Social, Humanitarian and Cultural Committee

Committee Introduction

The Social, Humanitarian and Cultural committee (SOCHUM), also the third committee of the United Nations General Assembly (UNGA), considers a variety of issues ranging from social, humanitarian affairs and human rights issues of all people around the world. Over the years, SOCHUM discusses questions relating to the advancement of women, the protection of children, indigenous issues, the treatment of refugees, the promotion of fundamental freedoms through the elimination of racism and racial discrimination, and the right to self-determination. The Committee also addresses important social development questions such as issues related to youth, family, ageing, persons with disabilities, crime prevention, criminal justice, and international drug control.

Alike other United Nation SOCHUM works closely with other UN and non-UN bodies, governmental or non-governmental. Together, they work according to the Charter of the United Nations. In addition, SOCHUM as a United Nations General Assembly may request topic-specific reports from other UN agencies, such as the Human Rights Council. The UN Secretary-General reports annually to SOCHUM on different agenda items, and the committee vote on the important matters. The votes are to be recorded. At the end of the session, the committee reports to the plenary bodies of the General Assembly on topic-specific items.
Introduction:

Presently in India, Section 377 of the Indian Penal Code criminalizes gay sex. The law penalizes intercourse that transgresses “the order of nature” by punishment of up to two years. In 2009, when the Supreme Court of India repealed Section 377, Hindu, Muslim, and Christian groups came together in a rare moment of unity, decrying the court’s judgment. Homosexuality was condemned as a Western import threatening to tear the societal fabric of the country. Surprisingly, the principal law against homosexuality and not homosexuality itself, is a Western import. The British imperialist powers introduced Section 377 in 1860 and made homosexuality punishable by 10 years.

HUMUN 2017 will therefore look into problems and discriminations that the Lesbian, Gay, Bisexual, Transsexual and Queer Community (LGBTQ) face in Asiatic societies and the reasons thereof. A revisionist perspective on history is provided which will help us to tackle the problem from its roots. As western liberal democracies are increasingly becoming tolerant towards existence of diverse sexualities, Asian countries generally still maintain a hostile reaction towards those who identify as sexually nonconformists. Although after May 24, 2017 as Taiwan’s constitutional court ruled that same-sex couples have the right to legally marry, hence becoming the first place to do so in Asia, the ruling was an encouraging sign for LGBTQ communities in Asia. This committee will therefore hope to draft resolution to maintain a peaceful coexistence of different identities in this part of the world.
History:

Pre-modern attitude

Insights from literature:

In her fascinating book, Same-Sex Love in India: Readings from Literature and History, scholars Ruth Vanita and Saleem Kidwai try to glean insights into pre-colonial attitudes towards homosexuality by looking at their treatment in literature. There is the usual suspect, the exhilarating an intriguing text of The Kamasutra and the myriad expressions of sexuality and gender in it. Vanita and Kidwai assert that the text treats intimacy of a homosexual nature in the same section that it discusses heterosexual love, and refuses to carve out any distinction between them.

There is also a long tradition of homosexual love in Urdu poetry. Siraj Aurangabadi, whose poetry encapsulates the maddening anguish of love, created a narrator in his poem Bustani-e-Khayal who, after losing a lover who was also a man, took to courtesans to dim the pain of loss. He, however, was not the only one to dare transgress the norms of accepted love. Male poets in Urdu have regularly assumed the voice of a female lover, beseeching a beloved who is indifferent, cruel, and also a man. Aficionados of Urdu poetry explain this phenomenon, saying that mostly in such poetry, gender was not assigned based on physique. Many poets believed that the beloved could only be a man, and that the voice of the lover could be assumed only by a woman.

The Colonial Influence

Scholars have noted that 'sex' as a biological category was a modern creation. It was some time in the eighteenth century that medical discourse on sexuality carved out two distinct bodies; the male and the female form. Organs that up till now had shared the same name, such as ovaries and testicles, were given different identities. Anatomists went as far as to sketch a 'female' skeleton to perpetuate the point of there being two distinctly constructed genders in modern imagination.
On the heels of this historical shift came the label of 'homosexual' and the categorization of people based on their sexual and emotional preferences. However, this was by no means the first attempt to define different sexual preferences. The Kamasutra identifies men who feel attracted to other men as having a ‘third nature’. Urdu poetry recognized sexual love between women and called it ‘chapti’. Although there was recognition of same-sex love, scholars find little attempt to lump people into binaries based merely on their engagement in homosexual love. The Jain faith, for instance, categorized sexuality not by the person that sexual love was aimed at, but by the intensity of such love.

The imperial onslaught into India also made the subcontinent the subject of the Western gaze. The rather prudish sensibilities of colonizers were simultaneously in awe of, and repulsed by, the multiplicity and complexity of gods, identities, sexualities etc. It was felt that Indian sensibility was tolerant of a myriad of identities only because of a perceived 'primitiveness'. What was needed was European order to calm and organize this chaos.

One such attempt to rid local literature of all such ‘unnatural’ love is apparent in the translations of these texts. In a section of Krittivasa Ramayana, the birth of a child, who was named Bhagiratha because he was born of two vulvas, is mentioned. The English translation of this text conveniently chooses to ignore the crucial part where it was described that Bhagiratha was birthed by two people with ‘female’ bodies.

Anomalous Bodies:
At this point, it is also pertinent to note the gaze that befell different bodies, especially the bodies that digress from a specified ‘normal’, in different cultures. Geertz, in quite a revealing study on common sense, compares the outlook of three cultures regarding intersexual bodies.

In the US, there is an almost instinctive response of disgust. Intersexual bodies are seen as anomalous, and thus deserving of scorn. There seems to be a pressing urgency to ‘correct’ such bodies through surgical processes, so that they can adhere to a certain norm and not pose threat to the social order.

