By now you must have perused the judgement of the Supreme Court of India which has partially struck down Section 377, Indian Penal Code (IPC) which hitherto criminalized any sexual act against the order of nature. The judgement was delivered on September 6, 2018.

To recapitulate, the Indian Government had informed the Supreme Court that it leaves it to the wisdom of the Court to decide the issue. Actually the entire ruling class parties abdicated their responsibility of addressing the issue through Parliament – which alone, and not the judiciary, represents the will of 1.35 billion people of India.
The slick high profile lawyers, counsels who appeared in the court and the extravagantly foreign funded NGOs¹ buckled under judicial pressure without even a whimper of protest in toning down the original demand of complete repeal of Section 377, IPC as demanded by ABVA in the first ever challenge to the constitutional validity of Section 377, IPC way back in 1994 in the case filed before the Delhi High Court: 

*AIDS Bhedbhav Virodhi Andolan vs. Union of India & others.*

The case was filed by ABVA through its member and advocate Shobha Aggarwal.

On the recent Supreme Court judgement we urge you to immediately bring – as a first step – an Ordinance ordaining that the whole of Section 377, IPC stands repealed. The speed with which the Ordinance should be brought must match the speed with which the Ordinance on triple talaq has been surreptitiously introduced; or a Bill could be introduced in the coming winter session of the Parliament. Media reports in the last 7 weeks indicate that several same-sex couples are approaching High Courts of different states for relief and security in being allowed to stay together. They should not be forced to go through this ordeal just close on the heels of the Supreme Court judgement of 6 September, 2018.

The piecemeal relief provided by the Supreme Court to LGBTQI community will certainly not alone resolve the long standing demands made by ABVA in 1991 – and towards which successive Central Governments of all hues have indulged in masterly inactivity.

We quote from [http://www.edexlive.com/people/2018/sep/06/verdict-on-sec-377-is-rubbish-says-lgbtqia-activist-and-academic-ashley-tellis-3888.html](http://www.edexlive.com/people/2018/sep/06/verdict-on-sec-377-is-rubbish-says-lgbtqia-activist-and-academic-ashley-tellis-3888.html) one of the most respected LGBTQI activist’s and academician Ashley Tellis – the conscience keeper of sexual minorities – who has suffered all his life on account of being open about his sexuality; the frequent loss of jobs is but one aspect of his being at the receiving end of the establishment:

“It just renders privacy rights to elite gay people. I’ve made this point again and again. Nobody wants to listen because of the mindless hysteria around the subject.”

“Privacy in this context is a classist idea. Only people who have a bedroom can have privacy. Hijras on the road who are often forced to have public sex for money to survive don’t have this privacy. They are harassed by the police, their clients and the societies around them. This doesn’t change anything for them and the rest of the LGBTQ community on the ground. People have bedrooms and privacy everywhere. They don’t need a special law to change that. This is something those who are privileged exercise anyway. I don’t think there will be any actual change on the ground.”
The Supreme Court judgement refers to studies quoted by petitioners indicating the LGBTQI population to be about 7 to 8%. Now in a country of 1.35 billion people it translates to a population of 100 million people belonging to the sexual minorities. The youth constitutes 60% of this population. About time the political parties should appreciate that a population of 100 million people constitutes the second largest minority community in India next only to the Muslim community; and that the sexual minority community can influence, nay change the contours of government formation – both at the Centre and state level in future, nay as early as 2019.

It may be recalled that Barack Obama was able to make it to his second term as President of U.S.A. due to inter alia LGBT votes, which went predominantly in his favour. Future ministers in Indian Government could well include a Christian Lesbian; Muslim Gay; Sikh Queer; Tribal of Mongoloid race (from the North Eastern States of India); Transgender; Dalit (of Dravidian stock) Bisexual. This political formation could be the best bet for a secular, democratic regime.

The political interests of the working class (workers, farmers) would need to be assured. The Pride marches undertaken by the LGBTQI persons from time-to-time could evolve after a long, long haul into a Self-Respect Movement. The transgender community (eunuchs) have led the way for the rest of the sexual minorities group; they have been in electoral politics for over two decades and several of them have won elections to become Mayors and members of legislative assemblies in towns/cities.

