HOMO SEX PRACTICE AND MARRIAGE (As on 24 July 23)

Professionals' Statement to enhance clarity to the decision makers in the Executive, the Legislature and the Judiciary.

1. The Petitioners requesting for annulling the penal provision of Indian Penal Code 377 covering the LGBT (Lesbian, Gay, Bi sex, Transgender) persons, had based their claims on their following two premises:
   a) "The LGBT persons have genetic prenatal psycho physical predispositions that predetermine their divergent copulative expressions in their reproductive systems. Therefore, they cannot be penalised for their innate predispositions. This penal clause violates their rights under Articles 14, 15, 19 and 21 of our Constitution."
   b) "The above penal provision stigmatises their predispositions and drives them to secrecy in their copulative expressions which in turn prevents them from openly seeking and receiving curative treatment for the resulting very high prevalence of STD and HIV illnesses among them - a health fact acknowledged by the LGBT persons and the medical community."
2. Some of these Petitioners had cited their psycho medical services and references as evidence to claim that the LGBT conditions are genetic and prenatal and that these conditions are and can be diagnosed, measured and certified by professionals by psycho medical tools.
3. The State and the Judiciary in response to the above petitioners amended the penal coverage of IPC377 on the LGBT adult, same gender, copulative expressions, done on mutual consent, as this penal clause is considered to violate the above mentioned Articles on their right to personal life, privacy and freedom, even if that may imply possible major health risks for the above LGBT persons and others.
4. We the undersigned Indian professionals (Medical and Behavioural professionals, Biologists, Geneticists, Sociologists, Cultural anthropologists, Legal analysts and others) support whatever provisions the State and the Judiciary plan to make for the long neglected Transgenders for their socio economic uplift including Reservations on par with the SC / ST. They constitute 487,803 persons as per the 2011 Census of India. Their emancipation deserves immediate action. They are a Bounded Set, well defined in 2014 by the Supreme Court, as the Third Gender, to facilitate steps for their emancipation.
5. Several faith communities grossly neglected the Transgender persons for millennia, some even ostracised them, eventhough their own scriptures (from 700 B.C.) command special care for the Transgenders. The State's response has been minimal to their plight for survival, for the last 70 years.
6. The reproductive expression of Transgenders does not come under the purview of the State or its Judiciary as their expression within their own gender does not amount to the legal definition of 'copulative (sexual) act'. The term "Sex" is found neither in medical science nor in our Constitution. Almost all of the Transgenders are forced into copulative act across their gender, only because of their extreme economic destitution. Economically independent Transgenders do not entice or molest other genders nor abuse children. However, they need to be brought under the protection and health care surveillance of the State for their own safety against abuse by other genders. For this purpose, the IPC needs to be suitably amended.
7. As for the Bi sex practitioners, they do not carry any Bi sex gene according to bio medical research. Vide the References below. Most Bi sex practitioners develope the desire postnatally from the cultural environment of free or forced gender mixing in all social spaces and institutions, resulting in high level of gender incongruity. While Feminism strengthens the female gender, Feminihilism negates gender. Bi sex practice is predominantly a matter of personal choice and desire. We see that in the Cannanite record of 1800 B.C. Desire cannot legitimise deed if that deed is detrimental to societal health, especially against our children, as in the case of laws on narcotics and media porn. Bi sex practitioners are not a bounded set. They walk in and walk out of bisex. They can be helped if they are willing. They are the main conduit for the transmission of STD and AIDS from the homo sex practitioners to the hetero sex practitioners according to global level researches. Vide References. The Bi sex practitioners can have their freedom of choice but not both options. Therefore, IPC377 needs to continue to cover them.
8. There is no fencing between Bisex and Bestial sex (between humans and animals) and Group sex (Polyamory) practices. It is mostly a matter of desire and choice. None of these three are bounded sets. They cannot be genetically measured. It is well established that relation between Primates (chimps and humans) transferred SIV into HIV around the year 1920 in Kinshasa in D.R.Congo, the birth place of HIV and known for its commercial sex and homo sex. To prevent or arrest the above danger spreading to all our Indian towns and villages IPC377 needs to continue to cover the Bi sex, Bestial sex and Group Sex practitioners.
9. Among the LG practitioners, the 300,000 Lesbians pose lesser challenge, health wise, than the Gays because of the nature of their copulative expressions. Anal and oral copulations by homo sex practitioners are 15 times

more powerful in transmission of STD and HIV infections compared to normative hetero sex act, according to all reliable medical findings. See References.

