

Constitution for Whom? For All or Particular Group

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Introduction

Nothing single one element is constant in this universe, according to the theory of *Sir Isaac Newton* every component is movable -as a rule of nature human civilization was came in earth from thousands years back which is going on the way of future. On the basis of historical data Indian society was taken formal shape with the hand of *Rig Veda* around 4,500 BC. Among the world index *Veda* is renowned as a first literature in this earth. Notoriously literature is the mirror of society, whatever there has a big probability of reflecting the author biasness but without the base of reality imagination is not possible.

Sociological demography, pattern of society, rule, right and human behaviours all are influencing components of sustainable literatures. How long the question is *Veda*- among the indication of *Veda*, it not the creation of single person it is for all¹, therefore there has low rate of self prejudice. Expectation of peaceful living is also one of the earlier expectation of human civilization, however on the basis of philosophical context- *Veda* is classified with two different parts- physic and metaphysic. Where physic part is interpreted with realistic or visualise world and metaphysic is related with supernatural or parapsychological phenomena. Desire, wish, hope, expectation, law, ethic, morality and other daily livelihood related thoughts are calculated as a physical knowledge. The acceptances of several kinds of rule, regulation and moralistic narrations are indicating that the concept of law was present among earlier civilization in India, but it was taken a formal shape with the hand of lawgiver *Manu* in 200 BC to 200AD. Moreover regulation is necessary for social harmony -it was almost identifying in that time. Perhaps for that reason in the time of *Vedic* period basic responsibilities were mandatory for every citizen which were itself branch of regulation and responsibility. However the *Vedic* capitalism was standing on the basis of humanistic values.

Although it is seeking among *Vedic* manuscript that several moralistic stories were flourished in later *Vedic* period which were with the name of *Puran*. The *purans* are itself bibliographies or community level case studies which were consisted on the basis of moralistic or ethical values. Maybe direct punishment process were also present in *Vedic* time but under the way of *Puran* interpretation ancient sags were want to control human behaviour through *Puranic* stories, because expectedly they were realized that human mind is able to acquire regulation and morality among story more easily. For the effect of timeline *Puranic* characters are became god. Perhaps *Manu smriti* is the first formal law guideline in Indian history but it was the self inspection by *Manu*, where *Purans* were the implementation figure or mirror of society. Notoriously time to time India was worried for there resource – therefore the reflection of different capitalisms are almost reflected in law and crime administration.

Lastly 15th August, 1947 Indian achieves liberation from British capitalism. Time hasn't time to stay - it is passing with the rule of nature. After 64 years freedom so many progress are seeking among science and technology even for the effect of globalization society is modifying firstly. Now world became in hand where nothing innovative changes are seeking among law admission. *B.R Ambadkar* was introduced Indian constitution in 1950 for the expectation of social justice, however time to time and on the basis of situation different laws were including, reducing or modifying for ensuring social security and justice. However on the journey of modernization the rate of humanity, morality and social ethics are gradually reducing from society. The acceptance of protection of human right act,1993 indicating that human are not secure - different kind of the human right violence are passing inside of society where oppressed and oppressor both are human.

Present Situation

It is truly a painful reality that human want to protection from human in 21th century. Indian is renowned as a democratic and welfare country after liberation from British capitalism, however it is truly occurred that absent of “third gender” or “other” option in “gender” or “sex” option among any government identity proof or public employment. Even nothing process is there for same sexual marriage, nothing any legal provision or law is there for LGBTI marriage – it is almost the violence of fundamental rights under the articles of 14, 15, 16 and 21 among Indian constitution. Defiantly two versatile intentions are came out from government polices and provision - either nothing single one LGBTI person is there in India or government want to violating their (LGBTI) right, specially right to identity, right liberty and right to sexuality.

