

Honourable delegates, colleagues and guests,

I speak to you today as a 'free' person. Until July 2009, I, a citizen of India, was criminalized by a 19th century British legislation, which made consensual non-procreative sex between adults of the same or opposite sexes criminal. As a homosexual man, this applied to me even within the walls of my own home. But in July 2009 the High Court of Delhi passed a judgment declaring that this Indian law violated the fundamental rights of life and liberty, dignity, equality, privacy and health of millions of Indians including myself.

I stand here today to share the joy of this liberation with you and to tell you what it means to an individual's life when out-dated, ignorant and prejudiced laws like Section 377 of the Indian Penal Code are removed. I stand before you to also share some truths, for the truth was always on our side when this battle for liberation was being fought. And finally, I stand before you to appeal to your better conscience as a human being and to persuade you that if your nations follow this example it can do no harm but only aid the emancipation of your people to live in security and achieve their fullest human potential like all persons who cause no harm should be allowed to.

It is these highest of aspirations for human potential that the Indian court found as the basis for rejecting this malicious law, which permitted human rights violations on the basis of a person's sexual orientation. Let us traverse some of what the court said. The court spoke of 'dignity'. After all, where can there be any dignity in a person's life if he or she is subject to imprisonment for expressing his or her attraction to another adult of the same sex? How can a person feel worthy if such a basic trait of humanness is considered a crime? The court said:

"....the constitutional protection of dignity requires us to acknowledge the value and worth of all individuals as members of our society. It recognises a person as a free being who develops his or her body and mind as he or she sees fit. At the root of dignity is the autonomy of the private will and a person's freedom of choice and of action. Human dignity rests on recognition of the physical and spiritual integrity of the human being, his or her humanity, and his value as a person, irrespective of the utility he can provide to others."

The non-recognition of a person's dignity by prohibiting a harmless, intrinsic physical attraction then begs the question whether we fundamentally value the individual as a human being at all. If we do then we must reject laws which interfere with consensual sexual relations between adults.

The court then linked dignity to the ideal of 'equality' and in articulating this most fundamental of rights it spoke of 'inclusiveness'. It said:

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

'inclusiveness'. This Court believes that [the] Indian Constitution reflects this value deeply ingrained in Indian society, nurtured over several generations. The inclusiveness that Indian society traditionally displayed, literally in every aspect of life, is manifest in recognising a role in society for everyone. Those perceived by the majority as 'deviants' or 'different' are not on that score excluded or ostracised."

It went on to add that:

"[w]here society can display inclusiveness and understanding, such persons can be assured of a life of dignity and nondiscrimination...In our view, Indian Constitutional law does not permit the statutory criminal law to be held captive by the popular misconceptions of who LGBT [persons] are. It cannot be forgotten that discrimination is the antithesis of equality and that it is the recognition of equality which will foster the dignity of every individual."

If inequality against homosexual persons is allowed to reign how is such a person expected to lead a complete, participatory, constructive life? How am I, as a homosexual person expected to participate in social life in a manner that benefits the whole if I am denied basic health, employment, and educational services or made to feel unsafe if I attempt to access these services? The constitutions of all nations, probably including all of the countries represented here today, place equality at the cornerstone of their lofty visions. Surely, this principle should extend to all persons irrespective of their harmless physical or emotional attractions.

This brings me to my penultimate point for today. The court addressed the issue of 'morality', a ground on which those who opposed the case argued that the criminal law ought to remain. I have referred to 'harm' on more than one occasion today. The court took on this aspect when it addressed 'morality'. It held:

"[I]t is not within the constitutional competence of the State to invade the privacy of citizens lives or regulate conduct to which the citizen alone is concerned solely on the basis of public morals. The criminalisation of private sexual relations between consenting adults absent any evidence of serious harm deems the provision's objective both arbitrary and unreasonable."

At a time when we are well into the 21st century and should be united in our efforts to promote a world where all its people are able to live in circumstances that aid the achievement of their highest potential, based on fairness, compassion and plain, scientific evidence we are unfortunately witnessing egregious, large-scale violations of human rights of those who do not conform to majority sexual norms on baseless fears, ignorance and hateful dogma. Such prejudicial misgivings need to be debunked if a genuine attempt is to

be made to understand human sexuality and sexual behaviour and accept its various manifestations in any society.

Those who opposed the court case in India and others elsewhere peg their views on these very same falsities: that traditional family values will erode if homosexual sex is decriminalized; that the social fabric and public morality will be threatened if same sex practices and relationships are in any way recognized; that children will be put at risk if this is permitted. But, I ask you, where is there any credible evidence to demonstrate any of these fictions to be true? Where has harm ever been caused? Such has never been shown to be the case in countries where same sex relationships have been decriminalized or where rights have been bestowed on homosexual persons to access health services, obtain equal rights to employment and in other spheres, enter into civil unions or have families. On the contrary, it would be fair to assume that a society, which forces homosexuals into heterosexual marriages due to criminalization, denial of equality and dignity or social disapproval, risks encouraging unhappy, fractious unions that frustrate the persons involved and lead to neglect and sometimes even violence in the relationship.

The past four decades have witnessed a significant increase in our understanding of human sexuality with an increased awareness by those with sexual orientations different from the heterosexual norm that theirs is not a 'deviant', 'degenerate' or 'abnormal' choice but is a trait that is intrinsic to their being. This has seen brave, hard-fought victories to obtain equal rights in many parts of the world with divergent socio-cultural contexts. These efforts have never been designed to threaten or impose external values within national contexts and destabilize social norms but to seek the entitlement to lead full, free, equal and dignified lives on the part of homosexuals.

Homosexual behavior has existed in humankind and in all cultures since time immemorial. Indeed, it has been criminalized in many parts of the world over time, but better understanding of human behavior has demonstrated that it is a phenomenon that does not deserve the criminal sanction of the law for it does not in any way cause harm to others. Criminalization also does not rid society of this behavior. Instead it only serves to push it 'underground', where it continues to manifest but in ways which are likely to be far more deleterious to individuals and society at large, both in terms of health (and particularly in fuelling an invisible HIV epidemic) and in its impact on social relations.

Some years ago on a television programme in India I was asked whether India was ready for the decriminalisation of homosexual sex. I replied by stating that this was the wrong question to pose. The right one was: if your son or daughter, brother or sister, friend or colleague told you they were homosexual, should they be jailed for acting on this attraction? I am convinced that the response would be an overwhelming 'NO'. Today I ask you to seriously ponder this question. I am confident you will stand on the side of truth.

Thank you.