10. Therefore the freedom of the Gays (men having sex with men, called MSM) is the core of this contention. There are about 700,000 Gay persons in India. The highly reliable researches cited below have found that both genetic prenatal factors as well as postnatal environmental factors result in divergent copulative desires in some persons to varying degrees in their reproductive systems. Refer to the Kinsey Scale which quantifies this. Though Kinsley is not the best measuring scale it is the only measuring scale as of now.
11. Our State and the Judiciary could not delay their rendering justice to the aggrieved party till a final finding could come from genetic research on the origin on Gay, whether it is primarily from nature or nurture or both and whether it is reversible or not and how far.
12. The State and the Judiciary therefore had to go by the principle of minimum harm or risk to the larger society with reasonable liberty to the aggrieved party as in the case of liquor, tobacco, abortion etc.
13. Now that the Court verdict is given, all necessary preventive measures and spacing must be enacted like the Vishaka in advance to prevent the spread of HIV and other STD from the LG, especially from the Gay to the normative (hetero sex) practitioners and their children. As the radiation shield is tested and certified before a nuclear reactor is commissioned and as the seepage is tested and certified before storage in a dam, this is mandatory because:

a) By acknowledged global medical statistics Homo sex practitioners molest children much higher than the hetero sex practitioners. Vide References. The U.S, National Institute of Health Report of 1995 in its "Abstract" states: "This suggests that the resulting proportion of true paedophiles among persons with a homo sexual erotic development is greater than that in persons who develope hetero sexuality". This is affirmed by the Los Angeles Police. The American Psychiatric Association removed Paedophilia from the list of mental illnesses (because APA removed Homo Sex from that list in 1974) except when the child molester feels "subjective distress". As a result, the abused grow to become abusers, the main cause for the rapid spread of homo sex practice in the West. Vide References. These children acquire homo practice still being on grade 0 on the Kinsey Scale. The Homo sex molester is not responsible for these children if he 'genetically' acts so. The State only is responsible to protect our children. Therefore, adequate preventive protective isolation clauses must be enacted covering all social spaces, work places and educational institutions.

b) Many hetero sex teens and twenties (who are Grade 0-2 on the Kinsey Scale) enter homo sex practice by choice or by force, in their hostels, camps, juvenile homes, prisons, army and navy and continue on, largly till their marriage. All officers and wardens in India know this open fact. San Francisco the national settlement area for all the ex army men has a percentile of homo sex practitioners nine times higher (15.4%) than the U.S. national average (1.75). (William Institute, UCLA, School of Law, USA 2011). The San Fransiscans do not carry any unique **homo gene.** They pick up homo sex practice in the army and spread it to the civilians, on return, because a homo sex practitioner needs several sex partners either serially or parallely. (W.H.O. "AIDS" Journal March 2006 Vol 20, Issue 5, research on 4295 high risk MSM in 6 U.S. Cities gives a median of 7 homo sex partners; JAIDS Journal Aug 2006 Vol 42 Issue 5 research on MSM through 102 French Hospitals gives the median of 10 partners; U.S. National Institute of Health May 20013 gives 4 partners in 12 months; Belgian Association of Public Health gives 3 casual partners beside the main partner in 12 months.) See also References cited below. There are monogamous exceptions but they are extremely rare exceptions. Therefore, IPC377 must continue, in order to deter the above hetero sex persons from continuing on their homo sex practice for fun. Adequate preventive clauses must be enacted covering the work space, living space, social space and educational institutions against homo sex molestation.

