sign, which went instantly viral leading to mobilizations for protests on December 15, 2013, that came to be called the "Global Day of Rage" across many locations in India and around the world (Fig. 4).⁸⁰ Indira Jaisingh, women's rights activist and former Additional Solicitor General of India, called out the Court's "medieval mindset,"⁸¹ while HIV/AIDS and gay rights activist Ashok Row Kavi said that the Court has "put the clock back."⁸² Author and poet Vikram Seth noted that the judgment "takes us back to a position of barbarism."⁸³ While it is true that all of these responses that deemed the judgment retrograde, and resisted a return to an undesirable past, were speaking up against Sec. 377's colonial inheritance by courts and communities in independent India—it is also true, that all of these comments seemed to express anguish about how the judgment was antithetical to their idea of the New India—modern, global, progressive. As Paul Boyce and Aniruddha Dutta attentively commented in the din of raging cacophony of protests:

For lots of activists, the decision has significant symbolic implications in terms of India's image in the international arena. India had previously [post *Naz*] looked relatively progressive on the world stage in terms of minority sexual rights. This was part of a package of other attributes, such as growing socio-economic liberalism and urbanising modernity in the sub-continent, often associated with sexual progress despite their problematic impacts in terms of poverty and the wealth gap. Now, a more regressive image suddenly seems to have taken centre stage. The Supreme Court decision is especially important not only because it stirs up a new set of concerns for same-sex desiring and practising people in India, but because it appears to upset an equivalence

⁷⁷ Robert Cover, *Nomos and Narrative*, 97 YALE L.J. 4, 4-68, (1983).

⁷⁸ LEFT LEGALISM/LEFT CRITIQUE (Wendy Brown & Janet Halley eds., 2002).

⁷⁹ Pratiksha Baxi, *Suresh Koushal v. Naz Foundation*, KAFILA (Dec. 16, 2013), <https://kafila.online/2013/12/16/suresh-koushal-v-naz-foundation-pratiksha-baxi/>.

⁸⁰ Tasneem Nashrulla, *Activists Plan "Global Day of Rage" To Fight For India's LGBT Community*, BUZZFEED (Dec. 14, 2013, 7:46 AM),

<http://www.buzzfeed.com/tasneemnashrulla/activists-plan-global-day-of-rage-to-fight-for-indias-lgbt-c#.cvKL2bax0>.

⁸¹ Special Correspondent, *Ruling regressive, say gay rights activists*, THE HINDU (Dec. 12, 2013), <http://www.thehindu.com/todays-paper/tp-national/ruling-regressive-say-gay-rights-activists/article5449868.ece>.

⁸² Yogesh Pawar, *Supreme Court judgment on Section 377 has put the clock back by 150 years: Gay rights activists*, DAILY NEWS & ANALYSIS (Dec. 12, 2013, 07:55 AM),

<http://www.dnaindia.com/india/report-supreme-court-judgment-on-section-377-has-turned-the-clock-back-by-150-years-gay-rights-activists-1933608>.

⁸³ Times News Network, *A great day for prejudice and inhumanity: Vikram Seth*, TIMES INDIA, Dec. 12, 2013, <http://timesofindia.indiatimes.com/india/A-great-day-for-prejudice-and-inhumanity-Vikram-Seth/articleshow/27231344.cms>.

between legislative progress on sexual rights and the image of India as a modern, secular and progressive nation.⁸⁴

It is necessary to understand how this logic came to prevail over the framing of contestations over queer rights in India. This backward/ forward logic is located on contentious foundations that open up articulations of queer rights claims to troubling appropriations by *Hindutva* and neoliberal narratives. In fact, what emerges is that the lines between progressive and regressive have increasingly blurred when queer victories and defeats are characterised as forward/ backward.⁸⁵

The *Koushal* decision came a few months before India's national elections in 2014. In the din of statements by political parties on the judgment, the then ruling party, the Indian National Congress, declared that they will support a legislation in parliament to repeal Sec. 377. The Congress party even went on to include this commitment in their election manifesto.⁸⁶ Such a commitment by a major political party has been unprecedented, and only goes to show the impact that the anti-377 movement has had on public and political consciousness in India. Of course, this also points at how urban and elite queers (and their corporate allies) were being considered as a constituency worthy of being a sizeable vote-bank in the pre-election moment. While the Congress' move was celebrated by many, I would argue, that it was used as a convenient ploy for the then ruling government to portray itself as progressive (in contrast to the right wing and Hindu majoritarian BJP, its biggest opposition), and taking attention away from the fact that it is the same government which has been unleashing brutal armed violence against India's *Adivasi* populations, at the behest of huge mining corporations.⁸⁷ This was a classic instance of the perverse use of the promise of law reform to the sexually marginalised on the one hand, and to carry on legalized violence on peasants and ethnic minorities on the other.⁸⁸

The BJP on the other hand was the only major political party, poised to win the elections, which made public statements saying that they will never support the

⁸⁴ Paul Boyce & Aniruddha Dutta, *Vulnerability of gay and transgender Indians goes way beyond Section 377*, THE CONVERSATION, Dec. 15, 2013, <https://theconversation.com/vulnerability-of-gay-and-transgender-indians-goes-way-beyond-section-377-21392>. Boyce and Dutta also point out that the "media reaction" and "extensive liberal outrage" against the judgment might lead to Sec. 377 "acquiring more dangerous connotations than it ever did before; over the years, many more people-including the police-have come to know that it might be used as a stick with which to beat LGBT people."

⁸⁵ See generally Brenda Cossman, *Canadian Same Sex Relationship Recognition and the contradictory nature of legal victories*, 48 CLEVELAND STATE LAW REVIEW 49, 49-59 (2000) (for an exploration of the limitations accompanying legal victories).

⁸⁶ Stuti Shukla, *Mixed response to Cong promise to decriminalize homosexuality*, THE INDIAN EXPRESS (Mar. 27, 2014, 4:51 AM), <http://indianexpress.com/article/cities/mumbai/mixed-response-to-cong-promise-to-decriminalise-homosexuality/>.

⁸⁷ See Arundhati Roy, *Mr Chidambaram's War*, OUTLOOK, (Nov. 9, 2009), <http://www.outlookindia.com/article/mr-chidambarams-war/262519>.

⁸⁸ In making this argument I don't mean to suggest that queerness is urban and ethnicity/ race is rural. My intention is to emphasize on how democratic state-craft works through a certain kind of biopolitical logic, in which management of marginalized populations are carried out by articulating progressivism in favor of one to mask violence against the other. Even as I say this, I am aware that both queerness and ethnicity are intersectional and co-constitutive categories. I thank Rahul Rao for helping me articulate this.

decriminalization of Sec. 377.⁸⁹ They set up ‘homosexuality’ against the idea of their Hinduized definition of ‘Indian culture’, merrily sidestepping the fact that the anti-sodomy law, that they so strongly wished to support, was in fact a colonial legacy.

So, as I said in the beginning, the BJP’s coming to power is certainly not good news for queer people, and for those who are committed to the queer and sexuality rights movements in India.⁹⁰ Of course, one didn’t have to wait for the BJP’s win to understand this. Other members of the Sangh Parivar that the BJP is a part of, have a chequered history of carrying out vandalism against all kinds of expressions of non-heteronormative sex and affirmative representations of female sexuality—be it the violent censoring of Deepa Mehta’s 1996 film *Fire*,⁹¹ the hounding of painter M.F. Hussain out the country for painting the Hindu goddess Saraswati in the nude in 2006,⁹² or forcing the pulping of historian Wendy Doninger’s book *Hindus: An Alternative History* in 2014,⁹³ and making the Tamil writer Perumal Murugan declare his literary death by the public burnings of his book *Madhorubhagan* in 2015⁹⁴—just to name a few instances.⁹⁵

An annual fixture of several Hindu right wing political outfits for many years has been to vandalize gift shops and beat and intimidate (heterosexual) couples who celebrate Valentine’s Day in public.⁹⁶ In 2009 women were attacked and publicly beaten by members of a Hindu group called Sri Ram Sene for going to have a drink at

⁸⁹ FP Staff, *BJP will not support ‘unnatural’ homosexuality: Rajnath Singh*, FIRSTPOST (Dec. 15, 2013 09:20 IST), <http://www.firstpost.com/politics/bjp-will-not-support-unnatural-homosexuality-rajnath-singh-1286933.html>.

⁹⁰ Emphasizing on this relationship of antagonism between the Hindu Right and the queer movement in India was a poster at the 2016 Delhi Queer Pride which carried the message “Homos Hate B.J.P.” For a photo of the poster see Speed News Desk, *If you care about gay rights, you must read Justice A. P. Shah’s lowdown on Sec. 377*, CATCH NEWS, Mar. 17, 2016, <http://www.catchnews.com/national-news/if-you-care-about-gay-rights-you-must-read-justice-ap-shah-s-lowdown-on-sec-377-lgbtq-supreme-court-delhi-high-court-1454418692.html>.

⁹¹ See Ratna Kapur, *Too Hot to Handle: The Cultural Politics of Fire*, 64 FEMINIST REV., 53–64 (2000).

⁹² See Salil Tripathi, *Sarasvati Unleashed*, 26 INDEX ON CENSORSHIP 6, 90–91 (1997).

⁹³ See McComas Taylor, *Hindu Activism and Academic Censorship in India*, 37 S. ASIA: J. S. ASIAN STUDIES 4, 717–725 (2014).

⁹⁴ See Kalpana Kannabiran, *Storytelling in the time of Hate: Deciphering Law(s) through Literature*, 50 ECON. & POL. WKLY. 76 (2015).