On the other end of the spectrum are the Navaho people, a South American tribe. The Navaho glorify intersexual bodies, regarding them as a blessing from God. Intersexual animals are supposed to increase the yield of other animals they are kept with. Another prevalent belief advocated for intersexual people to be made heads of families so clans could prosper and grow. This approach, however problematic, is a departure from the Western perception of intersexual bodies as inherently anomalous.

Yet another example was that of the East African tribe, the Pokot, who regarded intersexual people neither as a project for correction nor as a blessing, but as an error made by God that could only evoke indifference.

South Asian attitudes to anomalous bodies can also be viewed through a similar lens. For centuries before colonialism, the intersexual community in this part of the world lived as the guards to the female quarters of Mughal kings. In that time, their bodies were tied to their occupation which allowed them to be absorbed into the normal order.
Cultures across the world have had communities of people that exist outside gender binaries:
The Two-Spirit people of Canadian Indigenous tribes fulfill the gender roles of both men and women.
The Bugis community in Indonesia has five genders, two of which are comparable to cisgender men and women.
The Mahu are third gender people living in Hawaii. The Mahu have spiritual roles in the community.

Homosexuality and Muslim countries

A much more contentious point is that of religion. Most of the hostility to same-sex relations, in Pakistan and elsewhere, is rooted in arguments that assert that homosexuality is outright condemned in Islam. On the surface of it, these arguments seem compelling; sodomy is a sin in Islam. However, the Quran has made limited, if any references to same-sex relations, and has not specified any clear punishment for the LGBT+ community. Much of our understanding of Islam’s perspective comes from a hadith, a saying of Prophet Muhammad, that enjoins believers to kill people found to be engaged in sodomy.

However, as research reveals, this holy declaration did little to curb sexual expression in pre-colonial Muslims. As scholars note, the Arabic literature of the Ottoman period made many casual references to homosexual love, and much of the poetry produced depicted an adult man’s intense love and yearning for a beautiful teenage boy. Same-sex relations were still sinful, but morality was laxer. For that matter, only engagement in same-sex relations, and not its reference in poetry, had been decried in the Scripture. Moreover, same-sex relations were accepted as part of the culture in the Arabic world and tolerated as long as it remained discreet.

Homophobia, as it exists currently in the Arab-Islamic world, can also be traced back to modernity and Western imperialism. Before the leap into modernity, the ‘sodomite’ was a ‘temporary aberration’. It was, as noted earlier, the classification of sexualities in texts like
Westphal’s 1870 article in Archive fur Neurologie that made the homosexual into a ‘specie’ different from the normal population, a specie that could no longer only invite indifference from the larger population.

Most importantly, if homophobia is defined by acts of hostility towards the LGBT+ community, then scholars are certain that it is not organic. It was only after the construction of the homosexual, every part of whose life was affected and therefore corrupted by his/her sexuality, to the point that his entire being was worthy only of scorn, and the integration of Victorian values in everyday life, that homophobia really took root.

Much has changed since. In contemporary South Asia, not only is there a rejection and denial of the LGBTQ+ in the public milieu, their lives are invalidated by the state also.

**LGBTQ rights as dictated by the Law:**

All parts of Asia are subjected to different LGBTQ (or “gay”, as generally known today) laws depending upon social, secular or religious factors. The rights of the LGBTQ are, however, limited as compared to other parts of the world. As of May 2016 same-sex activities were made illegal in 23 countries, out of which 13 apply to women, and legal in 19.
Some Asiatic Muslim countries diligently follow the Sharia Law as their prime code of conduct which dictates the lawful and unlawful, retribution and restitution in matters of 'immorality' and crime. Under the Sharia law, which predominantly marks any same-sex activity as haram, death penalty for same-sex sexual behaviour has been implemented in three countries: Iran, Saudi Arabia, and Yemen. However, in four countries the death penalty is not known to be implemented specifically for same-sex activities which are Pakistan, Afghanistan, Qatar, and UAE. Eight countries target freedom of expression and identity related to sexual orientation through propaganda and 'morality laws', limiting the rights of those that do not fall into the gender binary.

**Iran**

In Iran, a country where the Luti community faces the most legal challenges, the legal code changed after the 1972 Iranian Revolution, condemning homosexual behaviour or Tafkhiz as a criminal act punishable by death. The retribution for Tafkhiz is rooted in Quranic interpretation of God's wrath on the people of Lut which has been linked to various hadiths that do not specify the punishment most suitable for this act, but have been interpreted depending on the school of thought in question. It is important to note that several interpretations of the Surah (7:80/81) exist that describe sexual intercourse between people of the same sex as a misdemeanor, but does not specify the punishment and hence is a matter of various perceptions and elucidations that depend upon the fiqh. In a revised version of this code put into effect since 2013, human rights had been violated to a large extent with the criminal code having become even more severe. It violated the Universal Declaration for Human Rights, the UN Standard Minimum Rules, and international laws in many ways.
Indonesia