c) Most advocates of 'All sex for all' and their mass media publically promote homo sex among hetero sex husbands as an answer to their higher level of reproductive urge, even as these advocates promote full sexual freedom for the wives to refuse sex to their husbands because of their own demanding work life or any other personal factor or sexual choices. Legalising Bi sex will convert a vast percentage of hetero sex husbands into Bi sex practitioners because a consenting male will become more readily available than a consenting wife. Therefore IPC377 needs to cover Bi sex practitioners.

d) **'Sexual Harassment' is gender neutral. Any gender can molest any gender**.There is an Egyptian record on such female molestation as old as 1700 B.C. and Roman records from 200 B.C. Our Sexual Harassment Act of 2013 is obsolete unless it is amended to include all genders. The Indian Penal Code on sexual harassment including Rape must cover all genders including the Homo sex practitioners, on complaint from any victim of any gender of any age, of such harassment.

e) Below given are some very concise and minimal data from the records of National Health Dpartments of various nations. For full details see References.

The American Journal of Public Health Dated June 2011 published by the American Public Health association in its Report on “Sexual Orientation and Mortality Among the 5574 U.S. Men aged 17 to 59 years surveyed up to the year 2011” says in its “Results and Conclusions” “Compared with heterosexual men, MSM (Gays) evidenced greater all-cause mortality rate. Approximately 13% of MSM died of HIV compared to 0.1% of men reporting of only female partners.” “In the U.S. the HIV epidemic continues to be the major contributing factor for premature death rates among the MSM.”

“The statistics from the U.S. Center for Disease Control and Prevention (CDC) report new cases of HIV diagnoses 44 times higher than that of hetero sexual men.” But CDC no more keeps record of the mortality (life longevity) rate of MSM, as a politically smart decision.

It must be noted that the above Reports are post 1996 when HAART (Antiretroviral) treatment started and reduced the mortality rate of HIV patients in comparison to pre 1996 when the Gays premature death was as much as 20 years shorter. Still the rate of prevalence of HIV among the Gays itself has not changed as per the Report of the Center for Disease Control of U.S. dated June 2001. It says “As of 31 Dec 2000 of the 777,467 AIDS patients in the U.S. 41% were MSM” who are only 1.7 % of the national population.

In Canada the British Columbia Center for HIV/AIDS published in 1997 its survey of Vancouver City from 1987 to 1992 reports that “Life expectancy at age 20 of gay and bisexual men in Vancouver City was 8 to 21 years shorter than that of all men in that city.” It must be admitted that this mortality rate is of a pre 1996 context. But the percentile prevalence of HIV among the Gay has not changed after 1996. Any new survey on the Gay mortality rate was avoided by intent.

This brevity of life span is related to 72 % prevalence of STD among the Gays in the US. 55% of all AIDS cases in the US are found among the 1.7% Gays, with 29,000 new cases being added annually as per official records on the year 2009.

In Denmark, the first nation in the world to legalise Gay marriage the research by the American Public Health Association Report of Jan 2009 says, “Among the surveyed 4914 Gays and 3419 Lesbians who married between 1989 and 2004 the mortality rate exceeds those of the general population.” Further research are avoided.

In South America as of December 2001, 1,820,000 adults have HIV with annual addition of 190,000. The percentile prevalence of HIV among the Gay in Latin American cities varries from 5 to 20 percent according to W.H.O. AIDS Journal of Dec 2002.

In India as on 2015 per official records there are 2.1 million persons with HIV and 80,000 new cases being added annually. Of this 62,000 die of AIDS annually. Among the Gays 18.1% have AIDS. Neither the National Aids Control Organisation nor the Ministry of Health have published the current Mortality Rate of the Homo sex practitioners.

Apart from the above contagious STD diseases, the LG suffer from very high level incidences of life style illnesses like anal and oral cancers, Hepatitis A and B, in comparison to the general population. See References especially from the Medical Journal of Australia 2006 and the Journal of Nursing Clinics in North America 2004. Official surveys to gather the latest Life Span data of homo sex practioners are intentionally avoided after the year of legalising Gay sex.