⁹⁵ Artistic or creative representations of sexuality have been at the receiving end of threats and intimidation by right wing Muslim outfits as well, though the instances have been lesser in comparison. There are two notable instances in this regard. First, has been the continued threats and violence that exiled Bangladeshi author Tasmila Nasreen has faced for her writings criticizing Islamic fundamentalism in both Bangladesh and India. Interestingly, the Hindu Right has cunningly used this as an opportunity to project itself as secular by championing Nasreen’s right to free speech against her censorship by right wing Muslim groups. The second is Salman Rushdie’s book *Satanic Verses* (1989), which was banned by the Congress government even before a fatwa against him was issued by Ayatollah Khomeini. The book continues to remain banned in India, and Rushdie even had to pull out of the Jaipur Literary Festival in 2012 following threats from local Muslim clerics. See Rajeev Dhavan, PUBLISH AND BE DAMNED: CENSORSHIP AND INTOLERANCE IN INDIA (2008).

⁹⁶ ANIL MATHEW VARUGHESE, *Globalization and Culture Wars: The Case of India, in CIVILIZING GLOBALIZATION: A SURVIVOR’S GUIDE* 93 (Richard Sandbrook et al eds., 2014).

a pub in Mangalore.⁹⁷ In recent years the Hindu Right has used the bogey of what it calls “Love Jihad” to vilify Muslim men in love with Hindu women, on the pretext that they are trying to convert Hindu women to Islam by luring them into marrying them.⁹⁸

Another judgment that came after *Koushal* deserves a brief mention here. In April 2014, while the General Elections that Modi went on to win were on in full swing, in *National Legal Services Authority (NALSA) v Union of India*,⁹⁹ the Supreme Court of India recognized transgender persons as the “third gender,” ordered that their Fundamental Rights in Part III of the Indian Constitution be protected, and upheld their “right to decide their self-identified gender.” The judgment also directed central and state governments to treat transgender persons “as socially and educationally backward classes of citizens and extend all kinds of reservation in cases of admission in educational institutions and for public appointments [to them].” One might say that *NALSA* overcomes the concerns about elitism which I had earlier raised to critique the *Naz* judgment for its primacy on privacy. But only, contingently.

The decision was hailed by the media and by activists alike for its progressivism, and was unanimously welcomed by political parties across the spectrum. By comparing it to the regressive decision in *Koushal*, many queried how the same Supreme Court, in a matter of months, could deliver such a rights-affirming judgment in favour of India’s sexually marginalized. One primary distinction between *Naz/ Koushal* and *NALSA* is the issues that were adjudicated upon—the legitimacy of non-procreative sex (primarily between gay men) in the former, and the right of a culturally identifiable sexually marginalized group to a life of dignity in the latter.

Of course, these are related issues—and all three cases were concerned about the violence faced by non-heterosexual persons because of the existence of a law, and due to societal prejudices—but sex as *behaviour* was attached with a certain kind of repugnance in *Koushal* that was not attached to sex as *identity* in *NALSA*. The *NALSA* judgment remains sanitized of offering an opinion on Sec. 377 (and deferred it to *Koushal*), and by extension on the legitimacy of non-procreative sex. It speaks in the liberal language of human rights (much like *Naz*), that while on the one hand serves as the foundation of its celebrated progressivism, but on the other (unlike *Naz*) the judgment depoliticizes sex (as act) by treating transgender persons as subjects of welfare and uplift, thus ordering that they be treated akin to a Constitutionally designated group called Other Backward Classes, who are considered to be socially and educationally disadvantaged.

In doing this balancing act between being rights-affirmative and sex-agnostic, *NALSA* avoids provoking moral panic, or the ire of the sex-phobic Hindu Right. Much like the two advertisements discussed earlier, *NALSA* offers a seamless fusion between tradition (its references to Hindu mythology for tracing the history of transgender persons in India) and modernity (drawing on international human rights law on gender identity and sexual orientation for affirming their rights). *NALSA*’s recognition of the rights of transgender persons frames their identities and lives as lacking—“absence of procreative capability” and “backward”¹⁰⁰—and thus “constitutes them as biopolitical

⁹⁷ Somini Sengupta, *Attack on Women at an Indian Bar Intensifies a Clash of Cultures*, N.Y. TIMES, Feb. 8, 2009, http://www.nytimes.com/2009/02/09/world/asia/09india.html?_r=0.

⁹⁸ See Charu Gupta, *Hindu Women, Muslim Men: Love Jihad and Conversions*, 44 ECON. & POL. WKLY. 13 (2009).

⁹⁹ *National Legal Services Authority v. Union of India*, available at <http://indiankanoon.org/doc/193543132/>.

¹⁰⁰ *Id.*

subjects for care and management by the state.”¹⁰¹ Even as it grants citizenship status, albeit a graded one, such a framing keeps transgender persons at a safe—thus, uncontaminatable—distance from the heteronormative institutions of marriage, family and property devolution/ownership that form the foundations of the New India, and from which the idea of the Hindu nation draws its cultural, political and economic capital.¹⁰²

In May 2014—a month after the *NALSA* judgment—television music network Channel V produced a video called *The Seatbelt Crew* made by the advertising firm Ogilvy and Mather, featuring a particular cultural group of transgender women (*Hijras*) promoting road safety in India (Fig. 5).¹⁰³ The video shows a group of *Hijras*, all dressed in identical blue saris and purple blouses, like that of airhostesses, carrying out a safety drill at a traffic signal to educate car drivers about the importance of wearing the seatbelt.¹⁰⁴ A traffic signal is that liminal location that is used by many *Hijras* to earn money by begging. In return they offer blessings. In the video, the members of the *Hijra* crew say they will exchange their blessings with those abiding by the rule of wearing the seatbelt while driving.

Hijras begging (or sex working) at traffic signals, and other public places like on trains, are oftentimes ridiculed, and even beaten and harassed in this conduct of a precarious livelihood practice. They are regularly at the receiving end of egregious forms of harassment and violence from the police, whose acts are legitimated by various public decency laws.¹⁰⁵ *Hijras*' mere public presence is considered a nuisance, despite the fact that they are accorded a perverted sacredness to give away blessings at occasions like birth and marriage. *Hijras* are called to bless the new born or the newly married so that they absorb any possibility of reproductive incapacity that they are thought to have already been cursed with.¹⁰⁶

The video, it seems, takes a cue from *NALSA* to represent *Hijras* through a liberal rights frame that is meant to make them look and do something more respectable than begging or soliciting sex at traffic signals. It aims at transforming them into responsabilized subjects: pleasantly feminine creatures, neatly dressed with understated make-up, stripped of the radical performance of sexuality that their public presence as beggars or sex workers otherwise embody. The class-caste-sexuality compact of both heteronormativity and homonormativity in this video narrates a story of amelioration that offers a sense of respectability and responsabilization by turning *Hijras* into educators as a rehabilitative gesture, but they remain captive in their liminal public location at traffic signals. This compact actively works to prohibit their presence in any imagination of the domestic private space of productive/procreative conjugality as

¹⁰¹ Aniruddha Dutta, *Contradictory Tendencies: The Supreme Court's NALSA Judgment on Transgender Recognition and Rights*, 5 J. INDIAN L. & SOC'Y 225 (2015).

¹⁰² For a discussion on the connections between the construction of the Hindu nation and queerness see Paola Bacchetta, *When the (Hindu) Nation Exiles its Queers*, 61 SOCIAL TEXT 141, 141-166 (1999).

¹⁰³ Shanoor Seervai, *Who's Behind the Transgender Video on Seatbelt Safety*, WALL ST. J., May 13, 2014, <http://blogs.wsj.com/indiarealtime/2014/05/13/whos-behind-the-transgender-video-on-seat-belt-safety-2/>.

¹⁰⁴ V with U, *The Seatbelt Crew*, YOUTUBE, <https://www.youtube.com/watch?v=ET-egGfzHeQ>.

¹⁰⁵ Siddharth Narrain, *Policing Hijras*, 26 INFOCHANGE AGENDA 59-60 (2013).

¹⁰⁶ See generally ZIA JAFFREY, *THE INVISIBLES: A TALE OF THE EUNUCHS OF INDIA* (1996); GAYATRI REDDY, *WITH RESPECT TO SEX: NOGOTIATING HIJRA IDENTITY IN SOUTH INDIA* (2005).

celebrated in the two previous advertisements. While monogamous gay and lesbian emancipation is tied to practices of privatized conjugality, transgender emancipation seems contingent upon public performances of respectability and responsabilization, and individualized compassion towards their lack and backwardness.¹⁰⁷

V. *Hinduizing the Neoliberal Queer*

In the new emergences discussed above, we will be missing something crucial in these mobilizations around sexual politics in general, and queer politics in particular in India if we continue to read them through the forward/backward logic that posits peoples, parties and publics based on their political ideology neatly on either side of the progressive/regressive divide.

In response to the BJP's coming to power the popular argument that most on the Secular Left (including me) tend to make, is that the onslaught on sexual rights will increase manifold. This, I believe, is a different kind of moral panic that, just like the Hindu Right, reinforces a false opposition between religion and queer sexuality. I call this false, because not only is there brilliant historical evidence of queer sexuality in

¹⁰⁷ Four key legal developments have taken place since the writing of this article that I don't analyze here. 1) In August 2016, pursuant to the *NALSA* judgment, the *Transgender Persons (Protection of Rights) Bill 2016* was introduced in the Lok Sabha (the lower house of the Indian Parliament). The Bill has been strongly criticized by many activists. Those interested can read the text of the Bill at:

<http://www.prsindia.org/uploads/media/Transgender/Transgender%20Persons%20Bill,%202016.pdf>. See Ani Dutta, *Gatekeeping Transgender*, RAIOT (Oct. 4, 2016),

<http://raiot.in/gatekeeping-transgender/> (for a sharp analysis of the politics surrounding the Bill).