Indonesia’s history of never criminalizing same-sex behavior despite not having laws protecting the rights of the LGBTQ community came under threat in 2016 when anti-LGBTQ rhetoric and discourse became mainstream in the country. The community was directly attacked through intolerant public comments and threats by government officials, militant islamists, and mainstream religious organizations. The Minister of Higher Education, Muhammad Nasir, stated that he wanted to ban all LGBTQ activity from university campuses. He tries to backtrack but the damage had been done. Anti-LGBTQ sentiment rose within weeks with women being told to spend more time and attention "teaching their sons not to be gay" and psychiatrists claiming that same-sex orientation and non-binary identities were "mental illnesses". Moreover, the minister of Defense, Ryamizard Ryacudu, labeled LGBTQ rights as a dangerous "proxy war" that would ideologically and systematically brainwash the population at large, claiming that "everything we know could disappear in an instant—it's dangerous". Mainstream mass religious groups called for the legislative criminalization of such activism, proposing the idea of forced rehabilitation for those identifying from the LGBTQ community. The impact was immense with a rise in violence against the homosexuals and waria, profiling of activists, and eviction of LGBTQ people.
In the Islamic state of Aceh where Shariah Law is practiced, two men were publicly flogged for indulging in consensual sex. The pair received 83 lashes each, instead of the intended 85, which was meant to serve as a lesson for the public to abstain from acts prohibited strictly under the Law. The two men were caught together in a private rented room by vigilantes and were detained till their public caning, which was attended by thousands by virtue of the fact that it was the first ever public flogging for homosexual behaviour. The response to the retribution varied, with people believing it was a necessary deterrent to safeguard people's morale and "stop the spread of the virus to other communities in Aceh". The deputy Asia director at Human Rights Watch, Phelim Kine, disapproved of such an atrocious punishment claiming that it was torture under the international law, and that "the court's less-than-maximum sentence of 85 lashes is no act of compassion. It does not change the reality that flogging is a grotesque display of medieval torture."

The caning came two days after 141 men were detained in Jakarta for allegedly taking part in a 'gay sex party' in a sauna. The intolerance towards the LGBTQ community in Indonesia has been rampant since the beginning of 2016, and has been believed to be triggered by the legalization of same-sex marriage in the United States.
**Philippines, Taiwan, Nepal, Thailand:**

Some parts of Philippines and Taiwan prohibit the discrimination of people based on sexual orientation in the labour sector as part of their Human Rights commission. Nepal and Thailand extend this law to all sectors, constitutionally prohibiting discrimination on all grounds.

**Israel**

Israel is the only country where same-sex relationships and behavior is accepted and safeguarded against homophobia in a number of different areas, including adoption by same-sex couples, full recognition of gender identity without medical intervention (as is the case in other countries where a third gender is accepted only through surgical and medical proof), and are allowed to serve openly in the military without any discrimination. It is regarded as the most advanced in its cause for LGBTQ rights in Asia.

**China**

Homosexuality has been legal in China since 1997 and first ever proposal to legalize same sex marriage in China was presented to National People’s Congress meeting in 2003 however the country hasn’t shown any progress in its legal proceedings to legalize gay and lesbian marriages. Furthermore, In 2009, the Chinese Government made it illegal for minors to change their officially-listed gender, stating that sex reassignment surgery, available to only those over the age of twenty, was required in order to apply for a revision of their identification card and residence registration.
The subject of 'homosexuality' has emerged again recently in the public domain and gay identities and communities have expanded in the public eye. However, Jeffreys and Yu note that public discourse in China is disinterested and, at best, ambivalent about homosexuality, and traditional sentiments on family obligations and discrimination remains a significant factor deterring same-sex attracted people from 'coming out'. After Taiwan legalized same sex marriage in May 2017, Chinese government banned the post popular lesbian activist website, giving no official reasoning for actions. Such measures did spark outrage but magnitude wasn’t considered significant to leave a mark.

*Status of Queer legality across contemporary Asia:* It is worth noting how same-sex marriages are not legal in any part of Asia. Israel grants similar access and rights to same-sex couples, as given to common-law marriages, in the form of unregistered cohabitation making it the first country to recognize any form of same-sex union in Asia. As of May 2017, **Taiwan** is predicted to become the first Asian country to legalise same-sex marriage since the court, Judicial Yuan, ruled that a "civil law defining marriage as a union between a man and a woman violates constitutional guarantees of equal protection". The court came to its decision after the landmark suit of a longtime Veteran activist Chi Chia-wei who spent years in prison after coming out as gay in 1986, and the request filed by the Taipei city government to "move towards meaningful attitudes" by addressing the conflicting stance of the state regarding homosexuality.

LGBTQ rights can be categorized into (but are not limited to) **seven** key areas:

1. Same-sex activity
2. Recognition of same-sex union
3. Same-sex marriage
4. Adoption by same-sex couples
5. LGBTQ allowed to serve in the military
6. Laws concerning gender identity/expression
7. Anti-discrimination laws concerning sexual orientation
### Central Asia (1/2 legal in both sexes)

<table>
<thead>
<tr>
<th>LGBT rights in:</th>
<th>Same sex sexual activity</th>
<th>Recognition of same sex Unions.</th>
<th>Same sex marriage</th>
<th>Adoption by same sex couples</th>
<th>LGB allowed to serve openly in military?</th>
<th>Anti-discrimination laws concerning sexual orientation</th>
<th>Laws concerning gender identity/expression</th>
</tr>
</thead>
<tbody>
<tr>
<td>Turkmenistan</td>
<td></td>
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<tr>
<td>Male Legal</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
</tr>
<tr>
<td>Female Legal</td>
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<tr>
<td>Uzbekistan</td>
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<tr>
<td>Male Legal</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
</tr>
<tr>
<td>Female Legal</td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tajikistan</td>
<td>Legal since 1988</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>YES</td>
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<table>
<thead>
<tr>
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<th>Same sex marriage</th>
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<th>Anti-discriminatio n laws concerning sexual orientation</th>
<th>Laws concerning gender identity /expression</th>
</tr>
</thead>
<tbody>
<tr>
<td>Russia</td>
<td>Male Legal since 1993</td>
<td>NO</td>
<td>NO</td>
<td>LGBTQ individuals may adopt.</td>
<td>An unofficia l don’t ask and don’t tell policy exists.</td>
<td>NO</td>
<td>Sterilizatio n is mandatory .</td>
</tr>
<tr>
<td></td>
<td>Female always Legal</td>
<td></td>
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<td></td>
<td>Illegal in Chechn ya.</td>
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<tr>
<td>Turkey</td>
<td>Legal since 1858</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>Proposed in 2015</td>
<td>Proposed in 2015</td>
<td>Sterilizatio n is mandatory .</td>
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### Western Asia

