India

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

In 2009 the Delhi High Court overturned a portion of section 377 of the penal code, which prohibited same-sex sexual activity. Section 377 still applies to cases involving minors or coercive sex. While a few groups and individuals challenged the ruling in the Supreme Court, within a few days of the announcement the government decided not to oppose the verdict. The Supreme Court did not render a judgment on the appeal by year’s end. The law was still used sporadically to target, harass, and punish lesbian, gay, bisexual, and transgender (LGBT) persons.

Although LGBT groups were active throughout the country, sponsoring events and activities including rallies, gay pride marches, film series, and speeches, they faced discrimination and violence in many areas of society, particularly in rural areas. Activists reported that transgender persons who were HIV-positive often had difficulty obtaining medical treatment. Activists also reported that some employers fired LGBT persons who were open about their sexual orientation or gender identity. LGBT persons also faced physical attacks, rape, and blackmail. Some police committed crimes against LGBT persons and used the threat of arrest to coerce victims not to report the incidents. Several states, with the aid of NGOs, offered police education and sensitivity trainings.

On July 4, Health Minister Ghulam Nabi Azad stated during an AIDS conference in New Delhi that men having sex with men is a “disease” and “unnatural.”

The benefits accorded to transgender persons vary across the country. Tamil Nadu established a transgender welfare board in 2008 and provided separate identity and ration cards to transgender persons. In November 2010 the state of Karnataka announced that transgender persons would be included in the “Backward Classes” list, making them eligible for pensions, ration cards, and housing assistance under a reservation scheme. The National Legal Services Authority included transgender persons in the definition of marginalized groups, enabling access to free legal aid.

On July 12, newspapers reported that military police charged with protecting the South Central Railway arrested 212 transgender persons during 564 coordinated campaigns in Hyderabad during the month of June “to eradicate the alleged menace of eunuch.” Authorities reportedly filed charges against 201 of those arrested. Trials were pending for 26 persons; 11 were sentenced to imprisonment, and approximately 35,000 rupees ($665) in fines were collected.

There were a few positive developments for transgender persons during the year. For example, on March 3, newspapers reported that voters in Tamil Nadu had been able to enroll under the “others” category in the voter list. In the Chennai District, 292 transgender persons were enrolled as “others,” as were 209 persons in Tiruvalur District. On April 5, the names of 30 transgender voters in Kancheepuram District were included as “other” in the supplementary voter list. On August 8, the Ministry of Social Justice and Empowerment informed parliament that the ECI had directed the chief electoral officers in all states to modify electoral rolls to include the option of “other” under sex for eunuchs and transgender persons.

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