2) In response to a set of curative petitions filed against the *Koushal* judgment, which was joined by a new petition filed by three gay celebrities, the a two-judge bench of the Supreme Court referred the matter to the Chief Justice of India (CJI) in June 2016. The CJI is yet to hear it. See Apurva Vishwanath & Dhamini Ratnam, *Supreme Court refers Section 377 petition to Chief Justice*, LIVE MINT (Jun. 30, 2016),

<http://www.livemint.com/Politics/oWL6utUghmgS0pOPsEoyYM/Supreme-Court-says-chief-justice-to-decide-on-Section-377-ap.html>; 3) Shashi Tharoor, a Member of Parliament from the Congress party introduced a private member's bill in the Lok Sabha to decriminalize Sec. 377. The bill was defeated in December 2015. See Press Trust of India, *Shashi Tharoor's bill to decriminalize homosexuality defeated in Lok Sabha*, THE INDIAN EXPRESS (Dec. 18, 2015),

<http://indianexpress.com/article/india/india-news-india/shashi-tharoors-bill-to-decriminalise-homosexuality-defeated-in-ls/>. 4) In December 2016 the *HIV/AIDS (Prevention and Control) Bill, 2014* was tabled in the parliament in a form that dilutes the rights to accessible treatment and drugs. Despite years of work put in by activists, in the Bill the state has privileged prevention efforts as part of its responsibility and deprioritized its responsibility to provide free access to medicine and treatment. The current Bill says that the state will provide treatment "only as far as possible." If passed, such a provision will have a devastating impact on people living with HIV/AIDS, which includes the sexually marginalized as a vulnerable and stigmatized group. This development is especially alarming given the crisis India's AIDS programme is in due to government apathy. See Vidya Krishnan, *Diluted HIV Bill leaves activists shocked*, THE HINDU (Dec. 2, 2016),

<http://www.thehindu.com/todays-paper/tp-national/Diluted-HIV-Bill-leaves-activists-shocked/article16673389.ece>; Mandakini Gahlot, *High-Risk Behaviour*, THE CARAVAN (April 1, 2015),

<http://www.caravanmagazine.in/reportage/government-apathy-india-aids-programme>.

abundance in religious/spiritual art and literature from India,¹⁰⁸ but also that such an argument presumes that a queer person cannot be a Hindu Right-winger.

The rise of the Hindu Right in India, has in fact, seen a simultaneous rise of the neoliberal and Hindu queer subject, who performs, “homonationalist”¹⁰⁹ and “homocapitalist”¹¹⁰ practices with aplomb in their ostensibly chic queer lifestyles. These subjects might in fact celebrate Narendra Modi’s win, because many upper-class, upper-caste Hindu queer people believe that Hindu India was always open to non-normative sexualities, but it was only when the Muslim ‘invaders’ plundered India that India’s tolerance with sexual diversity took a plunge.¹¹¹ This is a narrative that is perfectly compatible with that of the Hindu Right. Such an argument, versions of which have been propagated by many right wing queers, allows the Hindu Right to Brahmanize India’s erotic pasts through the creation of the imagined evil Muslim homophobic outsider.

When Narendra Modi came to power, I had argued that we’ll be mistaken to write off the BJP as a party that will never support queer rights, despite its public stand against Sec. 377.¹¹² If neoliberalism has wholeheartedly been embraced by the Hindu Right, it wouldn’t be surprising if, in its developmentalist avatar, the BJP starts supporting queer rights, albeit one which promotes an essentialist version of Indian history that is Hindu, and thus tolerant of sexual diversity. If this serves their sectarian interests better, and enables them to find another way to Hinduize Indian history, then the BJP will do this, as is evident from the Rashtriya Swayamsevak Sangh (the ideological fountainhead of the Sangh Parivaar) spokesperson Ram Madhav’s indication of the possibility of a softened stand on Sec. 377,¹¹³ or Harsh Vardhan, the former BJP health minister publicly saying that irrespective of Sec. 377 the government should protect the human rights of gays.¹¹⁴ BJP’s second law minister in Modi’s cabinet, Sadananda Gowda, was reported in national media to have said the following about the decriminalization of Sec. 377: “The mood appears to be in favour of it.” He later retracted his statement, saying that he was misquoted. Subhramanian Swamy, a member of the BJP’s national executive, Tweeted a corrective: “I think the law minister was misquoted, our party position has been that homosexuality is a genetic disorder.”¹¹⁵ Although, the BJP’s party position continues to offer bigoted explanations for its stand

¹⁰⁸ See SAME SEX LOVE IN INDIA: READINGS FROM LITERATURE AND HISTORY (Ruth Vanita & Saleem Kidwai eds., 2000).

¹⁰⁹ JASBIR K. PUAR, *TERRORIST ASSEMBLAGES: HOMONATIONALISM IN QUEER TIMES* (2007).

¹¹⁰ Rahul Rao, *Global Homocapitalism*, 194 *RADICAL PHIL.* 38 (2015).

¹¹¹ For an instance of this see Vikram Johri, *I am a gay Indian man and still lean to the Right. Here’s why*, *SCROLL* (Sept. 15. 2016), <http://scroll.in/article/816569/i-am-a-gay-indian-man-and-still-lean-to-the-right-heres-why>.

¹¹² Oishik Sircar, *Desire against Desire*, IN *PLAIN SPEAK* (June 1, 2014), <http://www.tarshi.net/inplainspeak/issue-in-focus-desire-against-desire/>.

¹¹³ G. Pramod Kumar, *RSS softens stand of homosexuality: Will BJP scrap Sec. 377?*, *FIRSTPOST* (May 28, 2014, 12:56 IST), <http://www.firstpost.com/politics/rss-softens-stand-on-homosexuality-will-bjp-scrap-section-377-1546469.html>.

¹¹⁴ Press Trust of India, *Government should protect gay rights: Harsh Vardhan*, *THE HINDU* (Jul. 17, 2014, 14:03 IST), <http://www.thehindu.com/news/national/government-should-protect-gay-rights-harsh-varadhan/article6220869.ece>.

¹¹⁵ FP Politics, *Gowda flip-flops on scrapping Sec 377, Swamy says homosexuality a “genetic disorder”*, *FIRSTPOST* (Jun. 30, 2015, 15:08 IST), <http://www.firstpost.com/politics/kabhi-haan-kabhi-naa-gowda-flip-flops-on-scrapping-sec-377-swamy-says-homosexuality-a-genetic-disorder-2318852.html>.

against Sec. 377, the fact that some of its ministers have made public statements that are open to the idea of a rethink on the law, indicates that once they are able to work out the immense possibilities in Hinduizing the neoliberal queer as a means to forward their agenda of establishing a Hindu *rashtra*, they might just go ahead and do it.

Outside of the speculations concerning political parties discussed above, I have written elsewhere about how the attachment of nationalist pride to public queer rights articulations has been evident at many pride parades in India.¹¹⁶ For example, at the Delhi Queer Pride march I attended in 2010, there were passionate cries of “*Jai Hind*” (Victory to the Nation); and as an activist friend from Mumbai mentioned, that at the Mumbai Queer¹¹⁷ Pride march that same year, participants held hands at the end to sing the Indian national anthem—despite resistance from some. What imaginations of queer belonging does the singing of the national anthem signify, especially for the Muslim/Adivasi/Dalit queer? How would she reconcile her experience of alienation as a citizen by the *Hindutva* Indian state, with the feeling of queer solidarity that she seeks at a pride march?

The national anthem also made an appearance on a talk show on the English news channel *CNN-IBN* during a discussion about whether independent India is open to homosexuality. This programme was being aired during the Independence Day week in 2009, just a few weeks after the delivery of the *Naz* judgment on July 2. The experts invited to speak were responding to a *CNN-IBN-Hindustan Times* survey in which almost seventy per cent of the respondents felt that homosexuality should be illegal in India.¹¹⁸ There were a range of speakers represented by activists, filmmakers, politicians, academicians, and a Hindu conservative.

The discussion sparked many a fire, but was hackneyed—the same arguments and the same defences that are not worth repeating here. Yet, the unprecedented openness with which the audience was engaging with the issue of homosexuality on primetime television was an encouraging sign. The findings of the survey (even if statistics are graver than damned lies) did throw light on the societal prejudice that queers face in India, despite progressive judgments like *Naz*.

The sharp divide in beliefs and perspectives among the panellists on issues of sexual morality finally reached a climax through a moment of nationalism-induced catharsis. Sagarika Ghose, the anchor, abruptly ended the show by asking everyone to stand up to the national anthem. And as per her instructions everyone did—the conservatives, the liberals, the fence-sitters, the homosexuals, the heterosexuals, the non-heterosexuals—everyone stood upright soaking in the buoyant verses of *Jana Gana Mana* and it seemed a perfect end to the crisis of India’s morals, culture, sexuality and religion where nationalist pride erased all differences and made us realise that, after all, we are all ‘Indians’ first.¹¹⁹

¹¹⁶ Oishik Sircar, *Homonationalism: Queer Tales of Queer Prides*, INFOCHANGE (June 2012), http://infochangeindia.org/index.php?option=com_content&view=article&id=9222:homonationalism-queer-tales-of-queer-prides&catid=373:rights-and-resistance&Itemid=40.