<table>
<thead>
<tr>
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<th>Adoption by same sex couples.</th>
<th>LGB allowed to serve openly in military?</th>
<th>Anti-discrimination laws concerning sexual orientation</th>
<th>Laws concerning gender identity /expression</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Iran</strong></td>
<td>Illegal and punishable by death</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>Gender recognitio n legal if supported through medical reasoning.</td>
</tr>
<tr>
<td><strong>Israel</strong></td>
<td>Legal since 1963</td>
<td>Unregistered cohabitation since 1994.</td>
<td>Recognized same sex marriages are limited.</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td><strong>Saudia Arabia</strong></td>
<td>Illegal and punishable by death.</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
</tr>
<tr>
<td><strong>United Arabic Emirates</strong></td>
<td>Illegal and punishable by death.</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>Medical interventio n for people who undergo sex obscurity is legal only.</td>
</tr>
</tbody>
</table>
## Southern Asia

<table>
<thead>
<tr>
<th>LGBT rights in:</th>
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<th>Anti-discrimination laws concerning sexual orientation</th>
<th>Laws concerning gender identity/expression</th>
</tr>
</thead>
<tbody>
<tr>
<td>Afghanistan</td>
<td>Illegal and punishable by death.</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
</tr>
<tr>
<td>Pakistan</td>
<td>Illegal and punishable.</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>Discrimination against the hijra community is banned.</td>
<td>Right to change gender as intersex citizens</td>
</tr>
</tbody>
</table>
Southeast Asia

<table>
<thead>
<tr>
<th>LGBT rights in:</th>
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<th>Same sex marriage</th>
<th>Adoption by same sex couple?</th>
<th>LGB allowed to serve openly in military?</th>
<th>Anti-discrimination laws concerning sexual orientation</th>
<th>Laws concerning gender identity/expression</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indonesia</td>
<td>Legal except in the provinces of Aceh, South Sumatra, Palembag. (Applicable to Muslims only.)</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
</tr>
<tr>
<td>Malaysia</td>
<td>Male illegal</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>Acceptability of gender marker change.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Female legal</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Philippines</td>
<td>Legal since 1993</td>
<td>Pending in supreme Court.</td>
<td>Pending in supreme Court.</td>
<td>LGBTQ individuals may adopt.</td>
<td>YES</td>
<td>National bill pending for nationwide anti-discrimination. is banned.</td>
<td>Pending in Supreme Court</td>
</tr>
<tr>
<td>Thailand</td>
<td>Legal since 1956</td>
<td>Proposed</td>
<td>NO</td>
<td>NO</td>
<td>YES</td>
<td>YES</td>
<td>Sex change operation for transsexuals needed</td>
</tr>
</tbody>
</table>
for legality of orientation.
## Eastern Asia

<table>
<thead>
<tr>
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<th>Adoption by same sex couples</th>
<th>LGB allowed to serve openly in military?</th>
<th>Anti-discrimination laws concerning sexual orientation</th>
<th>Laws concerning gender identity /expression</th>
</tr>
</thead>
<tbody>
<tr>
<td>People’s republic of China</td>
<td></td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>Legal gender can only be changed after medical intervention.</td>
<td></td>
</tr>
<tr>
<td>Japan</td>
<td>Legal since 1880</td>
<td>Non-legal bindings in 6 municipal jurisdictions.</td>
<td>NO</td>
<td>NO</td>
<td>YES</td>
<td>Exists on state level</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td>Legal gender can only be changed after medical intervention.</td>
<td></td>
</tr>
<tr>
<td>Taiwan</td>
<td>Legal since 1895</td>
<td>YES</td>
<td>Proposed in 2017 and expected to be legal by 2019.</td>
<td>LGBTQ individuals may adopt.</td>
<td>Yes due to military draft.</td>
<td>Banned in work and education settings.</td>
<td>Transgender allowed to change legal gender without surgical proof since 2015.</td>
</tr>
</tbody>
</table>
CONSTITUTIONAL REFORMS IN SOME COUNTRIES FOR AND AGAINST THE LGBTQs:

UZBEKISTAN:

- Article 120 of the Criminal Code (1994) states that "Homosexual acts, which are defined as the gratification of a man's sexual drive with another man without the use of force, shall be punishable with a term of imprisonment of up to three years."
- No provisions criminalize female homosexuality.
- In 2013 at its 2nd cycle UPR, Uzbekistan rejected two calls to decriminalize same-sex relations, claiming that it shared the position of the Muslim countries on categorizing same-sex behaviour as an immoral crime. In 2015, the Human Rights Committee focused on the LGBTQ conditions of Uzbekistan and concluded that the State needed to focus on full protection of the LGBTQ community against discrimination, stigmatization, and hate speech in all spheres with Article 120 also to be repealed.

RUSSIA:

- In 2013, a "gay propaganda law" was unanimously approved by the State Duma as an attempt to ban all homonormative behaviour and content that contradicts the traditional, heteronormative values of the society. It is part of an effort to "promote traditional Russian values over western liberalism, which the Kremlin and the Russian Orthodox Church see as corrupting Russian youth and contributing to the protests against Putin's rule."
- It has been filed under the country's child protection laws and those that provide any sort of exposure to minors about the LGBTQ community would be fined.
- The law was met with backlash on an international level, with the UN Committee on the Rights of the Child claiming that the culture of the LGBTQ community has been attacked and stigmatized, leading to an increase in
homophobic violence. In 2014, an anti-LGBTQ groups known as "Occupy Paedophilia" lured potential victims to meetings through the internet and used Vladmir Putin's rhetoric against the LGBTQ community as grounds to inflict violence on those they genuinely deem as wrong. In 2013, a groups of Neo-Nazi's reportedly kidnapped a gay teenager and killed him. Gay pride demonstrations are also increasingly under threat.