Principally first assumption is not approved because according to the view of civil societies as well as record of NACO un-countable numbers of same sexual people are there in India, however for the absent of social acceptance and legal protection they are not like to sharing their real identity. Therefore second assumption is almost true which is, government like to stand by with homophobic biasness - is it the name of democracy? Where every adult citizen is able to utilize their voting power in the time of political election but they are not able to use their sexual identity- is it the example of liberty? Even one funny news is slapping in government face, which is-“ Asian Indoor Athletics Championship *Prinki pramanik* is male or female”ⁱⁱ, maybe government medical departments were declare she is female but if she is belonging in third gender therefore what about the sexual identity proof of *Prinki* ? Because except Male or Female nothing third option is there among voting card or birth certificate.

Patrick Kernahan was clarified the sense of law in his volume namely “*The Meaning of Law: Plato’s Minos*” that law as “these official opinions and decrees passed by votes”ⁱⁱⁱ. However above perception is not applicable in India – the logic in passing under silence phenomena. Number of hypocrite and supertitles personalities are still interpreted same sexuality is against of culture or “immorality”. Yet, before 2nd June, 2009 same sexual relation was offence in Indian according to IPC (Indian Penal Code) under section 377, which was notified in 1861 during the era of British capitalism. Maybe after revolutionary movement Delhi high court was might to changing the pattern of law, but controversies are not prevent. Whatever maybe according to psychological indication every human are bisexual and it’s not psychological illness, even it not crime but major numbers of people are still standing with their homophobic opinion.

Among the homophobic views the opinion of yoga Guru *Baba Ram dev* was really presentable, on the basis of his outlook “that (Gay sex) is against our *Vedic* culture”^{iv}. Furthermore on 23th February, 2012, additional solicitor general *P.P Malhotra* , a respected lawyer, expose sexual behaviour is “...highly immoral and against social order and there is high chance of spreading of disease through such acts”^v. Not only above two persons - so many honourable personalities are also still belief that same sexuality is against of culture or mental illness. On the basis of above interpretation easily some questions are came out that is where Maslow’s theory among “The hierarchy of needs” is indicating that sex is primary requirement of human, and Sigmund Freud, the father of psychology was believed that all human beings were innately bisexual, and that they become heterosexual or homosexual as a result of their experiences with parents and others^{vi}, and since 1973, United States, led the Board of Directors of the American Psychiatric Association to remove *homosexuality* from the *Diagnostic and Statistical Manual of Mental Disorders* (DSM), therefore for which aspect same sexuality is against of culture ? against social order or mental illness ?

It is too funny that big similarity is forwarding in-between past and present, *Manu smriti* which was introduce in 200 BC to 200AD and in present law - the velocity of homophobia is present in both civilization where in ancient period it was covering among guidebook and in present society it is functioning as a regulation. How long the issue of culture, not only single one ! Lot of proofs are present in ancient manuscript of Indian which are approved the same sexuality is not crime in Indian before or after Manu. However with the ablation of traditional administration and influence of globalization the tendency of homophobia is gradually increase in Indian society.

Yet, homosexuality is renowned as a “crime” according to the view of *Manu* as well as other homophobic personalities. Judgmentally the topic is homosexuality is “immoral”, -if it is acceptable therefore entire *Vedic* culture as well traditional gods or goddesses are the symbol of immoral actors, actress where evidences indicating that same sexuality is not “against of our *Vedic* culture” even those are approved that *Vedic* characters (gods or goddesses) were involved with same sexual practice. It is very funny to dictate that lord *Krisna*, *Siva*, *Bisnu* were criminal on basis of *Manu*'s view because they were enjoying same sexuality. Among the direction of *Mahavarata* during the war between *Kuru* and *Pandaba*, one virgin and young guy was there in the side of *Pandaba* namely *Irtana*, who was the son of *Arjun* and *Ulipi*, in the time of war *Irtana* was not agree to joint fighting without the realization of sexual enjoyment, therefore

Lord Krisna was enjoying sex with him with girl form^{vii} maybe *Irtana* was the son of his best friend. *Ramayana* is also another famous epic in Indian, among the *Ramayana* the leading character is king *Ram Chandra*, however it is shocking news for disciples of *Lord Ram* that is lesbianism was also present among the earlier generation of *Ram Chandra*, two queens of king *Delip* were enjoying their sexuality with the direction of lord *Siva* – it is also present in *Ramayana*^{viii}. Here is not end, the story of churning of the ocean is famous and common story in Indian ancient literature, during the process of churning of the ocean when the poison was destroying in earth, then for the expectation of universal protection lord *Siva* engulfed whole poison, and when the lord *Dhantontory* was came out from ocean with nectar of immortality therefore evil power and god power were involved with war for taken the pot of nectar.