¹¹⁷ Chayanika Shah brought this incident to my notice.

¹¹⁸ Mansi Sharma, *State of the nation survey: Homosexuality still a taboo*, CNN-IBN LIVE (Aug. 10, 2009, 09:37 AM IST), <http://www.ibnlive.com/news/india/som-homosexuality-322354.html>.

¹¹⁹ In a show of judicial overreach which reeks of overzealous nationalism, the Supreme Court of India has recently ordered that the national anthem be played in every movie theater before a film is shown with an image of the Indian flag on the screen. The order has also mandated that it is a Constitutional duty to stand up when the anthem is played. This order has reversed a prior judgment in which the same Court had said that not standing up for the national anthem

These instances of the ‘nationalist resolution of the homosexual question’ (to queer Partha Chatterjee’s phrase)¹²⁰ take on more significance in a BJP ruled India, if one considers the slickly designed and *en masse* produced placards at the 2014 Delhi Pride carrying the Hindi words “*Ek Bharat*” (One India) in Devanagari script, printed over pastel shades of rainbow colours (Fig. 6).¹²¹ The choice of the nomenclature Bharat (as the Indic equivalent of India) interestingly carries both Hindu and Constitutional precedents. Article 1 of the putatively secular Constitution of India opens with the words: “India that is Bharat . . . ,” and there is ample evidence of the Hindu influences in the records of the Constitutional Assembly Debates that lead to the insertion of this article.¹²² Upendra Baxi has questioned the exclusionary basis of this constitutional equivalence:

Does it contain codes of memory and identity of some vision of pre-British, even millenarian, Hindu empire and civilization? What would the word ‘Bharat’ mean, for example, to a Konyak Naga, a Bhil, a Santhal, and a Bodo person/ woman? What would this mean to India’s Islamic peoples, among them the Bohras, Meos, Khojas, the Ahmadiyahs, the Shias and the Summis? And what may this notion convey to Indian Christians, the Parsees and the microscopic Jewish communities? And how may [we] relate the idea of Bharat to the diasporic Tibetan, Pakistani, and East Bengal (Bangladeshi) migrants to India after the independence? How may be one an *Indian* without at the same time being a *Bharati*? What mix of human rights and rightlessness does this all signify?¹²³

I read the queer articulation of “*Ek Bharat*” at a pride march as signifying the very troubling, inseparable vision of sexual unity conditional on secular (read: Hindu) assimilation; which is equally troubling when read the other way: as secular unity predicated on sexual (read: homonormative/homonationalist) assimilation.

does not amount to disrespect for the nation. Irrespective of this new judgment, over the years, there have been many cases of viewers been beaten and harassed inside cinemas for not standing up when the national anthem plays. This has been the case in a state like Maharashtra where this practice was already being followed on executive orders. Interestingly, Rabindranath Tagore, the poet who wrote the song *Jana Gana Mana* that later became the national anthem of India was a strong critic of nationalism himself. See Lawrence Liang, *Jana Gana Mana and the Danger of Passing Sentiment as Law*, THE WIRE (Dec. 1, 2016), <http://thewire.in/83606/jana-gana-mana-dangers-passing-sentiment-law/>

¹²⁰ Partha Chatterjee, *The Nationalist Resolution of the Women’s Question*, in RECASTING WOMEN: ESSAYS IN INDIAN COLONIAL HISTORY 233 (Kumkum Sangari & Sudesh Vaid eds., 1999).

¹²¹ Photograph by Kavita Kapoor available on her Flickr photo stream: <https://www.flickr.com/photos/kavitakapoor/11087026396/in/album-72157638118255074/>

¹²² Pritam Singh, *Hindu Bias in India’s ‘Secular’ Constitution*, 26 THIRD WORLD Q. 909 (2005).

¹²³ UPENDRA BAXI, MEMORY AND RIGHTLESSNESS: 15TH J.P. NAIK MEMORIAL LECTURE 11 (2003).



Figure 2: Queer (Hindu) Nation? (Photo: Kavita Kapoor)

For the 2015 Mumbai Pride march, an image that was circulated as a social media announcement, replicated the poster of the 2001 HBO TV series *Band of Brothers* on American sacrifice in World War II (Fig. 7).¹²⁴ The Mumbai Queer Pride announcement carried the identical landscape of silhouetted army men, with the text replaced as: “Queer Cadets and Allies / Pride is Coming.” By identifying the trope of war that connects the two images, Akhil Katyal offered a trenchant reading of the Mumbai Queer Pride announcement that celebrates an emergent queer subject that he calls “the Homo Pathetic.” It is useful to quote Katyal at length:

What strange twist of fate in our times brings on this convergence of war brouhaha and modern queer politics, of war flags and rainbows? Is it that strange after all? In these times of the Homo Pathetic (THP), I suggest it is not. [...] On his way to the Holy Grail of gay rights [the Pride March], he is the victim better than any other. He is the most tortured being on earth. No one’s suffering; no one’s pathos equals his. All women, Dalits, black folks, the poor, the droned-out war-refugees, and half those LBT’s all add up and produce a quantity of pain that is not even enough to sugar the morning tea of the Homo Pathetic. He out-victims them all. And in order to do something about his pain, he will use any war-justifying, bloodshed-glorifying, trench-beautifying god-damn image of American exceptionalism, if that is what it will take to bring him two inches closer to his goal of gay rights.¹²⁵

Also, take the example of the media and activist response to India’s vote at the UN against granting benefits for partners of same-sex employees earlier in 2015.¹²⁶ There is no doubt that the Indian state needs to be questioned for its practices of

¹²⁴ Akhil Katyal, *The Homo Pathetic*, READINGS (Jan. 27, 2015), <http://akhilkatyal.blogspot.com.au/2015/01/the-homo-pathetic.html>.

¹²⁵ *Id.*

¹²⁶ Express News Service, *India votes against gay rights for UN employees*, THE INDIAN EXPRESS (Mar. 26, 2015, 2:38 AM), <http://indianexpress.com/article/india/india-others/india-votes-against-gay-rights-for-un-employees/>.

institutionalised homophobia, as well for finding a cover for its homophobia by justifying its decision on grounds of procedural anomalies.¹²⁷

Yet, it is necessary to take note of the fact that the ostensibly secular-liberal response in India was an expression of shock regarding the company of states (who also voted against the resolution) that India was in. Like one media headline said: “India stood with Iran, Saudi and Pakistan in failed attempt to block benefits for gay UN staffers.”¹²⁸ Another read: “Despots, Religious Extremists: Company India Keeps on Gay Rights.”¹²⁹ These “despotic” states clearly included a lot of Islamic countries (though it was Russia that led the failed initiative to defeat the Secretary General’s decision). What surprised me was why was shock being expressed at the company India keeps? Isn’t the present Indian government a religious extremist one? Wasn’t it the highest court of the country that reinstated a law that was discriminatory towards the sexually marginalized? So isn’t India, in fact, in the right company? Or, as Madhavi Menon rightly asked: was there an underlining Islamophobia, wrapped in secular homophilia that provoked these media and activist responses?¹³⁰

A similar logic also worked through the legal activism prior to the *Naz* judgment, where an advocacy document featuring an open letter arguing for the repeal of Sec. 377 (signed by eminent Indians including Nobel laureate Amartya Sen, novelist and poet Vikram Seth, and essayist and Booker Prize winner Arundhati Roy among others), carried a map of the world, with countries—from the Third World (the Middle East, Africa, the Caribbean and South and South East Asia)—that criminalize sodomy marked out in orange, asking the question: “To which world must India belong?”¹³¹ “The question relies,” writes Rahul Rao in his analysis:

[F]or its persuasiveness on what it knows to be the predisposition of an elite Indian audience, desperate to break away from the Third World to take its rightful place at the table of the powerful. The irony of deploying both tropes in combination – blaming the colonial West for its imposition of the sodomy law and urging its repeal through an imitation of the postcolonial post-Wolfenden West – is either lost or slyly concealed in an attempt to appeal simultaneously to what are thought to be the divergent preferences of cultural nationalists and neoliberal modernizers.¹³²

¹²⁷ Suhasini Haider, *India vote at U.N. not anti-gay, explains government*, THE HINDU (Mar. 26, 2015, 03:11 IST), <http://www.thehindu.com/news/national/india-vote-at-un-not-antigay-explains-government/article7032970.ece>.

¹²⁸ Scroll Staff, *India stood with Iran, Saudi and Pakistan in failed attempt to block benefits for gay UN staffers*, SCROLL (Mar 25, 2015, 10:57 AM), <http://scroll.in/article/716131/india-stood-with-iran-saudi-and-pakistan-in-failed-attempt-to-block-benefits-for-gay-un-staffers>.

¹²⁹ IndiaSpend Team, *Despots, Religious Extremists: Company India Keeps on Gay Rights*, INDIASPEND (Apr. 6, 2015), <http://www.indiaspend.com/special-reports/despots-religious-extremists-company-india-keeps-on-gay-rights-88767>.

¹³⁰ Madhavi Menon, *Outrage over India’s vote against benefits to same-sex couples because of homophilia or Islamophobia?*, ECON. TIMES, Apr. 5, 2015, <http://economictimes.indiatimes.com/magazines/panache/outrage-over-indias-vote-against-benefits-to-same-sex-couples-because-of-homophilia-or-islamophobia/articleshow/46807937.cms>.

¹³¹ *Open Letters*, N.Y. TIMES,

http://www.nytimes.com/packages/pdf/international/open_letter.pdf.