SAUDI ARABIA:

- As a country that strictly follows the Sharia Law, there is no codified Penal Law. The Surah (7:80/81) used as the referral point for punishment against sodomy and homosexual behaviour. However, there is no explicit mention of the kind of punishment warranted for this act and the type of punishment is up for debate. As a Wahhabi state, Saudi Arabia follows the following penalty:
  - "For a married man the penalty is death by stoning, while the penalty for an unmarried man is 100 blows of the whip as well as banishment for a year.
  - For a non-Muslim, who commits sodomy with a Muslim, the penalty is death by stoning. Moreover, all sexual relations outside of marriage are illegal in Saudi Arabia according to the Sharia law, including sexual relations between women"
- In 2017 Saudi Arabian authorities raided a house, arrested 35 transgenders and allegedly killed two Pakistanis for cross dressing and having same-sex relationships in Riyadh. Eleven were reportedly arrested after paying a 150,000 riyals fine while 22 were kept in custody. A crime punishable by death, activists on social media have raised their voice against Saudi Arabia's staunch anti-gay discourse.

AFGHANISTAN:

- Article 427 of the Penal Code (1976) states that:
A person who commits adultery or pederasty shall be sentenced to long imprisonment.

In one of the following cases commitment of the acts, specified above, is considered to be aggravating conditions; In the case where the person against whom the crime has been committed is not yet eighteen years old.

- Afghanistan has taken upon the interpretation of the Sharia law which criminalises same-sex sexual acts and sentences the respective party to a death penalty. There have, however, been no known cases of death sentences since the end of Taliban rule for homosexual behaviour.
- In 2014 Norway called for the “repeal the provisions of the penal code that criminalise sexual relations between consenting adults of the same sex” in the Universal Periodic Review under Human Rights. A series of recommendations were made for the abolition of the death penalty in line with the civil and political rights under the international human rights law.

PAKISTAN:

- Under Section 377, 'Unnatural offences' the Penal Code (1869) states that:
  - “Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with imprisonment for life, or with imprisonment of either description for a term which shall not be less than two years nor more than ten years, and shall also be liable to a fine.”
- No direction mention is made of Sexual Orientation and Gender Identity in its penal code, but Pakistan has been fairly vocal on several international platforms such as the Humans Rights Council in its denial to accept SOGI under human rights, laying emphasis on how the country needs to focus more on ‘traditional values of humankind.’ To quote an incident which marks Pakistan’s rigid stance on the matter; “In June 2012, at the 19th session of the HRC (Humans Resource Committee), at the reading of a report mandated by the first SOGI resolution of September 2011, Pakistan led a walkout by member States of the Organisation of Islamic Cooperation, which was unprecedented
behaviour in that forum. They were objecting to “attempts to create” “new standards” regarding SOGI that “seriously jeopardizes] the entire international human rights framework.”"

- Pakistan, however, accepts the Khwaja Sira community as legal members of society. They are believed by many to be "God’s chosen people," who have the ability to curse and bless people as they please. In 2012 they were given the right to identify as transgender* on their national identity cards after a trans activist won a legal battle to include a third gender. In 2017, passports with a separate gender identity, X, have been issued so that the transgender community can self-identify with a third option. They were also given the right to identify themselves as such in the census conducted. A new mosque, which would be inclusive of all people irrespective of their gender and sexual identity, is planned to be built in Islamabad.

*Side note: Transgender is used as a loose umbrella term to refer to the hijra community of South Asia. They have little to no similarities with the Western definition and expectation of what it means to be a “transgender”. There is a cultural history to what it means to be a part of the Khwaja Sira community, with a guru who takes on a parental role and is pledged allegiance to. Unlike Western transgenders who are able to surgically modify themselves to be more female, the Khwaja Sira community can never be women or give birth and rather consider themselves to be a third gender entirely. Most hijras earn through performance, sex work, or begging on the streets.
IRAN:

- The two-part Islamic Penal Code (2001) deals with sodomy and lesbianism as a criminal offense, with Article 110 stating that "punishment for sodomy is killing; the Sharia judge decides on how to carry out the killing" and Article 129 stating that "punishment for lesbianism is hundred (100) lashes for each party." It also highlights a number of ways sodomy and lesbianism can be proved in court, and what measures are to be taken depending on the situation.

- In retaliation to Iran's capital punishment for homosexuality, the Committee on Economic, Social, and Cultural Rights expressed concern over the criminalization of consensual same-sex activity, recommending that "State party repeal or amend all legislation that results or could result in discrimination, prosecution and punishment of people because of their sexual orientation or gender identity. The Committee recommends that the State party take steps to combat and prevent discrimination and societal stigma against members of the lesbian, gay, bisexual, and transgender community, and ensure their enjoyment of all the rights enshrined in the Covenant, including unhindered access to employment, social services, health care, and education."

The delegation of Iran justified his country’s position on 'homosexuality', by saying "it was not so long ago that same-sex sexual relations had been "subject to prosecution in most Western countries in the not too distant past". It is regarded as "moral bankruptcy", "Western barbarism" and "libidinous behaviour" by the Supreme Iranian Leader. Their stance remains firm in regards to following their interpretation of Shariah law.

LGBT Activism:
When the state attempts to repudiates the existence of an entire community of people, there thankfully is, resistance.

The state has been hesitant to be an ally to the cause; in instances where it has allowed for the LGBTQ+ to exist such as in India in 2009, it has promptly taken those rights away when met with objection. Activists realize that the only way to achieve basic human rights is forcing the government into giving them.