While every effort must be taken by all of us to include and to fully care for our LG persons, care must be taken simultaneously to prevent further spread of STD and AIDS in to the general hetero sex population from the LG. According to W.H.O. as on March 2006 the average of HIV infection among the MSM is 32.3 percent. The hetero sex normative citizens’ tax money bears the high cost of these diseases among the homo practitioners. Liberalising homo sex practice free for all hetro sex practitioners in India will increase this health cost, hundred folds.

f) **HOMO MARRIAGE**: **Most children adopted / surrogated by the Gay and the sperm donor born children to the Lesbian, suffer serious behavioural problems. Every behavioural scientist knows that a child needs both his / her biological father and biological mother in order to grow healthy. A fatherless or motherless child by chance (death of biological parent) may manage to grow healthy. A fatherless or motherless child by parental choice (divorce) struggles to grow normal. However the most vulnerable**

child is a child intentionally created fatherless or motherless to suit the sexual life style of the Gay / Lesbian. There is abundance of statistics (see Refences) to show that such child resents its forced artificial creation and forced artificial non biological parentage and responds by criminal activity, gender incongruity and suicidal tendency. 85 % of all children with behavioural disorders, 90 % of runaways, 71% of school dropouts, 75% of young drug abusers, 63 % of youth suicides, 85% percent of juvenile prisoners come from fatherless homes. (U.S. Center for Disease Contol, D.H.H.S Bureau of Census, National Principals Association, U.S. Dept of Justice, Texas Dept of Corrections). Motherless homes fare no better. The teenage mass shootings in the West today is only a micro miniature mirror of what is in store to explode. It is a crime against the fundamental right of the children under our Constitution especially Article 14 and 15 (discrimination on the basis of small age) and Article 19 (a), (d), (e) and Article 21 (the right to have and stay with biological parents). This crime falls under the realm of Child Trafficking. IPC377 needs to be suitably amended to prohibit Gay Marriage, surrogation, fertilisation and adoption of children for the LGBT.

g) **The reason: Marriage is a social contract, made by a whole community to help the couple reproduce and collectively nurture the reproduced in order to perpetuate their community. The bigender wedding gathering is the formal ceremony of commitment made to that social contract by that entire community present at the wedding. Gay marriage is the Trogen Horse designed to destry that social commitment and contract between the bigender two persons vis a vis their community. Therefore Gay marriage must be prohibited.**

h) 'Mutual Consent' of medically uncertified SMS does not end at two. It can cover a crowd. It can include Homo clubs patronised by hundreds of homo, bi sex and group sex customers served by professional male and female sex workers in India today - a high breeding ground for HIV, STD and major life style illnesses. See References.

i) **Our Court was requested by our 2 million LGBT to exempt them from IPC377 as they claim to be genetically pre conditioned in their copulative desires. The Court was not asked by our 1,400 million hetero sex practitioners to exempt them from IPC 377. Such judicial over reching legislation will encourage the 1,400 million hetero sex citizens to enter into homo sex acts as their additional adventure. IPC377 needs to continue to cover all citizens other than the medically identified LG.**

j) The rationale that India must follow International conventions is not absolute nor binding. While it is reasonable for India to be guided by international conventions, **India must guide the international conventions when they go irrational.**

k) 'Equality' under our Constitution (Article 14) requires "classification based on intelligible differentia" of people as per the measured needs and rendering each of them appropriate nature of services in order to "achieve the objective" of Equality. (For example Reservation to the SC/ST). This is not social discrimination but social discretion mandated by our Constitution.