¹³² Rahul Rao, *Queer Questions*, 16 INT’L FEMINIST J. POL. 199 (2014).

To return to the immediate aftermath of the post-*Koushal* moment in December 2013: the social media outrage surrounding the dismissal of the *Naz* judgment by the Supreme Court was acknowledged by several lifestyle brands that came out with advertisements celebrating queerness, clearly indicating the neoliberal market's recognition of elite queers as consumers.¹³³ While corporate India's response can be read as progressive, yet at the same time, its appeal was specifically aimed at a particular class of queer consumers (or those aspiring to join that class)—“experts in the art of self-conduct”¹³⁴—who can afford these products and invest in fashioning an elite queer lifestyle. The advertisements were reflective of an atmosphere where only a select few could rejoice in the queer-friendliness of corporate benevolence at a time of mourning. Mind you, there were no freebies. These were advertisements to raise sales, smartly packaged in a rainbow wrapper.

Two months later, in February 2014, while the election campaigns in India were going on at a feverish pitch and media psephologists were almost unanimously speculating a certain win for the BJP, the World Bank released a report titled *The Economic Cost of Homophobia and the Exclusion of LGBT People: A Case Study of India*.¹³⁵ The report's findings suggested that discrimination against LGBT people made the Indian economy lose between 0.1 per cent and 1.7 per cent of its GDP in 2012. In 2012 it was the Indian National Congress government in power, and Sec. 377's decriminalized status accorded by the *Naz* judgment was still valid. It seems to me that the timing of this report's release in 2014 was meant as a message to the neoliberalism loving BJP, slated to come to power, to pay heed and better its performance in comparison to the Congress's.¹³⁶ It might also be indicative of the World Bank's greater trust in Modi's neoliberal vision, which made it release the report specifically at that time. This report forms part of the proliferation of International Financial Institutions' support for LGBT rights. Rahul Rao identifies this as the workings of what he calls “global homocapitalism.”¹³⁷ As Rao writes in his analysis of the report and the connection that it draws between economic growth and the end of homophobia in India:

Queer visions of the good life become mortgaged to limitless growth, which is itself further insulated from environmental, equity, and other critiques. Beholden to capitalism, the prospects for a queer Green or a queer indigenous politics become increasingly remote. In the political context of the [World] Bank's work in India, the

¹³³ Tasneem Nashrulla, *15 Heartening Ways Indian Brands and Bollywood Stars are Fighting For LGBT Rights*, BUZZFEED (Dec. 13, 2013, 6:09 AM), <http://www.buzzfeed.com/tasneemnashrulla/15-heartening-ways-indian-brands-and-bollywood-are-fighting#.cbzG39enB>.

¹³⁴ BRENDA COSSMAN, *SEXUAL CITIZENS: THE LEGAL AND CULTURAL REGULATION OF SEX AND BELONGING*, 2-3 (2007).

¹³⁵ Mary Virginia Lee Badgett, *The Economic Cost of Homophobia and the Exclusion of LGBT People: A Case Study of India*, (World Bank 2014).

¹³⁶ It is, thus, of little surprise that in November 2015, P. Chidambaram, India's former Finance Minister under the Congress government, and Arun Jaitley, the current BJP Finance Minister, made public statements on consecutive days in support of the decriminalization of sodomy. One wonders, had they read the World Bank report together? See Aarefa Johari, *At Delhi Pride March, Jaitley's support for gay rights draws both bouquets and brickbats*, SCROLL (Nov. 29, 2015), <http://scroll.in/article/772467/at-delhi-pride-march-jaitleys-support-for-gay-rights-draws-both-bouquets-and-brickbats>

¹³⁷ Rahul Rao, *Global Homocapitalism*, 194 *RADICAL PHIL.* 38 (2015).

Bank's overtures to queers should invite us to interrogate the queer movement's relations with other social movements – those of farmers, fishworkers and adivasis (forest dwellers) to name only a few – that have struggled against the effects of Bank-led policies for decades. [...] [I]t is sobering to imagine what queer adivasis might make of a Bank project that hailed their participation (as queers) in the very processes that are destroying their lifeworlds (as queer adivasis). That the intersectionality of queer and Adivasi is virtually unthinkable in the imaginary of the Bank and possibly the mainstream of the queer movement in India begs important questions.¹³⁸

This global, neoliberal market as queer ally inaugurates new narratives of progress that are more comfortably aligned with *Hindutva*, than one might expect. A Bollywood style music video, called *The Welcome*, produced by Free & Equal, the UN campaign for lesbian, gay, bisexual and transgender equality, again released in the aftermath of *Koushal*, is an instance of the phenomena I am describing (Fig. 8).¹³⁹ The video features Bollywood actor Celina Jaitley (who has also been a vocal supporter of gay rights), and shows a very affluent family—given the set-up of the location, the dresses, the upholstery etc.—getting ready to welcome a male member of the family and his significant other, who the family doesn't know is also a man. When they arrive, and it is revealed that the partner is male, there is a still stare on everyone's face. But in a few seconds the eldest member of the family, the grandmother, smiles. The couple touch her feet (a Hindu custom), and then they all dance together to the song. The UN webpage offers a sub-title to the video which reads: "Love is a family value."¹⁴⁰ Along with *Hindutva* and neoliberalism, we see the narrative of human rights, and in the case of this particular video that of marriage equality, entering the *mise-en-scène* of New India's new queer politics.¹⁴¹

While I'd happily celebrate the successful Bollywoodization of the UN, and am aware of the power of popular culture as a tool for social change, it's necessary to ask: Whose rights is the UN talking about in this video? What class is depicted? What kinds of clothes and accessories are they wearing? What cars are being driven? What kind of houses do they live in? What's the religion of the family? The video clearly marks the spectacular arrival of the uber cool queer subject, and the progressive Hindu family in India; and for the global audience, it is also adequately orientalized with all the grandeur of colours and dances that Bollywood's reductionist and fantastic vision of India has come to signify.¹⁴²

¹³⁸ *Id.* at 41.

¹³⁹ UN Human Rights, *The Welcome*, YOUTUBE (Apr. 29, 2014), <https://www.youtube.com/watch?v=lihVCIFamb0>.

¹⁴⁰ UN Human Rights Office, *Free and Equal*, <https://www.unfe.org/en/actions/the-welcome>.

¹⁴¹ For a powerful critique of derivative imaginations of marriage equality in India, see Nithin Manayath, *Why marriage equality may not be that equal*, TEHELKA (May 11, 2013), <http://www.tehelka.com/2013/05/why-marriage-equality-may-not-be-that-equal/> ("So we seem to want same-sex marriages to protect the legal rights of urban middle-class gay or lesbian identified men and women who might want to contract a legal marriage to ensure that they are able to access corporate and state benefits that accrue to couples. This urban minority, and its desire for a global LGBT identity, is increasingly the focus of much of LGBT legal rights work, even as it claims to speak for all people expressing transgressive erotic desires. This subsuming of the hijra into the global language of LGBT rights is reflective of the many ways in which legal LGBT activism in the country directs itself.")

¹⁴² See generally PRIYA JOSHI, *BOLLYWOOD'S INDIA: A PUBLIC FANTASY* (2015).

This video, in many ways, seems like a pre-cursor to the two advertisements that I discussed in the beginning of this article that locate articulations of queer emancipation in the homonormative family and in monogamous conjugality, and yet, the aesthetic tropes that are used to fashion this narrative of emancipation, privatizes the world of queer liberation and struggle to reinforce class, caste and religious hierarchies and prejudices. One can argue that the video neatly invisibilizes the indigenous queers of India, who are at the receiving end of a combination of class, caste, sexuality, gender, religion and language based oppression. Not to say that representing them would've made the video a better advocacy tool—because the chances of exoticizing indigenous sexualities for the hegemonic consumption of a global (overwhelmingly white) saviour publics of queer compassion could have made it into a perfect tool for marketing Third World queer suffering.

VI. Civilizational Scripts

My rather meandering account of new queer politics in the New India is closely tied to ongoing and emergent dimensions in global queer politics—of which I have provided some indications. This story will remain incomplete if I do not speak to some of these connections. I'd like to recollect two incidents that I was part of that offer some insights into how a certain civilizational script has come to frame the narrative of global queer politics today.

In June 2010, I was in Berlin to speak at a conference (where one of the first versions of this article was presented), and my visit coincided with the city's huge corporate funded pride event called the Christopher Street Day (CSD) parade, which I attended. At the culmination of the parade a large and colourful crowd had gathered in front of a stage on which American queer theorist Judith Butler was to be awarded the Zivilcourage (Civil Courage) Prize. Butler was introduced as a “determined critic” by one of the organizers and was called on stage to accept the award. Butler took the award in her hand, went up to the microphone and said:

When I considered what it means today to accept such an award, I believe that I would actually lose my courage, if I would simply accept the prize under the present political conditions. [...] I must distance myself from this complicity with racism, including anti-Muslim racism. We have recognized that lesbian, gay, trans, queer people, can be used by warmongers.¹⁴³

By making her refusal clear, Butler went on to say that queers are being co-opted into the politics of racist hatred that justify the war on terror, and they have been used to advocate in favor of anti-immigrant policies and media campaigns in the name of protecting the ‘modern’ and ‘progressive’ culture of Germany from contamination by the ‘backward’ and ‘homophobic’ outsider, who is almost always cast as Muslim. Butler offered the prize to anti-racist queer groups in Berlin, who she acknowledged are more deserving of it because of their consistent resistance against practices of racism and Islamophobia among queer organizing in Berlin. There was resounding applause from the crowd. While some of the organizers tried to say things to defend themselves, all was drowned out in the cacophonous uproar. Queer politics in Germany, and

¹⁴³ For the full version of Butler's speech translated into English from German see <http://www.egs.edu/faculty/judith-butler/articles/i-must-distance-myself/> and the YouTube video of Butler's refusal is available at <http://www.youtube.com/watch?v=BV9dd6r361k>

especially those associated with the organization of the CSD parade, have for years been complicit in perpetuating racism that characterized Muslim immigrants as homophobes and thus inassimilable into German ‘culture.’