In India, activists take to the streets in cities like Mumbai, Delhi and Chennai bedecked in rainbow flags to celebrate Pride. Activists have relentlessly appealed to the courts since 1991 to repeal Section 377, which they deem an artifice of the colonial rule that has “outlived its relevance”.

Much of this defiance has been embodied in certain people who are at the forefront of the movement. In India, Prince Manvendra Singh Govil has the honor of being the first openly gay prince in the world. Prince Manvendra has kicksarted an awareness campaign called ‘Free Gay India’.

SIDENOTE:

Prince Manvendra Singh Govil has been working tirelessly to address the needs of people who have been affected by homophobia in India. Currently, he has undertaken an initiative under The Lakshya Trust to improve sexual health of Indian women whose husbands are gay and have more than one sexual partners.

Pride parades are also common in Turkey. Recently, the riot police has taken it upon itself to disrupt this gathering of citizens. Rubber bullets are fired, and water cannons blasted to disperse the parade.
2017 marked the third consecutive year of the Pride Parade ban in Turkey. Critics argue that the reason for this fresh hostility that the LGBT+ encounter in Turkey have a lot to do with President Erdogan’s nod to the creeping Islamization that only allows for a literalist interpretation of the Scriptures and disallows homosexuality. Since the failed coup of July 2016, many sense that President Erdogan has felt the pressing need to curb any protest.

In Pakistan, resistance has not been recorded as well and, for the most part, has not been as outright as in Turkey and India.
The most important way that rebellion has been channelized is through the social media. Multiple blogs document the journeys, struggles, and experiences of the LGBT+ community, and a small section of Pakistani youth is finally realizing the possibility of there being multiple sexualities, that express themselves in ways that defy their expectations of natural.

Initiatives like Trans Action Pakistan release infographics on Facebook, detailing spaces in the country that are inaccessible for them; the park, police station, mosques, and the list goes on.

**SIDE NOTE:**

In 2016, Kami Sid became the first trans model of Pakistan. Her photoshoot went viral on the Internet. This was the first time in Pakistan that trans people had received such representation. Kami herself pointed out that trans people are seen only as sex workers in the country.

As of now, besides appearances in literature festivals and morning shows to hammer the idea that gender is socially constructed into people’s minds, Kami is also working with the Government of Sindh to work out legislation protecting the rights of trans people in Pakistan.

In Iran, even activism on behalf of the LGBT+ community has been outlawed. Here again, the LGBT+ community has pushed back against the government’s oppressive agenda. Recognition came for Irani trans people due to the persistent efforts of one woman known as Maryam Hatoon Molkara, who pushed the Ayatollah Ruhollah Khomeini to allow gender reassignment in the country. The Ayatollah granted permission on the basis that in Islam, the soul is more important than the body.

**SIDE NOTE:**
In 1975, Molkara started a letter-writing campaign, penning letters to the Ayatollah, beseeching him to allow her gender reassignment. In 1986, she went to his house, holding a Quran and with shoes symbolically hanging from her neck. She was stopped and beaten by the guards, but finally granted audience with the Ayatollah. Molkara’s recounting of her struggles moved the Ayatollah’s son to tears. At the end of the meeting, Molkara had been granted permission for a gender reassignment surgery. Such surgeries are blessed by the clergy in Iran, and have become acceptable in Shi’ite communities.

The Iranian Queer Organization (IRQO), founded with the initiative of providing the LGBT+ community with one platform from where to negotiate with the government, is based in Toronto, Canada. Due to the severe backlash expected from the government, IRQO does not conduct activities with activists living inside Iran.

At this point in time, the loudest voices heard in the public milieu might be those that decry same-sex relations. However, LGBT+ activists in these countries are pushing for their rights and making the point that their existence, however abhorrible it may seem, cannot be denied.
Efforts by the UN:

The United Nations has adopted the simple policy with the mottos “Born free and equal”, and “Living free and equal” with regards to the LGBT+ community. This implies that LGBT+ are granted protection from gender and sexuality-based violence, and have the same rights to get an education, express themselves through clothing and action, and get married as heterosexual, cisgender people.

On June 30, 2016, the UN adopted a resolution entitled “Protection against violence and discrimination based on sexual orientation, and gender identity.”

To access the list of all UN resolutions ever taken on the subject, visit the following website:

1. How far did politics play a role in the changing social situations of people not adhering to the “norm” regarding their physical bodies?

2. Is the response to the third gender community or homosexuals out of fear of upsetting societal norms or because of religious and political reasons?

3. Acceptance is a long way to go in most South Asian countries. How can awareness be spread of this issue and a certain degree of acceptance be created among the different levels of society within these countries?

4. For those who cite religion as the main reason for the “unnaturalness” and thus, prosecution of those not adhering to the norm, what would be your response? Create a logical framework of responses with hard facts.

5. How far had the advent of modernity and Western mindsets affected the way our ancestors thought about same-sex relationships or genders other than the defined two?

6. LGBTQ communities in most societies do not have any steady source of income or even the access to white collar jobs. What avenues can be opened for them to give them respect and allow them to live on a platform equal to that of the straight community?
References:

http://www.liberateyourself.co.uk/lgbtg/what-is-lgbtg/


http://www.huffingtonpost.com/entry/lgbt-in-southeast-asia_us_55e406e1e4b0c818f6185151
**Topic B: Bonded Labor**

**Note:** This guide is by no means exhaustive and although it will help the delegates understand the magnitude of the issue and a general overview of mechanisms and outcomes of such a practice, it is advised that delegates use this section as a starting point to research on the given topic.

**WHAT IS BONDED LABOUR?**

According to the UN Supplementary Convention debt bondage is a practice very similar to slavery but differs in the way it is enforced and the events that led up to its practice;

"Debt bondage, that is to say, the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined."