For the expectation of motivation of whole evil community lord *Bisnu* was came in the spot with girl uniform even during the process of dance he was able to motive evils, among the indication of *Kalika puran* when lord *Siva* was seeking the figure of lord *Bisnu* with cross-dresser, he was going to sex with him even they were enjoying same sexuality. As per the belief of *Hijra* (Transsexual) community in India the occupation of dance among *Hijra* was stared with the hand of cross-dresser *Bisnu* namely *Mohehi*. In *Ramayan* King *Nimi* was conceived a son^{ix}. Although the grandson of *Manu* namely *Yobanasha* was also enjoying sex with male lord namely *Bud* and conceived one son^x. Notoriously conception and acceptance of sex or gender change was also appreciable in earlier civilization, king *Ill* changed his sex and became *Illa*. Even *Vedic* civilization was not against of same sexuality therefore the conception of homosexuality is present in verse *Veda*, “Now then the intense longing of love stimulated by the gods. When one (m) desires to be loved (priya) by a man or a woman or by men and women, he shall offer to the above mentioned gods oblations in the sacred fire”.....^{xi}. Furthermore the reflection of homosexuality is seeking among the ancient geographical location. In ancient time India was divided on the basis of several rivers which were renowned as a god or goddess.

The joining places of holy rivers like - *Ganga*, *Jamuna*, *Swarasati*, *Narmada*, *Brama purta*, *Rupnarayana*, *Damodar*, *Alakananda*, etc. are renowned as virtuous places of Hindu religion where the joining places are famous with the name of several “*Sangam*”. According *Sanskrita* language “*Sangam*” means “Sexual intercourses”. As per the belief of Hinduism and the guideline of ancient manuscript of India after bath in “*Sangam*” people are able to remove from sin, therefore it is also clear that same sexuality is not occurred in Indian culture because many *Sangams* are there which are the joining place of two or more female rivers. Although if same sexuality is against of *Vedic* culture, therefore for which reason authors of ancient literatures were written this kinds of stories, it means same sexuality was not deteriorate in that time, where the statues of *Sculpture* and temple *Surya* at *Konaraka* are still carrying the true.

Yet it is fact that MSM (Male having Sex with Male) is one of risk group of HIV/AIDS but sexual disease is processed without safe sexual relation where not only homosexuality, heterosexual is equally responsible for it. Moreover where the issue of same sexuality is “unnatural”, on the basis of elementary classification two kinds of components are there in universe one is natural and another one is manmade, where humane came from human being by natural law and sexual arch, gander is the arm of characteristic therefore in this point of view homosexuality is purely natural component.

In a last it is almost clear that nothing prominent logic is there for ensuring that same sexuality is “immoral”, “against of culture”, “Unnatural” or “unnatural”. Government are taken the way of human right violence for the reason of homophobic majority. And without any prominent logic LGBTI people are oppressing by law and system.

i 26/2 Yajur Veda .

ii “Gender test result not yet out, but Bengal govt mentions Pinki Pramanik as male” by Swati Sengupta, TNN Jul 6, 2012, 01.03AM IST, Times of India.

iii Page-9, The Meaning of Law: Plato’s Minos by Patrick Kernahan

iv The Hindustan Times (New Delhi). 2 July 2009 “ Gay sex is no crime, says court, religious leaders protest”.

v Muneeza Naqvi, “India”s Gay Sex Legality Deate Creates National Confusion,” Hoffington Post, 2012-February-23.

vi Freud, 1905.

vii Bhishma parva, Mahabharata.

viii Verses-535-536, Part- Adi kanda, Ramayana by Kirtibash.

ix Part- Adi kanda, Ramayana by Kirtibash.

x Part-9, Bhagavatam.

^{xi} Kaushitaki Brahmana Upanishad 2:4 of the Rig Veda.