One instance of this is the support that many queer groups in Germany had shown for something called the “Muslim Test.” The test, which has now been revoked, was exclusively meant for people who sought immigration into Germany from a “Muslim” country. It required that those seeking immigration respond to questions like: “what would you do if your son comes out to you as gay?”¹⁴⁴ Jin Haritaworn with Tamsila Tauqir and Esra Erdem, writing about queer support for anti-immigrant policies in Western Europe have called this a practice of “gay imperialism,”¹⁴⁵ which is a formation that speaks of queer rights in the language of exclusionary nationalism. A nationalism that instrumentalizes a discourse of queer rights to achieve the ends of a virulent racism that makes legitimate the bogus explanations for the war on terror: that it will bring democracy, peace, rule of law and freedom for the ‘gay Muslim victim’ in the ‘primitive’ Islamic countries that are militarily invaded by West. Commenting on how the “Muslim Test” aimed to elevate “gender and sexuality to mainstream political status” in Germany, Haritaworn et al. observe: “[W]e find it vital to note that its main basis is not a progress in gender and sexual politics but a regression in racial politics.”¹⁴⁶

There was the last I heard, a similar test for immigrants to the Netherlands. In this test immigrants from a specific set of non-western countries were made to watch a video showing two gay men kissing in a park, and a topless woman bathing. Being able to watch these videos unflinchingly was understood as a marker of whether prospective immigrants can embrace ‘modernity,’ and thus be worthy of being allowed legal entry. Citizens of the United States, Australia, New Zealand, Canada, Japan and Switzerland applying for immigration to Holland were exempted from taking this test.¹⁴⁷

An influential and growing body of critical scholarship, primarily by queer of colour academic-activists have powerfully critiqued practices of gay imperialism, which have come to be identified as critiques of “homonationalism.”¹⁴⁸ A necessary function of homonationalism—a condition that Jasbir Puar identifies as having emerged in the aftermath of the September 11, 2001 attacks on the World Trade Centre in the U.S.¹⁴⁹—has been to mobilize dominant queer publics contingent upon their performance of an overt patriotism and jingoistic nationalism. Haritaworn, Puar, and veteran activist Scott Long, all of who have consistently challenged the racism embedded in such a narrative of queer emancipation in the West through their writings, have also been at the receiving end of attempts to censor their views, and have even been threatened with criminal defamation cases for calling out the racist and Islamophobic agenda of

¹⁴⁴ Deanne Corbet, *Testing the Limits of Tolerance*, DW (Mar. 16, 2006), <http://dw.de/p/87cC>.

¹⁴⁵ Jin Haritaworn, Tamsila Tauqir and Esra Erdem, *Gay Imperialism: Gender and Sexuality Discourse in the “War on Terror”*, in *OUT OF PLACE: INTERROGATING SILENCES IN QUEERNESS/RACIALITY* 71 (Adi Kuntsman et al. eds., 2009).

¹⁴⁶ *Id.* at 79.

¹⁴⁷ Associated Press, *Dutch Immigrants Must Watch Racy Film*, FOX NEWS (Mar. 16, 2006), <http://www.foxnews.com/story/2006/03/16/dutch-immigrants-must-watch-racy-film.html>.

¹⁴⁸ JASBIR PUAR, *TERRORIST ASSEMBLAGES: HOMONATIONALISM IN QUEER TIMES* (2007).

¹⁴⁹ My identification of this event as ‘September 11, 2001’ rather than ‘9/11’ is purposeful. The spectacular common sense that the expression ‘9/11’ has been endowed with has turned it into a history-vanishing event which forces an erasure from collective and cultural memory the many September 11s—both real and metaphorical—that have preceded it. See CHILE: THE OTHER SEPTEMBER 11: AN ANTHOLOGY OF REFLECTIONS ON THE 1973 COUP, (Pilar Aguilera et al. eds., 2006).

prominent Australian-British activist Peter Tatchell.¹⁵⁰ As Butler's refusal speech highlighted, such mobilizations—in favour of gay imperialism and against those who critique it—have recruited queer voices to lend support to anti-immigrant state policies, and provided a means to mask the racism of Western queer organizing in the name of protecting queer rights globally.

Homonationalism has been very effectively put to work in projecting militaristic Western nations as queer friendly. This is operationalised through the practice of what has come to be called “pinkwashing,”¹⁵¹ applied particularly to identify Israel's queer rights propaganda as a means to justify its apartheid against Palestinians. Pinkwashing has been used by the Israeli state quite effectively in advertising campaigns in Western Europe and North America to build a brand of queer friendly nationalism that takes attention away from its violent occupation of Palestine. As Puar writes:

Israeli pinkwashing is a potent method through which the terms of Israeli occupation of Palestine are reiterated - Israel is civilised, Palestinians are barbaric, homophobic, uncivilized, suicide-bombing fanatics. It produces Israel as the only gay-friendly country in an otherwise hostile region. This has manifold effects: it denies Israeli homophobic oppression of its own gays and lesbians, of which there is plenty, and it recruits, often unwittingly, gays and lesbians of other countries into collusion with Israeli violence towards Palestine.¹⁵²

Anti-occupation queer groups outside of Israel, like Toronto's Queers Against Israeli Apartheid (QuAIA), have challenged the attempts at pinkwashing the Toronto Pride. But such resistance has met with QuAIA being denied inclusion in the city's Pride march. The group was part of the parade for several years, but the organizers imposed a ban in 2010. Apparently, the reason for the ban had to do with the accusation by the pro-Israel and Jewish lobbies (which included Zionist queers) about how the term “Israeli Apartheid” was anti-Semitic.¹⁵³

Interestingly, QuAIA's challenge to their exclusion was on the ground of their freedom of speech and expression being denied (a liberal rights claim that Canadian democracy prides itself for) and that in a recursive way, as Michael Connors Jackman and Nishant Upadhyay point out, has contributed to a discourse of “whitewashing” the settler colonial inheritances of anti-pinkwashing queer activism in Canada. As Jackman and Upadhyay write:

¹⁵⁰ Publishers Raw Nerve Books and Routledge pulled out writings by Haritaworn, Tauqir and Erdem (Haritaworn, Tauqir and Erdem, *supra* note 145), and Long (Scott Long, *Unbearable Witness: How Western Activists (Mis)Recognize Sexuality in Iran*, 15 CONTEMP. POL. 119 (2009)) respectively after they were threatened with defamation suits by Tatchell; *See also* Jasbir Puar, *Citation and Censorship: The Politics of Talking about the Sexual Politics of Israel*, 19 FEMINIST LEGAL STUD. 133 (2011) (for an account of how a talk by her in Berlin on homonationalism and Palestine/Israel was almost cancelled).

¹⁵¹ Maya Mikdashi, *Gay Rights as Human Rights: Pinkwashing Homonationalism*, JADALIYYA (Dec. 16, 2011), http://www.jadaliyya.com/pages/index/3560/gay-rights-as-human-rights_pinkwashing-homonationa.

¹⁵² Jasbir Puar, *Israel's gay propaganda war*, THE GUARDIAN (Jul. 1, 2010, 13:00 BST), <http://www.theguardian.com/commentisfree/2010/jul/01/israels-gay-propaganda-war>.

¹⁵³ Kelly Grant, *Group That Dare Not Speak its Name to March in Toronto's Pride Parade Anyway*, THE GLOBE AND MAIL (Aug. 23, 2012, 3:31 PM), <http://www.theglobeandmail.com/news/toronto/group-that-dare-not-speak-its-name-to-march-in-torontos-pride-parade-anyway/article4189686>.

[W]e question how (settler) queer politics is produced and maintained by settler colonialism. Queer settlers are complicit in reimagining and reproducing the same nation-building narratives that it produces and maintains. Whiteness and queerness within the settler state create ambivalent and racial state hierarchies, naturalizing the settler state as non-colonial and “normal.”¹⁵⁴

This critique would very well apply to Australia. I acknowledged in a footnote at the beginning of this article that the land of the University of Melbourne on which this piece was written belongs to the Wurundjeri People of the Kulin Nation. I provide this acknowledgement to foreground how I am—even as a non-white skilled temporary migrant from a postcolonial country to Australia—a beneficiary of the ongoing loots of settler colonialism.

If one end of homonationalism has been to use the civilizational logic of human rights to construct the bogey of the Muslim homophobic outsider, and thus justifying anti-immigrant policies to keep the most vulnerable of refugees out, the other has been to use that same logic to construct the queer Muslim victim, and let her in. This show of benevolence—again in the name of protecting the human rights of queer people fleeing persecution from non-Western lands—plays out a script of civilizational hierarchy in a settler colonial context like Australia.

This brings me to my second incident. In January 2014, I was on a panel at the Melbourne Law School to reflect on the consequences of the *Koushal* decision. During the discussion, a man raised his hand to ask a question. He introduced himself and an accompanying colleague as representatives of the Australian government’s Refugee Review Tribunal—an independent statutory body that hears reviews of Protection Visa refusals to asylum seekers by the Department of Immigration and Citizenship. He asked whether, in the light of the *Koushal* judgment dismissing *Naz*, persecution based on sexual orientation in India will increase resulting in more asylum claims to Australia.