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The 1976 Bonded Labour (Abolition) Act defines ‘bonded labour system’ as;

“The system of forced labour under which a debtor enters into an agreement with the creditor that he would render service to him either by himself or through any member of his family or any person dependent on him, for a specified or unspecified period, either without wages or for nominal wages, in consideration of loan or any other economic consideration obtained by him or any of his ascendants, or in pursuance of any social obligation, or in pursuance of any obligation devolving on him by succession.”

This type of labour predominantly occurs in cases where monetary loans are taken in exchange for unquestioned labour for a specific time period. It is rooted in exploitation and oppression of the labourer, as he or she involuntarily or under the weight of their loans performs tasks and offers services to pay off their loans. It mainly exists in Asian and agricultural societies where the majority of the population fall in the lower or working-class strata and are only able to offer payment in terms of man/woman-hours. The 'employer' has the power to manipulate the amount of debt by increasing the amount of work the labourer needs to perform based on superficial reasoning. Since his or her wage is already low, the worker spends extra hours trying to repay the loan. There is rarely any violence or threats involved as the labourer is bonded to the employer by his or her obligation to repay. In many instances the employer includes artificial costs to the labourer's debt, claiming that it has increased to cover the expenses for the labourer's food, room, and health. In cases where the worker dies before the debt it paid, his or her children are obliged to pay the crushing debt. Thus, the resemblance between debt bondage and slavery exists as the cycle may continue through generations and is invariably inherited by the children.
In China during the 19th century bonded labour was at a peak due to various factors such as drug addict’s need for opium, to secure life when natural disasters hit and robbed people of their sustenance, and agricultural produce not being sufficient. In regions like Burma, debt bondage overrode slavery.

IDENTIFYING BONDED LABOUR:

BONDED LABOUR AROUND THE WORLD

NEARLY 21 MILLION PEOPLE ARE VICTIMS OF FORCED LABOUR ACROSS THE WORLD.°

- Asia-Pacific
- Africa
- Latin America

There is no ‘official’ number of bonded labourers in India, but the issue is severe enough to demand attention and effort. According to the Ministry of Labour in India, 86.6% of bonded labour victims belong to the SC/ST community. They are mostly poor and unaware of their rights, which leaves them vulnerable to exploitation.
Some of the indicators of bonded labour that exist are as follows:

- If the labourer is being paid lower wages than the amount negotiated at the beginning of the proposal and if ‘employer’ is making undue deductions from wages or adding unnecessary costs.
- If employer is requiring him/her to overtime work more than what is provided in the law.
- Freedom of employment and movement. The labourer should be able to leave when he or she pleases and if they can't do so, it is a bonded labour situation.
- Whether the worker keeps his identity documents with himself or his employer keeps these in his own custody (these can include passports, Identity Cards, Educational Degrees etc) so as to keep the labourer from escaping his or her situation of bondedness.

TYPES OF BONDED LABOUR

Bonded labor can exist in various different forms depending upon the situation, some of which include;

- Money is given as an advance before the services (peshgi) are utilized in exchange.
- As a consequence of customary, cultural or social
- In exchange for economic or social consideration received by the person or their family

It is a prevalent part of agricultural societies where the bandhua mazdoor (bonded labourer) system is the main form of labour. It is also found in domestic work and begging, where the beggar has to give his produce to his 'employer' to pay off the debt.
Agriculture and Brick Kiln:

There is a severe lack of employment opportunities in places like Interior Sindh and Punjab in Pakistan which leaves marginal farmer no choice but to become agricultural labours in order to support their family. Threat of eviction is a powerful coercion tool used by the 'enforcers' to make sure that the labourers performed the tasks assigned to them. In Punjab, non-muslims known as seeris were found to be at risk of debt labour because of their homes located on employer land. In the brick making industries, which functions exclusively on the basis of debt bondage, all unskilled and semi-skilled labour gets advances from jamadars. This in turn increases the level of debt which is almost impossible to pay for low status workers (i.e. internal migrants which include women and children) who are paid below the legislated rates of pay for the sector. This makes them viable to exploitation in the form of debt bondage where they have no choice but to succumb to the unfair working conditions and wage.

Bonded agricultural labourers are socially exploited and occupy the lowest rung of the rural ladder. Social and economic stratification in a village is linked with land and caste which in turn govern economic and social status of the people.

Bonded Child Labour:
Alongside adult bonded labour, children are also involved in this oppressive practice due to financial constraints. They are forced into this by either being sold into bondage by their parents, being abducted by contractors, or inheriting the debt from their parents when they die. The child is vulnerable to physical, emotional, and sexual abuse and the severity of work conditions are far greater as children are easy to exploit. They are paid less compared to the labour they produce and children as young as six spend long hours weaving carpets or molding clay for bricks.

A young Indian bonded child laborer tears up as he waits to be taken away after being rescued during a raid by workers from Bachpan Bachao Andolan or Save the Childhood Movement, at a garment factory in New Delhi, India, Tuesday, June 12, 2012.

BONDED LABOUR AS OPPOSED TO OTHER KINDS OF OPPRESSIVE PRACTICES
It is very easy to mistake bonded or debt labour with other labour acts as interchangeable or synonymous practices. Despite being interconnected, forced labour, slavery, and debt bondage are all very distinct in nature and disposition. They are recognized as three different oppressive activities under international law. There is a common misconception that people are trafficked and forced into bonded labour. The worker has willingly submitted to the employer due to his or her dire circumstances, but the agreement has its consequences where the employer has the authority to take full advantage of those in debt.

It is most common to confuse debt bondage with forced labour. Their differential factor is the element of consent involved in debt bondage, as forced or compulsory labour "means all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered him/herself voluntarily." Threats of physical torture, denial of rights, and confinement of the individual are all parts of forced labour. The 'employer' does not hold ownership of the labourer or his/her family and therefore is typically only practiced for a certain period of time.