14. To meet all the above mentioned needs is it is **mandatory to medically screen the LG persons and classify** them as per Article 14 of our Constitution (like our ART Certification) in order to:
    a) Enable our Judiciary and the State to first **define the affected party.** To allow any citizen to self certify as affected party will raise question on our jurisprudence. The above Petitioners advocating for Gay sex have vouched that the genetic condition of the Gay and the Lesbian are psycho medically measurable.
    b) Make all the above provisions and health services to LG persons available, accessible, affordable and **mandatory** to the medically certified.
    c) Medical Certification will prevent the normative boys and men from continuing to play homo sex practice and self certify to be genetically homo and become conduit to further spreading of the above mentioned diseases into the general public. IPC377 will stop their play.
    d) The medical certification will prevent the certified from molesting others and thereby proliferate into the general population of normative (hetero sexual) children, teens and adults; because according to WHO acknowledged medical statistics most homo sex practitioners have several sex partners either serially or parallely.
    e) Medical certification will remove the psychological and social stigma suffered by the LG and make the State provision open, accessible and official as in the case of the blind, the disabled and all other

disadvantaged persons. Then the Cortisol level in the LG will improve which will in turn improve their general health.

f) 2.5 million persons self declared in 2012 to the Department of Health as Homo sex practitioners as per the Report submitted to the Supreme Court by the Union Government. This includes Bi sex practitioners and a large number of genetically hetero sexuals (grade 0-2 in the Kinsey Scale) who acquired homo sex practice postnatally. Therefore, most of them are reversible to normative hetro sex if they want to. Most of them are not aware that this service is feasible or available. Many of them will prefer to keep homo sex practice as an additional privilege instead of a necessity if the penal clause of IPC377 is removed for the uncertified.
g) The State and the voluntary professional agencies (both secular and faith based) have the responsibility to be very inclusive and serve, encourage and rehabilitate the willing reversible persons instead of ostracising them.
h) Thousands of reversible gay practitioners have received this reparative service with the help of Behavioural professionals (both secular as well as faith based). See References. Or else they must come under the health care surveillance of the State. Their right to Freedom and Privacy does not annul this health surveillance and service by the State. **Privacy is not secrecy**.
i) The National AIDS Control Organisation has a major responsibility in this rehabilitation of the willing reversible persons.
j) There are around one million LG persons among the 1,400 million Indians. Their exact number is irrelevant here. That number will emerge from the medical certification. We have done medical certification of our 12 million visually impaired. We have done within four years the bio metric certification of our 1,400 million citizens. We can do the above biomedical certification of our one million LG within 30 days through our 700,000 Indian doctors.
k) For all other citizens IPC377 needs to apply in suitably amended form.

The real demand is not for or against IPC377. The real demand is for removing the ‘Reproductive and Nurturing responsibility and related Social Health’ from the purview of the State and Judiciary on the pretext that it is synonymous with ‘Sex’ the unscientific, un Constitutional term, thus pushing it entirely and exclusively into the **secret domain.** This premise has no relation to the supreme reproductive and nurturing responsibility of us the rulers of our nation toward our future rulers. When the reproductive sustenance and nurture of our next generation is removed from the agenda of our State and our Judiciary, eventually there will remain no other agenda for our State and our Judiciary to govern.

The wise said “Do not pull down an old, long fence, in an unfamiliar ground, until you learnt fully why it was put up first. If that fence does not serve fully the current needs, put up a gate with a watch in the fence but do not pull down the fence. Because every gate stands because of a fence for some purpose”.

The LGBT are our own people in our towns, our villages and our families. To include them in our full care and concern does not need more litigation but tangible actions by all of us. That inclusive full care implies, first of all, their **Certification** (Classification under Article 14), health care, both individual health and national health; both physical health and social health; both for short term and generational term. That responsibility does not rest with our Court but with us the sovereign citizens.

Disclaimer: Every effort was taken for ensuring the validity of the statements and the accuracy of the References cited herein. Inadvertent errors are regretted and will be rectified if brought to our notice in official channel. Each source cited herein is responsible for its statement. The below professionals and scholars endorse the above Statement in the area of their respective specialisation only and not necessarily the whole Statement. We regret any perceived offence by any statements above on this sensitive matter in our duty to safeguard the wefare of all our our younger generation inclusive of all genders.

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