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Between Love and Law: Human Rights and Decolonial Advocacy in India's LGBTQ+ Struggle

Aditya Anand Singh
Purdue University, The United States

Abstract

Human rights are often critiqued as Western, liberal constructs that legitimize neocolonial ideas and modes of being. However, in India, activists and courts have justified the expansion of rights-based protections for the LGBTQ+ community by drawing on international human rights ideas in tandem with regional discourse around decolonization. This study examines how Indian LGBTQ+ rights activists and advocates, along with the Supreme Court, have reconciled these seemingly divergent discourses by fusing them instead of subordinating one to the other. Drawing on original, in-depth interviews with LGBTQ+ activists, lawyers, and NGO staff, along with a judicial analysis of three landmark Supreme Court cases, this study demonstrates that human rights and decolonization can be mutually reinforcing rather than antagonistic. This dual categorization has allowed the LGBTQ+ rights movement to anchor justice claims to the global human rights regime while also framing queer identity as inherently Indian as opposed to “urban, elite, and Western.” This research advances ongoing discussions in transnational legal studies and International Relations scholarship by examining how postcolonial actors pragmatically navigate global legal vocabularies and culturally embedded resistance to forward justice claims, while seeking to cause sociolegal change.

Keywords: human rights, decolonization, LGBTQ+ rights activism