**Where there is life, there is hope.**

“Whither has fled the visionary gleam, where is it now the glory and dream?” Wordsworth once wrote. The persons belonging to the LGBT community have come to the frontlines, like fearless roaring lions, often seen standing bravely despite deep wounds that have been inflicted upon them as a casual practice by the common masses.

We are in the middle of a revolution that is abundant in colours, enthusiasm, and forms of art that liberate the soul. We are fighters armed with courage, eyes filled with hope and a heart of steel that refuses to be conquered by defeat or adversity.

The Supreme Court of India, in its judgement of the Naz foundation case inflicted a severe blow upon the gay community by decriminalising Sec. 377 of the Indian penal code that defines sexual intercourse between the same sexes as an unnatural offence. If found guilty under this code, the law sentences imprisonment for life or up to 10 years.

The Apex Court in its wisdom rejected the numerous review petitions filed challenging its archaic perspective. The court chose to turn a deaf ear to the voluminous material that was submitted consisting of FIRs, judgments, affidavits, court orders and fact-finding reports that documented the rights violations suffered by the [LGBT](http://www.tehelka.com/tag/lgbt/) community under the shadow of [Section 377](http://www.tehelka.com/tag/section-377/), also accompanied by voices of several academicians, parents of LGBT persons, and mental health professionals.

The Honourable Apex court held that the challenge to decriminalise section 377 was baseless as the LGBT community was only a “miniscule fraction of the population.” Pehchan, a community based organisation working towards the prevention of HIV Aids and has programming in 17 Indian states has so far counted **more than 450,000 men who have sex with men, trans\* people and hijras and are still counting. Moreover,** in a diverse and plural country like [India](http://www.tehelka.com/tag/india/), it is the responsibility of the [judiciary](http://www.tehelka.com/tag/judiciary/) to ensure that the rights of “miniscule minorities” are protected regardless of the majority opinion. One fails to understand **with what mind did the judiciary dismiss about half a million of our population as an unimportant miniscule minority, depriving them of basic human rights that are universal in nature and are naturally granted to all citizens of India.**

Plato and Aristotle defined law as “an embodiment of reason” whether in the individual or the community. The verdict given against the interest of the gay community in India seems devoid of reason and instead appears to be soaked in deep rooted prejudice, intoxicated by the stupor of one’s own pre-conceived notions.

The impugned judgement has adversely affected the members of the LGBT community who bravely continue on their journey of self-identification, despite of having had their gender identity or sexual orientation questioned, criticised, ostracized and demeaned not only by the wagging tongues of those who claim to know better but also in the letter of the law. This excruciating trial wasn’t supposed to be easy in the first place. Now the verdict poses a clear threat and sets a stage for gross violation of Article 14 and 15 that emphasise on ‘Equality before Law’ and Article 19 and 21 that stand to protect the ‘Right to freedom’ of an individual.

One need not even bother to argue whether and if the apex court considered it necessary to give any solution or remedy addressing the torture and discrimination that the members of LGBT are subjected to. They are often subjected to contemptuous behaviour and tortured by the tyrannical and arbitrary practices of the police that often choose to target them for the sake of it, slapping them with false charges of rape, illicit sale or abuse of drugs, public nuisance and other crimes.

The Preamble and the Constitution of India boasts of having granted equal rights to each individual without any discrimination, acting as a benefactor endowing the right to life of dignity to all. It grants each citizen the right to move the court or to seek aid from the state authorities in case of infringement of one’s rights. Terms like Equality, Liberty, Justice and Fraternity appear hollow and meaningless when one is struggling with outright rejection, unchecked violence, and a confused sense of identity often leading to emotional or mental disorders.

Although undesirable injustice is a common phenomenon, for example an amendment to the Criminal Tribes Act 1871 prohibited eunuchs from appearing dressed or ornamented like a woman in a public place along with prohibiting dancing, playing music and taking part in public exhibition. These laws were later repealed for being unconstitutional.

Hope lives in various forms and the much-criticised Supreme court earned our blessings through its widely celebrated NALSA judgment in 2014, where the Bench of Justices K.S. Radhakrishnan and A.K. Sikri said that the “recognition of transgender as a third gender is not a social or medical issue but a human rights issue. Trans\* people are also citizens of India. The spirit of the Constitution is to provide equal opportunity to every citizen to grow and attain their potential, irrespective of caste, religion or gender.”

With respect to the subject of sexual freedom and expression it may seem that the worst has already happened, but the best is still to come. We shall create the best ourselves with dauntless perseverance, standing strong, knowing that we’re not wrong. It becomes a lot easier when we have the timeless support of Sigmund Freud who wrote ‘homosexuality is assuredly no advantage, but it is nothing to be ashamed of, no vice, no degradation; it cannot be classified as an illness. Many highly respectable individuals of ancient and modern times have been homosexuals, several of the greatest men among them. (Plato, Michelangelo, Leonardo da Vinci, etc). It is a great injustice to persecute homosexuality as a crime –and a cruelty, too.’