The question caught me completely off guard. First, I wasn’t even aware that there were a sizeable number of applicants from India to Australia, who were seeking asylum for persecution based on sexual orientation. So, I couldn’t have provided him with an empirically sound answer. Second, I was in a dilemma about whether what I say might play any role in prejudicing asylum applications from Indians fleeing persecution for their sexual orientation to seek refugee status in Australia. And third, I wondered why he was interested in the numbers going up—was that an expression of compassion, or paranoia? I don’t remember clearly, but I must have mumbled something that was quite incoherent to him, and he clearly didn’t look satisfied.

While on the one hand I thought that it was quite considerate of the Refugee Review Tribunal to send in their personnel to know more about whether *Koushal* would increase incidents of persecution, given how widely the judgment was criticized globally, with a Global Day of Rage protest being held in Sydney. On the other hand, I wondered what this interest meant in the context of Australia’s continuing egregious treatment of “bad asylum seekers”¹⁵⁵ (because they arrive by boats, and are accused of jumping the queue—in other words, not being well behaved). Australia’s horrific policy

¹⁵⁴ Michael Connors Jackman & Nishant Upadhyay, *Pinkwatching Israel, Whitewashing Canada: Queer (Settler) Politics and Indigenous Colonization in Canada*, 42 *WOMEN’S STUD. Q.* 195, 200-01 (2014).

¹⁵⁵ Ratna Kapur, *Travel Plans: Border Crossings and the Rights of Transnational Migrants*, 18 *HARV. HUM. RTS. J.* 107, 128 (2005).

on indefinite detentions,¹⁵⁶ and a history of White settler supremacy demonstrated with chilling effect in cases like the Tampa affair,¹⁵⁷ the Children Overboard controversy,¹⁵⁸ the detention of children in mainland and offshore centres like Nauru,¹⁵⁹ and the lip sewing protests by detainees on Christmas Island,¹⁶⁰ all of which seem to keep alive the spirit of the White Australia Policy, putatively abolished in the late 70s.

It is indeed true—as I later found out—that there are queer people from India, who do seek asylum here,¹⁶¹ and they must have the right to flee persecution and seek refuge in a country like Australia where same sex sexualities are not criminalized—though homophobic and transphobic violence, including against indigenous queer people, has been historically widespread.¹⁶² However, we need to be attentive to the civilizational script that this “worse the better”¹⁶³ narrative of international asylum law might both draw on and contribute to. It indeed can be a narrative that uses queer rights and the projection of Australia’s benevolence towards persecuted queers from a non-Western location as the marker for its civilizational hierarchy.¹⁶⁴

Sample this piece published a few days before the Indian general elections in 2014 on the LGBT lifestyle website in Australia called *Same.Same* titled: “Escaping India’s Anti-Gay Laws: ‘Coming to Australia is the Runaway Plan.’”¹⁶⁵ The author, soon after

¹⁵⁶ Ben Saul, *Dark Justice: On Australia’s Indefinite Detention of Refugees on Security Grounds Under International Human Rights Law*, 13 MELBOURNE J. INT’L L. 685 (2012).

¹⁵⁷ Don McMaster, *White Australia to Tampa: The Politics of Fear*, 21 DIALOGUE 3 (2002).

¹⁵⁸ Kate Slattery, *Drowning not Waving: The ‘Children Overboard’ Event and Australia’s Fear of the Other*, 109 MEDIA INT’L AUSTL. 93 (2003).

¹⁵⁹ AUSTRALIAN HUMAN RIGHTS COMMISSION, *THE FORGOTTEN CHILDREN: NATIONAL INQUIRY INTO CHILDREN IN IMMIGRATION DETENTION* (2014).

¹⁶⁰ Joseph Pugliese, *Penal Asylum: Refugees, Ethics, Hospitality*, 1 BORDERLANDS (2002), available at http://www.borderlands.net.au/vol1no1_2002/pugliese.html.

¹⁶¹ I thank Sara Dehm for sending across a list of cases adjudicated by the Refugee Review Tribunal of Australia concerning Indians who were seeking asylum for persecution based on sexual orientation. These cases can be found on the Australian Legal Information Institute website, in the Refugee Review Tribunal of Australia database, by doing a search using the strings “India” + “sexuality” + “377.”

¹⁶² HOMOPHOBIA: AN AUSTRALIAN HISTORY, (Shirleen Robinson ed., 2008).

¹⁶³ Jaqueline Bhaba, *Internationalist Gatekeepers?: The Tension Between Asylum Advocacy and Human Rights*, 15 HARV. HUM. RTS. J. 155, 162 (2002).

¹⁶⁴ Interestingly, a reversal of this position was articulated by Senator Eric Abetz and Federal Agriculture Minister Barnaby Joyce who were reported to have said that if Australia achieves marriage equality its Asian neighbours would view it as decadent. This sentiment—which is ridden with ignorance more than anything else—effects an erasure of the diverse and rich histories of non-normative Asian sexualities and ongoing politics of rights claims, and consequently presents Asia as always already homophobic. It sounded like saying: Australia’s sexual mores are so much more progressive than Asian countries, and because we are open to diversity, we will be sensitive to Asian conservatism to same sex marriage. See Mridula Nath Chakraborty, *Same-sex and other desires: Asian Diversity in the Face of Australian Decadence*, SOUTHERN CROSSINGS (Aug. 4, 2015, 9:09 PM), <http://southerncrossings.com.au/arts-and-culture/same-sex-and-other-desires-asian-diversity-in-the-face-of-australian-decadence/> (“The pronouncements of Abetz and Joyce effect a curious reversal of the business-as-usual moral hierarchy between the West and the Rest that measures democracy and progress in terms of a hegemonic conception of sexual freedom (among other things).”).

¹⁶⁵ Andrea Rognstrand, *Escaping India’s Anti-Gay Laws: ‘Coming to Australia is the Runaway Plan’*, SAME.SAME (May 13, 2014), <http://www.samesame.com.au/features/10901/Escaping-Indias-anti-gay-laws-Coming-to-Australia-is-the-run-away-plan>.

mentioning how there has been a space for articulations of queer sexuality within ancient Hindu culture, quotes a member of the All India Muslim Law Board (AIMLB)—a conservative Sunni non-governmental all male body that was a co-appellant in *Koushal*—stating how homosexuality is a sin in Islam. It is the homophobic and conservative Muslim who is quoted as the only non-queer person in the piece as an example of India’s conservatism, in contradistinction to references of Hindu traditions of openness to queer pasts. In fact, the AMLB—which leading Islamic law scholars in India feel should be abolished¹⁶⁶—is used in the article as a representative of all Muslim attitudes to homosexuality in India. There is, of course, no mention of the Hindu Right’s position, and scant recognition of the very visible and vibrant struggles of the queer rights movements.

Where on the one hand Australia continues to mete out barbaric treatment to poor asylum seekers fleeing persecution through its inhuman mandatory detention policies, it seems to welcome relatively well-off queer asylum seekers from India (because they don’t arrive by boats) to mark itself as more progressive than the countries (almost always non-Western) that criminalize sodomy. However, for queer people from Africa or the Middle East who arrive here in boats in extremely precarious conditions, the experience is quite different.¹⁶⁷

Interestingly, even in the case of regular immigration (those not fleeing persecution) especially in the post September 11, 2001 years, while there was a “cut back with the introduction of new border ‘protection’ policies” for Asians; “[s]amesex . . . migration flourished with gay and lesbian Asian migrants making up the largest successful group in . . . the [interdependency] visa class.”¹⁶⁸ As Audrey Yue writes:

[S]ame-sex migration policy organizes sexuality around the heteronormative institutions of intimacy and the family, incorporating the queer migrant as a good citizen through self-cultivation and disciplinary regulation. The queer migrant provides a critical platform to question how the state uses the language of intimacy in its progressive same-sex migration policy to silence the struggles of subordinate groups and to assimilate select gays and lesbians into a global and national discourse of identity and capital, thereby sustaining the core values of the Eurocentric nation.¹⁶⁹

In doing this—both in case of queer asylum seekers and same-sex migrants—it can be argued that Australia cultivates its international image as a state that is queer friendly, while at the same time continues to devastate the lives of its aboriginal citizens, and keeps out the bad unassimilable refugee. Could this be Australia’s home-grown pinkwashing strategy, that doubles up to also whitewash its settler colonial presents?

VII. *Performing Stuckness in a Negative Moment*

¹⁶⁶ Ajaz Ashraf, *Ban triple talaq and abolish Muslim Personal Law Board, says former minorities commission chairman*, SCROLL (May 05, 2015, 09:00 AM), <http://scroll.in/article/724902/ban-triple-talaq-and-abolish-muslim-personal-law-board-says-former-minorities-commission-chairman>.

¹⁶⁷ See Nan Seuffert, *Sexual Minorities and the Proliferation of Regulation in Australia’s Asylum Seeker Detention Camps*, 19 *LAW TEXT CULTURE* 39, 39-83 (2015).

¹⁶⁸ Audrey Yue, *Queer Asian Australian Migration Stories: Intimate Archives Big and Small*, 94 *SINISTER WISDOM: A MULTICULTURAL LESBIAN LITERARY & ART J.* 114 (2014).

¹⁶⁹ Audrey Yue, *Same-Sex Migration in Australia: From Interdependency to Intimacy*, 14 *GLQ: J. LESBIAN AND GAY STUD.* 239, 239-40, (2008).