We reiterate the updated Charter of Demands for your kind consideration and positive action:
1. Repeal Section 377 of the Indian Penal Code **in full**, instead of in part as done by Supreme Court judgement dated 6 September, 2018 in Navtej Singh Johar vs. Union of India; the relevant sections of the Army, Navy and Air Force Acts, 1950 should also be repealed in full.

2. Enact civil rights legislation to offer LGBTQI citizens the same protections now guaranteed to others on the basis of caste, creed, and colour.

3. Reform police policy (for example, by calling a meeting of senior police officers, including all Station House officers (SHOs)), to put an end to the harassment of gay people at the hands of the police and public. Police authorities should take the initiative to make available information on all local public nuisance laws used on gay people in public places, and the relevant procedures and penalties specified therein. They should also make public the numbers of arrests, prosecutions and convictions of gay people under various laws along with the period of sentence, amount of fine and age of the offenders.

4. Establish a Commission to document human rights violations of gay people, such as violence and blackmail directed at gay men and lesbians, as well as atrocities within marriage on lesbians who may be married to men.

5. Redefine the offence of rape in the Indian Penal Code to include all coercive sexual acts rather than only vaginal penetration. Rape laws should be made applicable to both men and women, irrespective of whether they are gay, non-gay, married or single.

6. Have the Press Council of India issue guidelines for respectful, sensitive and representative reporting on gay men and lesbians and issues around homosexuality.

7. Have the Medical Council of India (MCI) issue guidelines to the effect that refusal to treat a person on the basis of his/her sexual orientation is a cause for censure on grounds of professional misconduct. Bring medical curricula in schools and medical colleges in line with the latest scientific theories of homosexuality.

8. Consider unethical any reckless and uncalled for sex-change surgery without informed consent and counselling. Counselling should be made available to help a person deal with the normality of his/her gender incongruities. Any irresponsible experimentation by medical professionals in this area should be made punishable by law.

9. Institute a massive, nation-wide survey of sexual behaviour in our society.

10. Ensure that everyone receives judgement-free health education related to sexuality, homosexuality, Sexually transmitted Diseases (STDs), HIV testing, AIDS and condom use. All AIDS-related education should explicitly acknowledge sexual interaction between people of the same sex.

11. Make available anonymous HIV testing facilities for all.

12. Alter the heterosexist bias in education, from school onwards, by presenting positive images and role models of gay man and lesbians and of homosexuality as a viable, healthy alternative lifestyle.

13. Amend the Special Marriages Act to allow for marriages between people of the same sex (or between people who may be inter-sexed, or have undergone sex-change surgery, and any others) making marriages as legal when solemnized in the presence of friends, relatives or any other person by exchanging garlands or rings or by a declaration in a language understood by both parties that they accept each other to be their spouse. **All consequential legal benefits of marriage should extend to gay marriages as well, including the right to adopt children, to execute a partner’s will, etc. Same-sex couples should also be entitled to the legal benefits that accrue to their heterosexual counterparts of common law marriages.** No presumption as to fitness or unfitness for custody of a child or visitation rights shall arise based on sexual orientation of either parent in such a situation. In case marriages among members of sexual minorities group are to be undertaken in a temple, the facility of a non-Brahmin priest duly trained at a Government centre should be provided.³

14. Alternatively, **legally recognize and encourage friendship agreements between single people of the same-sex as a valid way of organizing family life.**

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¹ It may be recalled that both Lawyers Collective and Naz Foundation, India’s representatives had been hobnobbing with the Indian Government (NACO, Health Ministry etc.) over AIDS and related issues. Both receive massive foreign funds. The head of one of these NGOs has been bestowed an award by the Indian Government; in fact in 2001 the demand for repeal of Section 377, IPC had been toned down by NAZ even in its prayer before the Delhi High Court.

² Tamil Nadu legalized the concept of Self Respect Marriages advocated by Periyar E.V. Ramasamy, devisor of Brahminical priests and rituals through an exclusive enactment in 1968!

³ In December 2015, the Supreme Court of India gave a verdict which allowed the appointment of duly trained priests from any caste.