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Book Review Essay: Legalizing Sex: Sexual Minorities, AIDS, and Citizenship in India

By Bidisha Chakraborty

In her book ‘Legalizing sex’, Chaitanya Lakkimsetti, engages with the everyday struggles of the Lesbian Gay Bisexual Transgender Queer Kothi Hijra (LGBTQKHI) community. The word “legalizing” is in continuous tense. It indicates the ongoing fight for survival and acceptance of the sexual minorities. For years, the sexual minorities in India and elsewhere in the world have been subjected to structural violence. In Legalizing Sex, Lakkimsetti addresses the plight of the LGBTQKHI community, alienated from the mainstream domain and relegated to the periphery of the Indian economy. Aligned with the focus, a striking feature of the book is Lakkimsetti’s proactive use of the term LGBTQKHI instead of LGBTQ to include the men who have sex with men, the kothi, the hijra, (MSMKHI), the sex workers, the legally and socially marginalized, who are otherwise neglected by the state. Stigmatization, dismal living conditions, and marginalization are their living reality. Legalizing sex adds to the canon of LGBTQKHI scholarship. Addressing the repressive and outdated colonial laws, Lakkimsetti deals solely with the political and daily struggles of the LGBTQKHI community.

In the introduction, Lakkimsetti questions the ghettoization of the sexual minorities and the dismissive politics of the state “Sexual minorities have not been even peripheral part of any developmental programs. However, they were subject to the state’s juridical surveillance ...” (Introduction, 3). The outbreak of the HIV epidemic gained massive worldwide attention. The government of India was forced to consider the presence of the sexually marginalized, who until then were treated as non-persons. She notes the barbaric nature of the state and the non-inclusion of the LGBTQKHI community while formulating ways to curb the epidemic. Initially the measures were suppressive, but they initiated a dialogue between the government and the sexual minorities. As Sara Ahmed aptly says, “When you have to fight for existence, fighting can become an existence” (75) This was the beginning of the fight in 2018 for the repeal of section 377 that decriminalizes same-sex relationships. Lakkimsetti uses the Foucauldian framework of bio politics where sex becomes the site for elaboration of power (11) Even though the LGBTQKHI community has been granted the ‘status’ of a citizen, the society has failed to treat them with dignity. Lakkimsetti talks about some other issues as well, about measures to negotiate with the state to be politically active citizens. She questions perception of the people about the repeal of the sodomy law. She further questions whether sex will be ever recognized as labor?

In India, struggles based on rights have been central to the politics of sexual minorities. Lakkimsetti attempts to chart out the history of sodomy laws. She documents, observes, and analyses the data she collected from the fields of Bangalore, New Delhi, Kolkata, Chennai, Mumbai, Rajahmundry and presents a comparative study through her ethnographic research. She journeys us through their lives. Her approach towards the LGBTQKHI community is reflective. The fierce highway sex worker Gouri always protects other clan members from the mafias. The MSM Krishna was forced to have sex with a policeman. These narratives make us rethink their

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position in society. She has interviewed several volunteers like Shyamala, Bobby, and the NGOs that have been working to promote equal protection. They have worked relentlessly to fight the bio power hurdles and initiate dialogues with the government to bring a positive change in the lives of the LGBTQKHI. In chapter one - “HIV is our friend”, Lakkimsetti traces the history of the LGBTQKHI struggle where the Government discards its suppressive politics and includes the sexually marginalized people while introducing developmental projects for them. “High-risk groups are identifying other members in the community, mapping patterns of sexual behavior, working out strategies to reach out to other peers, creating strategies for the regular monitoring of condom use, and ensuring regular checkups at STI clinics”. (Lakkimsetti, 47) The Indian state gradually realized the need to work with them as a community, to involve them and empower them. In chapter two - “Challenging bare life?”- Lakkimsetti analyses how the sexual minorities must go through incessant violence from the state. Even the peer educators like Bobby are harassed by the police. The discussion demonstrates methods through which they can negotiate with the state for more accountability and better protection of the rights of individuals. “They can also push the state toward more accountable forms of governance that redirect state attention toward the rights of marginalized groups” (Lakkimsetti, 75). In chapter three- “Empowered Criminals”-Lakkimsetti lays out the mechanism of how power operates within the society and how the sexually marginalized can contest the state power. As she highlights, they should use resistance as a means for negotiations with the state regarding the HIV epidemic. In Chapter four, “Tolerable Identities, Intolerable Sex acts”, Lakkimsetti scrutinizes the everyday policing of the non-gendered class. She also shows us the loopholes inside the legal system. She does a comparative study between Kaushal and the National Legal Services Agency (NALSA). The Kaushal judgement depicts the state’s intolerance to homosexuals. The NALSA restored transgender rights. This chapter elaborates upon the act (s) of resistance and strategies, that can bear different results for different groups of sexual minorities. In chapter five, “Interconnected Rights” Lakkimsetti highlights the need for active participation among the marginalized along with a focus on welfare discourses. She discusses the impact of the repeal of sodomy laws on British colonies like Kenya, and the South Asian Nations like Pakistan, Bangladesh, Malaysia. She calls for transnational solidarity in the subcontinent.

Lakkimsetti posits that it is this intersectional politics and the awareness of the interconnected nature of rights that will ultimately sharpen sexual politics in India—not just limit it to only upper-caste, middle-class, English-speaking gays—by rearticulating these politics and making hijras, kothis, and sex workers the reference points for these struggles. (Lakkimsetti, 144). The repeal of section 377 is a triumph in the history of the LGBTQKHI struggle. Though the legal battle has been won, the harassment continues. The pride month is here leading to question if decriminalization of homosexuality is enough? Amidst the COVID pandemic, the second wave in India took millions of lives but the atrocities faced by the sexually marginalized are tremendous. All the welfare schemes are for the mainstream thus they are going through hardships. “Since they can be viewed as potential bearers of the virus, stigma and transphobia has taken an upward surge”. (Rawat, 2020, paragraph 5).

Recently I came across news of how India’s first transgender professor from West Bengal was denied a Reverse Transcription-Polymerase Chain Reaction (RT-PCR) Covid test. She narrated her ordeal of being harassed by the staff of the Bangur hospital. (Rajaram,2021). It reveals the persistence of the discriminatory reality of the present times. So, to overcome the hurdles, we should continue to contest the hegemonic power. As Lakkimsetti says, “We must also continue to interrogate the ways in which movements mobilize around rights to make them accountable for social change and transformation” (Lakkimsetti, 152).
This book is interesting because of its intersectional nature. A number of audiences might find the text valuable, including queer scholars, LGBTQ activists and social theorists because it is a diverse study which looks at the complex power play of the dominant and politics of the government. This book is recommended not only to the south Asian scholars interested in the LGBTQKHI scholarship but also to the non–south Asian scholars who are interested to understand the deep-rooted stigma and struggles associated with the marginalized sections. The stigma generates violence which tends to reinforce institutionalized prejudices. The book also helps us understand the varied ways in which activism shape up the different political discourses in the local context. It also shows that to bring about a positive legal change, there must be an active participation of the marginalized groups in all the government policies.
References