The word ‘complicated’ is poor academic gloss for the description and critique that I have narrated of queer rights struggles in many parts of the world that are up against the combined forces of nationalism and neoliberalism, both succumbing to and resisting their seductions. In this article, I have rehearsed and revisited concerns drawing on, inspired by, and in conversation with a community of activists and academics who are a part of queer, feminist, sex worker, Dalit, secular, indigenous, anti-colonial and anti-capitalist struggles in India and elsewhere. My aim in sharing these ideas is not to paternalistically say that the queer movement(s) ought to do better, or that it needs to work harder towards achieving a purer version of its politics.

I also do not mean to draw unhelpful identitarian and ideological distinctions between good and bad queers.¹⁷⁰ Rather, this is an exercise of participating in collaboratively building a community where we can speak about our failures fearlessly. As I have learnt from Judith/Jack Halberstam:

Failure suggests a historiographical method within which we must write queer history not simply as a record of heroes, martyrs, forebears, but also as a record of complicity, cowardice, exclusion and violence – in other words, any history, LGBT history included, contains episodes that are shameful, racist, complicit with state power, orientalist, colonial and so on. To leave that history out is to commit to normative models of self, time and the past/future.¹⁷¹

While on the one hand I continue to feel politically compelled to repeat these arguments given the re-invigorated onslaught of *Hindutva* and neoliberalism and its devastating impact on precarious lives in India; on the other hand my own investments and complicities in the very structures I critique (particularly my locations within a heterosexual upper caste marriage and the neoliberal academy) have resulted in my arguments taking the posture, I believe, of what Lauren Berlant has brilliantly termed the “performance of stuckness”:

It is a record of where we got stuck on a question for long enough to do some research and write out the whole knot until the original passion and curiosity that made us want to try to say something about something got so detailed, buried, encrypted, and diluted that the energetic and risk-taking impulse became sealed and delivered in the form of a defense against thinking any more about it. Along the way, something might have happened to the scene the question stood for: or not.¹⁷²

While both Halberstam and Berlant are writing from a location with its own queer histories and politics, I locate my stuckness in the New India, by borrowing from what Achille Mbembe has referred to, in his reflections on the Rhodes Must Fall movement at the University of Cape Town, as a “negative moment.” He describes it as follows:

¹⁷⁰ See Jasbir K. Puar, *Homonationalism as Assemblage: Viral Travels, Affective Sexualities, in NEW INTIMACIES, OLD DESIRES: LAW, CULTURE AND QUEER POLITICS IN NEOLIBERAL TIMES* (Oishik Sircar & Dipika Jain eds., 2017), 1-27.

¹⁷¹ Jack Halberstam, *Failure and the Future of Queer Studies*, BULLY BLOGGERS (Apr. 2, 2012), <http://bullybloggers.wordpress.com/2012/04/02/bullybloggers-on-failure-and-the-future-of-queer-studies/>.

¹⁷² Lauren Berlant, *Sitting On a Plane, a Mule*, BERFOIS (Dec. 8, 2014), <http://www.berfrois.com/2014/12/lauren-berlant-flies/>.

A negative moment is a moment when new antagonisms emerge while old ones remain unresolved. It is a moment when contradictory forces - inchoate, fractured, fragmented - are at work but what might come out of their interaction is anything but certain. It is also a moment when multiple old and recent unresolved crises seem to be on the path towards a collision. Such a collision might happen - or maybe not. It might take the form of outbursts that end up petering out. Whether the collision actually happens or not, the age of innocence and complacency is over.¹⁷³

I feel a combined sense of both fear and pleasure at getting stuck in this negative moment in the New India. I wonder where I—and indeed the communities I am learning from and thinking with—might take our complicit and contaminations to. Those like me who inhabit this “double-bind”¹⁷⁴ of being complicit and contaminated at the same time, have with difficulty moved from performing a politics of confrontation, to a politics of self-reflexivity, and now are stuck with and at the limits of both these practices of politics.¹⁷⁵ This stuckness, I believe, must provoke the inauguration of thinking about the conduct of politics (and critique) as an ethic of responsibility,¹⁷⁶ as a counter to the politics of responsabilization and civility that the New Indian nation and neoliberal queer mobilizations globally espouse. To be stuck in this negative moment might, in fact, demand that we slow down to spend more time to create spaces and languages of speaking about failure, or even sometimes practicing silence with responsibility.¹⁷⁷

So at the end, almost always, there remains that same burning question that we have inherited from Lenin: “What is to be done?”¹⁷⁸ Where is hope then?¹⁷⁹ Hope, I believe, has been too overrated by the radical-thought, liberal-conduct types (like me). Hope lies in the unremarkable quotidian—no amount of research or writing by the likes of us will ever be able to account for it, leave alone even bring a semblance of intelligibility.¹⁸⁰ That is where hope lies I think—our inability to recognize it, interpret it,

¹⁷³ Achille Mbembe, *Decolonizing Knowledge and the Question of the Archive*, University of Witwatersrand, <http://wiser.wits.ac.za/system/files/Achille%20Mbembe%20-%20Decolonizing%20Knowledge%20and%20the%20Question%20of%20the%20Archive.pdf>.

¹⁷⁴ See GAYATRI CHAKRAVORTY SPIVAK, *AN AESTHETIC EDUCATION IN THE ERA OF GLOBALIZATION* (2012), 97-118.

¹⁷⁵ See Oishik Sircar, *Doing and Undoing Feminism: A Jurisdictional Journey*, L., ECONOMIC AND POLITICAL WEEKLY, 44 (2015).

¹⁷⁶ For a gesture in this direction see NAISARGI DAVE, *QUEER ACTIVISM IN INDIA: A STORY IN THE ANTHROPOLOGY OF ETHICS* (2012). See also Shaunnagh Dorsett & Shaun McVeigh, *Conduct of Laws: Native Title, Responsibility, and Some Limits of Jurisdictional Thinking*, 36 MELBOURNE UNIVERSITY LAW REVIEW 470, 470-493 (2012); Shaun McVeigh, *Law As (More or Less) Itself: On Some Not Very Reflective Elements of Law*, 4 UC IRVINE LAW REVIEW 471, 471-492 (2014) (for discussions on the question of responsibility in the writing of jurisprudence).

¹⁷⁷ See Karin Van Marle, *Law's Time, Particularity and Slowness*, 19 S. AFR. J. ON HUM. RTS. 239 (2003); Peter Fitzpatrick, *Reading Slowly: The law of literature and the literature of law*, in *READING MODERN LAW: CRITICAL METHODOLOGIES AND SOVEREIGN FORMATIONS* 193-210 (Ruth Buchanan, Stewart Motha & Sundhya Pahuja eds., 2012).

¹⁷⁸ Vladimir Ilyich Lenin, *What is to be Done? Burning Questions for Our Movement*, MARXIST'S INTERNET ARCHIVE, <https://www.marxists.org/archive/lenin/works/1901/witbd/>.

¹⁷⁹ See Lisa Duggan and José Esteban Muñoz, *Hope and Hopelessness: A Dialogue*, 19 WOMEN & PERFORMANCE: A JOURNAL OF FEMINIST THEORY, 275, 275-283 (2009).

¹⁸⁰ See Nikita Dhawan, *Hegemonic Listening and Subversive Silences: Ethical-Political Imperatives*, 36 CRITICAL STUDIES 47, 47-60 (2012) (Dhawan accounts for “the challenge of

theorise it, articulate it. Hope is the nemesis, the point of breakdown, of the hubris of our interpretive projects.¹⁸¹ It should constantly remind us of our inadequacy. And it is that inadequacy, that failure that our political work—on the streets, in classrooms, courtrooms and bedrooms—should honestly speak of. Let some things remain outside our reach. We’ve perversely saturated our lives with it. Let our writings not have the ability to colonize the hope of others whose miseries we write about and make careers out of.¹⁸² As old fashioned as it may sound, even our genuine expressions of solidarity are in need of constant decolonizing at a time when transnational radical politics seem to be reliant almost entirely on virtual affects circulated and consumed through neoliberal networks of knowledge.¹⁸³ It is apt to close by recollecting some very powerful words by the late human rights lawyer and activist from India, K Balagopal: “To condemn oppression is to condemn a little bit of oneself.”¹⁸⁴ Maybe this is how we can record a queer history of our failures and stuckness at this negative moment in the dangerous common-sense that is the New India. If at all.

A luta continua?

representation and the problematic role of the (postcolonial) feminist who attempts to recover and represent the perspectives of those who are illegible and unintelligible within hegemonic frameworks and thereby rendered ethically, politically and rhetorically illegitimate.”)

¹⁸¹ Here I have in mind the argument by Gayatri Chakravorty Spivak on the politics of translation and the limits of interpretation in the foreword to her translation of Mahasveta Devi’s short story “Draupadi.” See Mahasveta Devi, *Draupadi* (tr. Gayatri Chakravorty Spivak), 8 *CRITICAL INQUIRY* 2, 381-402 (1981).

¹⁸² See Linda Tuhiwai Smith, *DECOLONIZING METHODOLOGIES: RESEARCH AND INDIGENOUS PEOPLES* (2nd ed., 2012).

¹⁸³ See CLARE LAND, *DECOLONIZING SOLIDARITY: DILEMMAS AND DIRECTIONS FOR SUPPORTERS OF INDIGENOUS STRUGGLES* (2015).

¹⁸⁴ K. Balagopal, *A Tangled Web: Subdivision of SC Reservations in AP*, 35 *ECON. & POL. WKLY.* 1075 (2000).