**CAUSES OF BONDED LABOUR:**

The main cause of bonded labour is the economic factor that comes into play which includes; "extreme poverty of people, inability to find work for livelihood, inadequate size of the landholdings to support family, lack of alternative small-scale loans for the rural and urban poor, natural calamities like drought, floods etc., destruction of men 'animals, absence of rains, drying away of wells, meagre income from forest produce, and inflation and constant rising prices."
However, the origin lies mainly in custom and culture, with social and religious factors entwined in the practice. The custom of spending lavishly on weddings, death, birth, and any cultural occasion is prevalent in South Asian societies. Many lower-class minorities, as a result of gender and ethnic biases, are subjected to bonded labour. It has its roots in the caste system and people who migrate most likely do not have land or education and are in a desperate need for stability, which makes them exploitable. The majority of Pakistan’s bonded labourers belong to religious or lower caste minorities and hence is rooted in socio-cultural discrimination to a large extent. Religious discourse is used to convince lower caste people, who are illiterate and ignorant to their own rights under the law, to serve those "superior" or from a higher caste than them.
**LAWS SAFEGUARDING THE RIGHTS OF BONDED LABOURERS:**

Despite the presence of laws and measures pertaining to the abolition of debt bondage, it remains pervasive in Asia to this day. Some of the countries where laws exist alongside bonded labour are as follows:

<table>
<thead>
<tr>
<th>Country</th>
<th>Laws/Measures taken against bonded labour.</th>
<th>Is bonded labour still practiced?</th>
</tr>
</thead>
<tbody>
<tr>
<td>India</td>
<td>Bonded Labour System (Abolition) Act 1976.</td>
<td>Yes</td>
</tr>
<tr>
<td>Nepal</td>
<td>Kamaiya Labour (Prohibition) Act 2002.</td>
<td>Yes</td>
</tr>
<tr>
<td>Bangladesh</td>
<td>(To some extent under) Prevention and Suppression of Human Trafficking Act (PSHTA)</td>
<td>Yes</td>
</tr>
<tr>
<td>China</td>
<td>Worst Forms of Child Labour Convention (1999). Has not ratified the Abolition of Forced Labour Convention initiated by the UN.</td>
<td>Yes</td>
</tr>
<tr>
<td>Japan</td>
<td>To some extent under the Technical Intern Training Program (TITP)</td>
<td>Yes</td>
</tr>
<tr>
<td>Afghanistan</td>
<td>Abolition of Forced Labour Convention.</td>
<td>Yes</td>
</tr>
<tr>
<td>Country</td>
<td>Measures</td>
<td>Effort</td>
</tr>
<tr>
<td>-----------------</td>
<td>---------------------------------------------------------------------------</td>
<td>--------</td>
</tr>
<tr>
<td>Thailand</td>
<td>2008 Anti-Trafficking Act.</td>
<td>Yes</td>
</tr>
<tr>
<td>Turkey</td>
<td>No efforts to reduce debt bondage on a national level. Ratified Forced Labour Convention (1957) and Worst Form of Child Labour Convention (1999).</td>
<td>Yes</td>
</tr>
<tr>
<td>United Arab Emirates</td>
<td>The Permanent Committee for Labour Affairs (2015) to educated unskilled labour about their rights.</td>
<td>Yes</td>
</tr>
</tbody>
</table>

The UN adopted the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery which banned forced labour of all sorts i.e. debt bondage, serfdom, human trafficking, servile marriage, and also secured the abolition of slavery.

Amongst the Asian countries that signed this treaty, lawfully banning debt bondage, were;

1. India
2. Iraq
3. Israel
4. Pakistan
5. Russian Federation
6. Sri Lanka
7. Turkey

Some states in India have taken constitutional methods to abolish bonded labour from their society. For example, the Bihar Kamianti Act was passed in 1920, the Madras
Agency Debt Bondage Regulation in 1940, Kabadi System Regulation in Bastar in Madhya Pradesh in 1943, Hyderabad Bhagela Agreement Regulation in 1943, Orissa Debt Bonded Abolition Regulation in 1948, Rajasthan Sagri System Abolition Act in 1961 (which was amended in 1975), and Bonded Labour System (Abolition) Act, Kerala in 1975.

Pakistan has also passed laws against forced and bonded labour. Article 11 of the Constitution states;

"Slavery is non-existent and forbidden and no law shall permit or facilitate its introduction into Pakistan in any form. All forms of forced labour and traffic in human beings are prohibited."

Other than these constitutional provisions on bonded labor, government of Pakistan has enacted a special law for eradication and abolition of bonded labor in the country which goes as follows:

Bonded Labor System (Abolition) Act, 1992

Bonded Labor System (Abolition) Rules, 1995
"In accordance with section 4 of this act, bonded labor system stands is abolished in the country with commencement of this act and the bonded laborers are set free from that day and are not under obligation to serve the creditor. Moreover, all agreements or even tradition/custom/practice of bonded labor is void and any liability to pay debt is extinguished from the commencement of this act. No suit can be filed for recovery of this debt and every order issued before commencement of this act (in 1992) for recovery of bonded debt is void. This act also requires the restoration of property of a bonded labor, which was forcibly taken by the creditor for recovery of his debt. This law requires the creditor not to accept any payment against any bonded debt."
QARMA:

1. Should Debt Bondage be treated as an independent ‘crime’ or should it be classified under the Forced Labour laws which also consists of other types of labour?
2. Can Bonded Labour be justified to any extent under the bureaucratic and systematic structure of our current nation states?
3. How have the past actions failed to resolve the issue at hand?
4. What regulations must be in place to contain the issue at hand?
5. What measures need to be taken to target the root causes of the issue at hand?
6. How will these measures be executed for long term sustainability?
References:


