

The Doon School Model United
Nations Conference 2017

BACKGROUND GUIDE



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SABHA

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ABOUT DSMUN

The Doon School Model United Nations Conference is one of India's biggest and most reputed high school MUN conference. Inaugurated in 2007, the Doon School Model United Nations Society has consistently hosted a series of engaging, entertaining and intellectually stimulating conferences, with each leaving a unique legacy behind it. DSMUN has grown to be one of the key entries in every MUNning calendar. DSMUN has a history of attracting the best of, both, the Indian and the international delegates from the Pan-Asiatic Region. Over the years, DSMUN has never failed to surprise, with an array of committees ranging from the orthodox to specialised and unconventional simulations, from the regional to the international and covering a range of time periods.

The Doon School, one of India's most reputed and prestigious institutions, is a member of the G20 Group of Schools, The Headmasters' and Headmistresses' Conference, The International Boys' Schools Coalition and the Round Square Conference. With its motto, "Knowledge our Light", the school aims to mold its students into leaders for the future and gentlemen of service. Model United Nations has now become one of the largest and most popular activities in school with over 200 students being involved in it. The beautiful and serene 72 acre Chandbagh estate, in which the school is set, creates a scenic backdrop to the challenging and pertinent issues being discussed.

The DSMUN Secretariat is proud to host The 11th Doon School Model United Nations Conference from the 18th to the 20th of August, 2017. Popularly referred to as DSMUN '17, this year's conference promises to engage delegates with 14 diverse committees, each of which will discuss various relevant, thought-provoking agendas.

We look forward to seeing you in Dehradun later this year as the rains drench the Chadbagh estate.

Crises to keep you on your toes, unforgettable memories, interesting new people to meet and an experience worth a lifetime! DSMUN '17 will have it all.

DSMUN '17



Divij Mullick
SECRETARY GENERAL

Deep Dhandhania
PRESIDENT

Raihan Vadra
CHAIRPERSON

Sanidhya Mittal
Zohravar Bhatti
DEPUTY CHAIRPERSONS

A LETTER FROM THE SECRETARY GENERAL

Greetings!

It gives us great pleasure to welcome you all to the 11th Doon School Model United Nations Conference. Over the years, DSMUN has grown into one of the finest and most reputed high school MUN conferences in the country. This year too we hope to deliver the goods and make this year's session an unforgettable one. With agendas ranging from religious turmoil in the Middle East to the manhunt for Edward Snowden and Julian Assange, this year's simulations promise to be exciting, engaging and challenging.

I am a Humanities student and have a keen interest in Economics and History. Besides being a MUNner, I am a passionate theatre person and public speaker. I also have an interest in cricket and boxing.

I have served DSMUN in various capacities ranging from the Secretariat to being a delegate and eventually the Vice-president. DSMUN is an activity which has been very important to me during my school life and this time I am excited to head this very significant event.

I am indeed honoured to be working with such an accomplished and hard-working team on the Executive Board and look forward to a memorable time this fall!

Warm Regards,
(Divij Mullick)

DSMUN '17



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SECRETARY GENERAL

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DEPUTY CHAIRPERSONS

A LETTER FROM THE PRESIDENT

Greetings!

It is an honour and privilege to welcome all of you to the 11th Doon School Model United Nations Conference. Over the years, DSMUN has grown to be one of the most prestigious and competitive high school conferences in the country, and we hope that this year's conference will be a bigger success. With fourteen different committees ranging from the All India Political Parties Meet to the United Nations High Commission for Refugees, we have strived to design an exciting and engaging conference for participating delegates.

I have been involved in DSMUN for the past 5 years in various capacities including Media and the Secretariat. I have an avid interest in history, politics and international affairs and wish to pursue international relations in college. I am also a passionate hockey player and the Editor-in Chief of The Doon School Yearbook.

This year, Divij and I hope to make this conference a successful and a truly memorable experience for one and all.

Looking forward to meet all of you at Chandbagh this August!

Warm Regards,
(Deep Dhandhania)



Divij Mullick
SECRETARY GENERAL

Deep Dhandhania
PRESIDENT

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CHAIRPERSON

Sanidhya Mittal
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A LETTER FROM THE CHAIRPERSON

Speeches are heard, Votes are taken and Laws are made! Welcome to the Lok Sabha. I am honoured and privileged to be serving as the Speaker of this historic body at DSMUN 2017.

I am currently pursuing ISC Humanities in the SC Form (12th Grade). Outside the classroom, I have founded and manage I-Parliament, a youth parliament. Amongst other things, I have co-authored a research paper which has devised as a 'Well Being Index' for India. I also enjoy photography and shooting and am a Spurs fan.

The agendas this year:

- Section 377; and
- Demonetisation

both hotly debated topics in Contemporary India, you as an MP are expected to find acceptable solutions to the problems faced by the people while also keeping in mind your party policy and your constituents. You will be expected to come up with a resolution that keeps in mind all sections of society and upholds India's constitutional values.

I must remind you that as an MP, etiquette and decorum in the House is absolutely essential. As representatives of the people, it is our duty to espouse their causes while balancing political reality. I will request you to be well researched on both agendas. I hope you are as excited about this committee as I am!

Sincerely,
(Raihan Vadra)
Chairperson- UNSC

DSMUN '17

AGENDA 1: DEMONETISATION

INTRODUCTION

Demonetisation is the act of stripping a currency unit of its status as legal tender. It occurs whenever there is a change of national currency, when the government feels the need to demonetise their currency to combat corruption and/or inflation, when the government feels the need to demonetise their currency to discourage a cash dependent economy

and to facilitate future trade.

The current form or forms of money are pulled from circulation and retired, often to be replaced with new notes or coins. Sometimes, a country completely replaces the old currency with new currency (digital or otherwise).

REASONS

On 8 November 2016, the Prime Minister of India announced the demonetisation of all ₹500 and ₹1,000 notes. The government claimed that the action would curtail the shadow economy and then later stated that it would also crack down on the use of illicit and counterfeit cash to fund illegal activity and terrorism.

the government seemed to have been uncertain with regard to the root reason for demonetisation and was seen constantly changing its narrative.

The primary pitch and narrative of the demonetisation drive by Prime Minister Narendra Modi seems to

have taken a major shift to cashless economy from the initial key agenda of war against black money, corruption and counterfeit currency to war against terrorism to cashless economy. That's the inference one can draw from the PM's Mann Ki Baat speech on the 27th of November 2016.

"Our dream is that there should be a cashless society. This is correct that 100 percent cashless society is never possible. But we can make a start with less-cash society, then cashless society will not be a far-off destination," Modi said on the programme.

PROCEDURE

The case of demonetisation which we would adhere to would be that of the demonetisation of the ₹1000 and ₹500 notes across India.

The prime minister of India (Narendra Modi) announced the demonetisation in an unscheduled live televised address at 8:00(IST) on 8 November. In the announcement, Modi declared that the use of all ₹500 and ₹1000 banknotes would be invalid past midnight. The Prime Minister also announced the issuance of new ₹500 and ₹2000 banknotes of the Mahatma Gandhi Series in exchange for the old banknotes.

The entire process of demonetisation was long and strenuous and affected all walks of society. The final date of acceptance of demonetised currency (₹) was 30th December which was further extended to 31st march(only if a viable reason was given for not having deposited demonetised currency by the pre-mentioned deadline.

Demonetisation took place overnight but policy changes continued for a period of over two months with the government sure to implement more changes in his fight against black money.

REACTION

The demonetisation of ₹1000 and ₹500 notes attracted attention from all over the world as this was the first time demonetisation had taken place at such a large scale and in such a short time period. The Modi government's decision to scrap ₹500 and

₹1000 notes has received criticism both positive and negative depending on whom one speaks with or listens to. This move to combat tax evasion and end the "disease" of black money has been met with wide-ranging reactions from the public and polity.

While Delhi Chief Minister Arvind Kejriwal and Bengal Chief Minister Mamata Banerjee condemned the move, Bihar Chief Minister Nitish Kumar pointed out that the public would be inconvenienced for a short duration but the economy would benefit in the long-run.

The feeling that the Modi government should have given the public more time to adjust to the change was widespread.

The Congress Party said that the demonetisation was unfair to farmers who had to buy fertilisers and seeds in the market on the 8th of November. It was also deemed unfair as it would inconvenience those who had to buy necessary items for marriages.

On Wednesday, Congress Party Vice President Rahul Gandhi came out in opposition to Modi. "One Question for the PM: How is replacing ₹1000 notes with ₹2000 notes going to make black money hoarding a lot harder?" he tweeted.

A host of other opposition members came out on demonetisation and cracked down on the flaws of the procedure and decision to demonetise the ₹1000 notes and ₹500 notes. The predominant question put

fourth was that whether the deaths suffered in the chaos of demonetisation could have been avoided or was it absolutely necessary and best for the country for demonetisation to have been carried out the way it was.

This said one must not forget that the decision to demonetise the ₹1000 notes and ₹500 notes had and has many benefits. So much so that the move has received much international acclaim and support. Forbes in a statement mentioned that the move has been very well received and the degree of chaos that was anticipated has clearly been avoided. Washington Post stated that the move was highly "ambitious" but at the same time credited Modi for sticking to his election time vow of cracking down on black money and corruption. The Independent, a Singapore-based paper published a glowing article titled "Modi does a Lee Kuan Yew (Lee Kuan Yew was a reputed Singaporean prime minister for decades. He was credited for preventing the formation of a parallel economy in Singapore) to stamp out corruption in India".

IMPACT ON BLACK MONEY

The biggest objective of demonetisation is its contribution in fighting black money. India historically holds a big parallel economy where unreported income is the norm.

Demonetisation itself will not fight black income. The most important policy should be tax administration where the tax authorities can monitor expenditure and match it with income of the respective individuals.

The effectiveness of demonetisation against black money depends upon the follow-up and supportive measures that are made by the government. For example, the enactment of the modified Benami Transactions Act (the amended law empowers the specified authorities to provisionally attach benami properties which can eventually be confiscated. Besides, if a person is found guilty of offence of benami transaction by a competent court, he shall be punishable with rigorous imprisonment for a term not less than one year but which may extend to 7 years and shall also be liable to fine which may extend to

25% of the fair market value of the property.) from November 1, 2016 will be a big associated tool in the hand of the government to tackle black income.

The immediate effect of demonetisation comes through the collection of demonetised Rs 1000 and Rs 500 notes.

Around Rs 12 lakh crore of the Rs 15.44 lakh crore demonetised currency is with banks now and the extent of black money identified out of this will be the direct effect. Here, it is believed that an estimated Rs 1.5 to 2 lakh crore may be identified as black income. Out of this, around Rs 1.2 lakh crores may be collected as taxes at 50% to 85% tax rate.

If Rs 2 lakh crore is revealed as black money out of demonetisation, it will amount to around 1.75% of India's GDP.

Furthermore the only way to shutdown India's shadow economy is by growing its formal economy and tracing all transactions. This is now possible as all the black money present in the economy is either

with the government or it has been rendered useless. An awareness against black money and consciousness about legal measures is an intangible positive effect of the demonetisation. It will change the mindset

of the people to keep away from black income. This shakeup of Indian society will be a big outcome though it may not be measurable.

IMPACT ON JOBS

Organised Sector: Employment in the organised sectors has been greatly affected as the remonetisation was not ably handled by the government. Industries in the organised sector would be troubled by the shortage of cash. Industries were compelled to layoff labourers skilled and unskilled since remonetisation did not keep pace with the requirements of the economy. As a result of this an eye catching number of layoffs (an estimated 35-40% job losses were

observed in a study done by the AIMO) were seen in the organised sector.

Unorganised Sector: The un-organised sector was even worse off as in this set up the dependence on liquidity of cash and cash based transactions is far greater and thus a reduction in the flow of cash into an economy (through demonetisation) would carry a much greater consequent effect on people who practice and are employed by this sector.

IMPACT ON RURAL AREAS

Negative: The primary consideration a government must make before making any political decisions is that the government must keep in mind the impact of their decision and more specifically contemplate the decisions' impact on livelihood. Rural economies run on cash and with wages hitting the Rs300-400 mark in many rural areas, Rs500 and Rs1,000 notes were an integral part of the rural economy. If it was just a matter of exchanging old notes for new notes, there wouldn't have been so much inconvenience and the economy would not have been affected.

But the culprit in the demonetisation exercise has been its timing. The demonetisation took place right after the harvest season.

Furthermore, the limit on the amount (mentioned in policy guideline) that citizens could withdraw was also a great inconvenience. This year witnessed a normal monsoon, and for the first time after three years, farmers had money in their hands. But this joy was only short-lived as now the money is locked up in bank accounts rather than being available for consumption.

Those not fortunate to have sold their harvest are struggling to sell their produce as there is not enough money in the hand of the consumers.

Hollow planning of the massive effort affecting masses is unfolding day by day. Automatic Teller

Machines (ATMs) were not available in many rural areas with only 40,000-odd ATMs available in rural areas, access to money in remote parts of the country posed a great challenge. While public sector banks operate only about 20 per cent of their ATMs in rural areas, the reach of private banks in rural areas is even poorer with just 8 per cent of their ATMs in these regions. On top of this the government failed to recalibrate and keep all ATM's stocked with the newly issued Rs 2000 notes.

Positive: That is not to say that demonetisation didn't have any positive impact on rural areas. Demonetisation brought with it the removal of 86% of the hard cash in the country. The resultant was that every citizen was forced to open a bank account of their own so they could deposit their demonetised Rs 2000 and Rs 4000 notes.

This large scale digitisation of money led to the growth and spread of various digital payment services. After the announcement of a cashless economy, Airtel was first to launch the Payment services. Within the first two weeks of its launch in rural Rajasthan, it surpassed 1 lakh accounts. Digitisation of the rural economy is a great economic benefit and would result in a greater amount of cash moving to rural economies and being available to them.

IMPACT ON URBAN AREAS

Impact on Banks: Demonetisation has resulted in a rise in deposit growth at a time when banks have reduced interest rates on term deposits.

Deposits rose from Rs 12.7 lakh crore to Rs 105 lakh crore against a 10% rise last year, according data released by the Reserve Bank of India.

“The surplus liquidity in the banking system, created by demonetisation, will lower borrowing costs and increase the access to credit. This will boost economic activity,” said Arun Jaitley, the union finance minister.

However, during November and December bank work was largely centred on accepting and exchanging demonetised bank notes. As a result other activities like lending during this monetary season was affected which reduced their projected earning for the next quarter. Furthermore banks placed restrictions on deposits(for reference look at policy guideline). According to statements made by public sector bank executives, the load of managing deposits and cash withdrawal is reducing and banks have begun to assess the impact of demonetisation on the loan side – both asset quality and demand for credit.

Impact on GDP: The gross domestic product (GDP) is one of the primary indicators used to indicate the health of a country’s economy. It represents the total monetary value of all goods and services produced over a specific time period. Usually, GDP is expressed as a comparison to the previous quarter or year. For example, if the year-to-year GDP is up 3%, this is thought to mean that the economy has grown by 3% over the last year

Demonetisation of high denomination notes (of Rs1,000 and Rs500) has put over 85% of currency out of circulation. This has resulted in short-term disruptions in transactions in agriculture and related sectors, small establishments, households and among professionals. Since injection of liquidity is slow, incomes in both formal and informal sectors have been affected with the intensity of adverse impact being greater for the informal sector. Self-employed workers are sure to suffer great setbacks.

While some may view it as deferring expenditure and income, all of the lost income may be revenue and income forgone forever as the opportunity to acquire it has past.

PROPOSED GOVERNMENT FOLLOW-UPS

The Government of India announced demonetisation of the Rs 1000 and Rs 2000 notes on the 8th of November 2016. this move towards demonetisation was called a move against black money by the government.

the government aims to rid the Indian political and societal systems of black money. demonetisation to a great extent removed black money from circulation. But now the government must stress on making laws and procedure so as to prevent black money from re-entering the system.

the government has proposed plugging certain loopholes in the Income Tax Act which could have been exploited by black money holders.

‘If unaccounted income is declared under the Garib Kalyan Yojana, then the concerned person pays 30% tax on the income so disclosed plus 33% surcharge on the tax paid plus 10% of the income disclosed as

penalty taking the total tax incidence to about 50%. Additionally, 25% of the disclosed income will have to be compulsorily placed in interest-free deposit scheme for four years. ‘

Further, the income tax amendment bill also proposes to plug certain loopholes in the IT Act which may have been exploited by black money holders. As per tax experts, those depositing unexplained cash in their bank accounts post demonetisation could have tried to pass off that as income of the current financial year

Tax and penalty Provisions for search and seizure have also been made stricter by amending Section 271AAB. In case, unexplained assets/cash is found with you during a search and seizure raid then apart from the tax and surcharge under the amended Section 115BBE, penalty under section 271AAB will also be levied. This means that in case a person

holding black money does not declare it on his/her own and instead the unaccounted money is found during a raid then a penalty of 30% of income will be levied if the concerned person admits the tax evasion at the time of the raid and in any other case (if he does not admit at that time) the penalty would be 60% of the unaccounted income

These insure that black money will be returned to

the government or stern action will be taken against the person involved.

The government with the help of Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act (2015), Prevention of Corruption Act (1988) and its recent undivided attention towards destroying Indian parallel economy will no doubt rid India of black money.

TIMELINE OF POLICIES AND RESPECTIVE CHANGES

9 Nov: Banks and ATMs remained closed for the public on the first day of demonetisation

The BSE Sensex ended the day about 339 points lower
The rupee plummeted 19 paise to 66.43 against the US dollar

Govt announced deposits above Rs 2.5 lakh to face tax, penalty on mismatch

Govt suspended highway toll till November 11 midnight

Major banks extended working hours till 8 pm; waived ATM charges.

10 Nov: Long queues to exchange and deposit annulled notes witnessed at banks across India which opened for public while ATMs continued to remain shut
Bank stocks surged up to 12 percent as analysts speculated that banking sector is expected to benefit when more money flows into the formal sector.

11 Nov: ATMs open for the first time after demonetisation announcement. But, after opening, most ATMs went dry in a few hours with people drawing the maximum possible amount; long queues beginning to see across the country

RBI assures public that enough currency is available with banks for exchange

Govt extends exemptions for using old Rs 500 and Rs 1,000 notes till 14 November midnight

Toll waiver on national highways extended till 14 November midnight by the govt.

12 Nov: PM Modi hints at more steps to unearth black money.

Week-end rush adds to woes; anger, impatience at banks; ATMs ran dry on cash.

13 Nov: Queues gets longer at banks, ATMs Sunday sees no let up in rush; long queues continue outside banks, ATMs

For the second time in a week, RBI assures public that there is no need to be anxious and enough cash is available with banks. But that assurance isn't reflecting on the ground

Exchanged limit increased from Rs 4,000 to Rs 4,500
ATM withdrawal limit increased from Rs 2,000 to Rs 2,500

To augment cash supplies, newly printed hard-to-fake Rs 500 notes were released in market

The weekly limit of Rs 20,000 for withdrawal from bank counters has been increased to Rs 24,000.
The maximum limit of Rs 10,000 per day on such withdrawals has been removed.

14 Nov: Government extended acceptance of Rs 500 and Rs 1,000 notes for public utility and fuel payment till 24 November

Banks were closed on account of Guru Nanak Jayanti; queues gets longer at ATMs

Cash withdrawal for current account holders increased to Rs 50,000 per week

Note ban has led to 'financial chaos', said bank unions

Charges on ATM transactions waived till 30 Dec
Cash crunch continued; Parliament House ATMs too ran dry.

15 Nov: No respite from long queues at banks, ATMs
Government asks banks to put indelible ink on the right hand finger of those exchanging banned 500 and 1,000 rupee notes

SC refused to stay Centre's move to demonetise currency notes.

16 Nov: Chaos continue at banks; most ATMs ran out of cash

SBI collected Rs 1,14,139-crore in deposits in last 7 days.

17 Nov: Government lowers the exchange limit for now-defunct 500 and 1,000 rupee notes to Rs 2,000 from the existing cap of Rs 4,500

Cash withdrawal of Rs 2.5 lakh from bank account were allowed for wedding ceremonies

Government eases cash withdrawal limit for farmers by allowing them to withdraw up to Rs 50,000 cash per week from bank.

Don't hoard currency, sufficient notes in supply, RBI tells public

Govt extended toll exemption on National Highways till November 24 midnight.

Select petrol pumps allowed to dispense cash up to Rs 2,000 through debit card swipe.

Some banks cut fixed deposit rates up to 1 percent.

18 Nov: No respite from queues, chaos; ATMs still fight cash shortage.

Demonetisation to lower GDP growth by 0.3-0.5 percent, CARE Ratings says.

Congress party alleges 55 died due to demonetisation, seeks PM's apology

Proceedings in Parliament were washed out for the second consecutive day.

19 Nov: Queues got shorter at banks; long wait at ATMs continued.

20 Nov: With banks closed on Sunday, longer queues at ATMs

21 Nov: Farmers allowed to use old Rs 500 notes for buying seeds

Bank received Rs 5.12 lakh crore of deposits and exchanged Rs 33,006 crore, RBI said in a release

Demonetisation effect: GDP to fall by up to 80 bps, said DBS Bank.

22 Nov: 82,500 ATMs out of 2.2 lakh ATMs recalibrated to dispense new notes

Some relief for cash-starved public, queues shortened as about 40 percent of total ATMs have started dispensing new Rs 500 and Rs 2,000 notes.

RBI doubles Prepaid Payment Instruments limit to Rs 20,000.

23 Nov: Goldman forecasts deceleration in GDP growth to 6.8 percent in FY17

Rs 1.20 lakh crore deposited in SBI.

24 Nov: Government extends toll exemption on NHs till 2 Dec mid-night

Notes ban to significantly disrupt economic activity, Moody's said in a release

Government withdraws exchange facility of old currency notes and extends deadline for exemptions of using old Rs 500 notes up to 15 December midnight
Queues get shorter at bank branches but continues at ATMs.

25 Nov: RBI says the facility to exchange old Rs 500 and Rs 1,000 notes will continue to be available at its counters

India growth to slow to 6.5 percent on notes ban, Deutsche Bank said

Demonetisation to slow down personal computers, phone sales in Q4, according to research firm IDC

Notes ban to have negative impact on growth in short run, Fitch says

Queues at banks thin, but some branches still faces cash pain.

26 Nov: Deposits in Jan Dhan accounts soars sharply by around Rs 27,200 crore to Rs 72,834.72 crore in just 14 days after the announcement of ban on old Rs 500 and Rs 1,000 currency notes

27 Nov: Rs 32,631 cr deposited in post offices since demonetization

28 Nov: Banks get about Rs 8.45 lakh crore worth of scrapped notes, RBI says

After 3 weeks, queues at banks, ATMs shrinks but cash crunch remained.

29 Nov: Queues outside ATMs eases, but customers throng banks

RBI relaxes withdrawal norms, nudges retailers to deposit cash.

30 Nov: RBI limits withdrawal from Jan Dhan accounts to Rs 10,000 a month

Queues at ATMs, banks grow shorter but wait for cash continues.

1 Dec: Government says that old Rs 500 notes are valid till 2 Dec for fuel, air ticket purchase instead of 15 December announced earlier.

Demonetisation takes a toll on manufacturing sector growth in November, according to PMI survey.

BofA cuts FY17 growth forecast to 6.9 percent amid demonetisation

Pay day rush: Banks resort to rationing of cash in order to handle the huge pay day rush at branches

1.80 lakh ATMs re-calibrated to dispense Rs 500, 2,000 notes

Cash shortage may slow down GDP to 6.5 percent in Oct-Dec quarter, Nomura says.

2 Dec: India Ratings lowers GDP forecast to 6.8 percent post demonetization.

3 Dec: Queues for cash on, toll collection resumes.

6 Dec: Tax dept seizes Rs 130 crore cash, jewellery and Rs 2,000 crore of undisclosed wealth has been

admitted by taxpayers post demonetisation

7 Dec: RBI defends note ban and plays down its impact on economy. Demonetisation was not done in haste, says RBI Governor during the monetary policy presser

Note ban impact on GDP growth only 15 bps, says RBI
Rs 11.55 lakh crore or 76 percent of junked notes have come back into the system, RBI said.

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AGENDA 2: SECTION 377

THE LAW

The law states that who so ever voluntarily attempts to have carnal intercourse which is a legal euphemism for sexual intercourse which is against the order of nature with any human being or animal shall be subjected to a punishment of either life imprisonment, or imprisonment extending for a period 10 years and a certain fine attached to it.

The ambit of Section 377, extends to any sexual union involving penile insertion. Thus, even consensual sexual acts such as anal penetration may be punishable under this law.

“377. Unnatural Offences – Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation – Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section.”

The Indian penal code was drafted by Lord Macaulay and was introduced in 1861 and came under the category of offence causing harm to the human body.

NAZ FOUNDATION

Naz Foundation is a Delhi-based non-governmental organisation that works for the benefit of people struck with diseases like HIV/AIDS and those pertaining to matters of sexual health. The foundation has a history of fighting for holistic based rights.

Naz provides a variety of services to gays, lesbians, transgender people and those suffering from HIV/AIDS. This includes agendas for men having sex with men termed as MSM, home-based medical case and all the possible support for those with HIV/AIDS;

peer education service to train student educators in training students on sexuality, a Care Home for orphans struck with HIV/AIDS. It works towards training, education and community involvement activities on sexual health, sex and sexuality and all other topics under this genre and it also manages to run a program supporting underprivileged girls throughout India. They approached the Delhi High court asking for the decriminalisation of section 377 of the Indian penal code.

DELHI HC RULING

The verdict by the Delhi HC came on a PIL plea filed by this Delhi-based non-government organization regarding how the Section 377 provision criminalizes sexual acts between consenting adults in private is violating the following articles: 14, 15, 19 and 21, of

the Constitution. The Delhi high court in its decision stated that they will continue to govern non-consensual penile non-vaginal sex involving minors. This 149-year-old law was done away with and the gay activists had got the judgment in their favor.

SUPREME COURT'S REFUSAL OF THE PLEA

The Supreme Court declined to examine the plea filed against the validity of the IPC Section 377 all over again after the decision of the High court, which made homosexuality a criminal offense punishable with a sentence up to life term or imprisonment for 10 years along with a certain fine. The joint petition has been filed by some prominent gay personalities such as celebrity chef and restaurateur Ritu Dalmia

owner of the famous restaurant diva in Delhi, hotelier Aman Nath and dancer N S Johar, among others.

A bench of Justices S A Bobde and Ashok Bhushan asked for the petition to be placed before the Chief Justice of India Tirath Singh Thakur in 2013 to decide whether it can be heard along with the other curative petitions on the same subject.

After the Chief Justice T S Thakur agreed to hear in

an open court the curative plea of Nongovernmental organization 'Naz Foundation' and some gay rights activists on the request of the justices S A Bobde and Ashok Bhushan.

On February 2, the court referred the curative plea with five-judge Constitution Bench assigned to come to a final conclusion of the 2-year old verdict by which a colonial law set by the British in the 1860s, criminalizing consensual sexual acts between the same sex under section 377 of IPC, was restored and justified.

The curative plea was filed against the dismissal of their petition seeking a review of the 2013 judgment of the Delhi high court which upheld the validity of section 377 (unnatural sexual offences) of Indian Penal Code.

Now, the gay celebrities had filed a fresh writ petition to come back at the design of the apex court. Naz Foundation filed their first petition in December 2001 in the Delhi high court against the Section 377 of the Indian penal code, which had on July 2, 2009, de-criminalized Section 377. After refusing twice to entertain pleas against Section 377, The Supreme Court had to issue to a five-judge bench on February 2nd.

In its landmark, April 2014, the verdict hailed by gender rights activists, the top court asked for the government to declare transgenders a 'third gender' and include them in the Other Backward classes quota. Underlining the need to bring them into the mainstream, it said they should have all rights under the law, including marriage, adoption, divorce, succession and inheritance.

HOMOSEXUALITY CONSIDERED UNNATURAL AND AGAINST THE RELIGION IN INDIA

Homosexuality is considered a taboo in a largely conservative and religious Indian society which appears to be divided on the controversial issue which has deserved and received its right around the globe but India. Freedom loving people (not necessarily belonging to Lesbian, Gay, Bisexual

and Transgender or LGBT community) want homosexuality decriminalised but many term it as deviant behaviour, unnatural and not merely a question of one's sexual orientation or preference towards the choice of gender.

DELHI HC versus NAZ FOUNDATION

Petitioner: The Naz Foundation, submitted against the harassment and discrimination of the LGBT community in India resulting from the extended and continued existence of Section 377 of the Indian Penal Code [IPC] affecting the rights of the LGBT community, guaranteed under the Constitution till date, including the right to equality, the right to non-discrimination, the right to privacy, the right to life and liberty, and the right to health.

They argued that the Constitution protects the right to privacy (which is not expressly mentioned) under the right to life and liberty mentioned in Article 21 of our constitution. Furthermore, they also submitted that the right to non-discrimination on the grounds of sex in Article 15 should not be read with a restricted manner but should include 'sexual orientation'.

They also showed their concern by saying that the criminalisation of homosexual activity by Section 377 discriminated on the grounds of sexual orientation and is, therefore, contrary to the Constitutional guarantee to non-discrimination under Article 15. Finally, the petitioner puts forward the point that courts in other jurisdictions have struck down similar provisions relating to sexual orientation on the grounds that they violate the rights to privacy, dignity, and equality.

Respondents: Two Government departments responded to the petition, however, as stated by the High Court, they presented 'absolutely contradictory affidavits'.

Ministry of Home Affairs (MHA): The MHA argued in favour of the retention of Section 377 on various

grounds. First, that it allowed for the prosecution of individuals for the sexual abuse of children. Secondly, it filled a gap in the rape laws. Third, that if removed it would provide for 'floodgates of delinquent behaviour' which would not be a matter of public interest. Finally, Ministry submitted, that Indian society does not morally condone such behaviour and law should reflect values of the society. On behalf of MHA, the Additional Solicitor General [ASG] submitted, in response to claims of a right to privacy by the petitioner, that such a right is not absolute and is capable of being restricted where there is a compelling state interest in doing so, such as public decency and morality. Furthermore, he argued that Section 377 does not discriminate on the grounds of sex because it is neutral towards the gender.

Interveners: National Aids Control Organisation (NACO) and the Ministry of Health and Family Welfare

NACO responded for the Ministry of Health and presented their evidence in support of the petitioner's submission that the current existence of Section 377 is counter-productive to the efforts of HIV/AIDS prevention and treatment. NACO fought for the removal of the section stating that it makes a large number of people risk categories in relation to HIV/AIDS who are reluctant to come forward but due to the fear of law enforcement agencies, and that in driving homosexuality underground it increases risks and behaviour such as unprotected sex.

CJI RULING

A two-judge Supreme Court bench on Wednesday declined to hear a fresh petition by high profile celebrities challenging criminalisation of consensual gay and lesbian sex, and the matter was referred to Chief Justice TS Thakur.

The bench headed by Justice SA Bobde said the petition by Sangeet Natak Akademi awardee Navtej Singh Johar and celebrity chef Ritu Dalmia should be placed before the Chief Justice to decide if it can be heard along with a batch of curative petitions on the same issue pending in the court.

Senior counsel Arvind Datar told the court that the earlier petitions challenging the validity of Section 377 of the Indian Penal Code were filed by NGOs like rights group Naz Foundation. But it was the first time that lesbian, gay and bisexual citizens have filed a writ petition seeking to quash the colonial era law that criminalizes homosexuality.

The bench said it would hear only after the decision by the constitution bench before which the curative petitions are pending.

CJI Thakur had February, against most odds, headed a bench that referred the section 377 curative petition to a constitution bench.

Unexpected suspense

Although the Supreme Court bench comprising

justices SA Bobde and Ashok Bhushan asked the Supreme Court registry to place the fresh petition filed by the five celebrities challenging the validity of Section 377 IIPC before the CJI for his decision on how to deal with it, it was not without its element of suspense.

The bench first wanted to keep the petition pending till the five Judge bench decided the curative petitions referred to it by the CJI-led three Judge bench earlier. The CJI is yet to set up by this bench.

When counsel, Arvind Datar persisted that these petitions have been filed by individuals who have personally suffered because of the existence of section 377 of the IPC, and there is no NGO to represent them, and therefore, they deserve to be heard separately, the bench gave him the option to either keep it pending or place it before the CJI, who may decide to tag it with the curative petitions.

Though Lok Sabha member Shashi Tharoor's private member's bill proposing to replace Section 377 was defeated out right in Parliament in December last year, activists have support from some senior leaders in the government, including finance minister Arun Jaitley, who has spoken publicly in favor of decriminalizing gay sex.

Cultural and religious beliefs are the biggest hurdle

to gay rights. In 1992, the World Health Organisation (WHO) removed homosexuality from the category of mental illness, but many governments and religious groups do not accept homosexuality as normal.

Some religious leaders, such as yoga guru Ramdev, are convinced that homosexuality is a perversion, a disease that can be cured.

Experts, however, say homosexuality is a sexual orientation one is born with and not a behavioral choice. “It is not a choice you make willingly, why would anyone choose an orientation that is not accepted by society and puts them at the threat of discriminated against and being imprisoned,” said Dr. Chinkholal Thangsing, president, Touch of Hope Foundation, which works for equal rights.

EMERGING POLITICAL CONSENSUS

Continuously governments in India have defended the archaic Section 377 of the Indian penal code which is based on the 19th-century Victorian morality and also dates back to 1860s which are the rule of the British in India. The intense debate in the society and the media in India and the legalization of the law around the world seems to have forced the political class to change its stance and alter its position towards the criminalizing of this law.

After eluding it for years, political consensus is building on the issue in India at a rapid pace. The BJP which had supported the Supreme Court’s verdict upholding Section 377 of the Indian penal code, suddenly appears to support the Delhi High Court decriminalising consensual homosexual acts.

Millions of people around the world are getting the liberty to choose their sexual preferences, is it too late in the day to propound a view that they should be jailed. The Delhi high court’s view appears more acceptable,” said senior BJP leader and finance minister of India Arun Jaitley had displayed such views in public, expressing his personal opinion.

Jaitley’s view was also supported by senior Congress leader Palaniappan Chidambaram. Even otherwise, Congress had openly supported for the legalization of the right to choose one’s own choice of gender. Aam Aadmi Party and Communist Party of India-Marxist are also said to be in support of declaring Section 377 unconstitutional.

PRIME MINISTER’S VIEW ON TRANSGENDERS

In November 2015, Prime Minister Narendra Modi had regretted the totally unacceptable condition of transgenders in Indian society and said that the political parties in India needed to change their perspective towards this law. “We need to amend and make new laws for transgenders,” he had said at the foundation day celebration of National Legal Services Authority. The NDA government has prepared a draft law recognizing the rights of transgenders with a point to ensure they are not discriminated again. All these developments allude to the change in the mindset of the supreme court and the government. International developments

There have been many positive developments in favor of LGBT community around the globe. In May 2015, Ireland legalized same-sex marriage. The country which had decriminalized homosexuality in 1993 became the first country ever to allow same-sex

marriage at the national level by an act of voting by the electorate of a country or area. In June 2015, the US Supreme Court under the presidency of Mr. Barack Obama ruled in the favor of same-sex marriages. Our neighboring country Nepal legalized homosexuality in 2007 and the new Constitution of the country also gives many rights to the LGBT community.

France, UK, Canada, United States, Australia, and Brazil have also de-criminalised homosexuality. Other countries like Belgium, Brazil, Canada, France, Iceland, Ireland, Luxembourg, Norway, Portugal, Spain, South Africa, Sweden, and Uruguay allow one of the two either same-sex marriage or a civil union. India currently stands along with countries such as Nigeria, Ghana, Iran, Saudi Arabia, Afghanistan, Mauritania, Qatar and Pakistan which have criminalized homosexuality.

RIGHT TO PRIVACY

The Court noted that the Indian Constitution does not comprise of any explicit provision in relation to the right to privacy, however, the Supreme Court has interpreted such a right on the basis of Article 19 protecting freedom of expression and movement, and Article 21 protecting the right to life and liberty according to the Indian Constitution.

The Court made an extensive reference to the United States jurisprudence on the right to privacy as it read into the Constitution, It then went on to consider the development of this right in India whether it traced the right to privacy in India to the right to 'life' in Article 21 of the Constitution.

In addition, the Court alluded to specific rights of people of different sexual orientation under this genre by reference to the Yogyakarta Principles on the Application of Human Rights Law in relation to Sexual Orientation and Gender Identification, which the Court noted asserting the rights to equal enjoyment of rights of all persons regardless of their sexual background.

By reading through all these provisions, the Court concluded that Section 377 denies the dignity of all such individuals, criminalizes their identity and violates their right to privacy which is protected within the ambit of Article 21 of the Constitution.

The Court dismissed the arguments of the MHA that the decriminalization of section 377 will lead to the increase of HIV/AIDS on the basis of no medical evidence to support this contention. The Court also noted that this claim has been contradicting the arguments made by NACO and the Ministry of Health and Family Welfare.

The Court determined that the Constitution of India protects and promotes diversity and ensures a morally rich society where freedom is no longer a privilege. The Court determined that criminalisation of homosexuality runs counter to that constitution's morality.

DOES IT VIOLATE ARTICLE 14?

The Court reiterated the test set by Article 14, "that any distinction or classification be based on an intelligible differentia which has a rational relation to the objective sought and is not unfair or unjust". Section 377, the Court does not distinguish between public and private acts, or between consensual or non-consensual acts thus it does not take into account relevant factors such as age, consent and the nature of the act or absence of harm. The Court stated that such criminalisation in the absence of evidence may seem harmful, arbitrary and unreasonable.

Considering the legal principles imposed by Article 14 of the Constitution the Court took into account the Declaration of Principles of Equality "as a current international understanding of Principles on Equality". Drawing on Principles such as the right

to equality, equal treatment and considering the definition of discrimination, the Court emphasized on the need to include sexual orientation among the various protected grounds of discrimination and built indirect discrimination and harassment into any consideration of the right to equality.

Thus, dealing with the argument that Section 377 was neutral, as submitted by the MHA, the Court stated that although it provides on its face is neutral and targets acts rather than persons, in its operation it unfairly targets a particular community, having the result that all gay men are considered to be criminals. This led the Court to conclude that Section 377 discriminated against a particular community in violation of Article 14 of our Indian constitution.

DOES IT VIOLATE ARTICLE 15?

Article 15 was described as a specific application of the overarching right to equality under Article 14 by the Court. It concluded the petitioner's point that the reference to 'sex' in Article 15 should be regarded as one including sexual orientation on the grounds that discrimination on the basis of the latter is usually built on stereotypes of demeanor on the basis of sex. *The Court itself alluded to the Human Rights Committee's decision in Toonen v. Australia*, (No.488/1992 CCPR/C/50/D/488/1992, March 31, 1994) in which the Tasmanian Criminal Code that made sexual acts between men criminal, was considered a violation of Article 2 of the International Covenant on Civil and Political Rights, where a reference to 'sex' was taken as an inclusion of sexual orientation.

On that basis, the Court declared:

"We hold that sexual orientation is a topic of discussion synonymous to sex and that discrimination on the basis of sexual orientation is not permitted under Article 15. Further, Article 15(2) incorporates the notion of horizontal application of rights. In other words, it also prohibits discrimination of one citizen

by another in the matters of access to public spaces. In our view, discrimination on the ground of sexual orientation is impermissible even on the horizontal application of the right enshrined under Article 15." The Court subsequently found that Section 377 was unconstitutional on the basis of Article 15 of the Constitution.

In its conclusion, the Court alluded to the belief in inclusiveness which is ingrained in the Indian Constitution and explained that discrimination was: "The antithesis of equality and that it is the acknowledgment of equality which will foster the dignity of every individual".

In light of its exploration on the violation of Articles 21, 14 and 15, the Court found it redundant to deal with the problem of violating Article 19 of the Constitution.

To sum up, the Court deemed that Section 377 of the Indian Penal Code, as long as it criminalizes consensual sexual acts of adults in private, does not adhere to Articles 21, 14 and 15 of the Constitution.

SUPREME COURT'S OBSERVATIONS

The observations of the Supreme Court that in last 150 years there have been only 200 reported prosecutions is neither here nor there. Firstly, that there are only a few prosecutions is no reason to have a provision which is otherwise unconstitutional. Further, cases of harassment, victimization, and torture of LGBT persons seldom translate into 'reported prosecutions'. Thus PUCL wishes to point out that using the number of reported prosecutions as the basis for upholding constitutional vires of any provision is an unreasonable and dangerous precedent.

The PUCL is of the opinion that the Delhi High Court judgment was legally robust when it held that section 377 was violative of Articles 21, 14, 15 of the Constitution. The key reasons put forward by the Delhi High Court for reading down section 377 IPC have unfortunately not been fully considered or answered by the Supreme Court while upholding

the constitutionality of the provision. The World over there is recognition that sexual preferences are not an aberration and need to be considered as part of a natural orientation. It is with this progressive understanding that even Britain, from where sec. 377 IPC originated, has repealed such ante-diluvian provisions and is in the process of legalizing same-sex marriages. In the ultimate analysis, medieval morality appears to have prevailed over constitutional guarantees.

The SC court erred in concluding that mere abuse of a penal provision does not warrant declaring it unconstitutional. In stating this, the court lost sight of the fact that in the instant case the use of Section 377 against consenting adults is itself an abuse. PUCL in its report 'Human rights violations against sexuality minorities in India' as far back as 2003 documented the persecution, torture, and atrocities faced by LGBT community at the hands of the State

for the sole reason of their sexual orientation. Such persecution is legalized and therefore legitimized by the existence of S.377 IPC in the statute books. The SC has unfortunately added the weight of its authority to such persecution! In PUCL's view, the judgment will therefore only strengthen the homophobic mindset which exists in a section of Indian society.

BJP ON SECTION 377

The BJP seems to have entered a no comments closet in the wake of the court decision. But as the issue heads to a five-judge bench it too will need to it does come out of the closet. A curative petition going before a five-judge bench, the first time such a petition has gone before a constitution bench, shows that the court takes the issue very seriously. That's going to make the government's silence sound very loud indeed.

PUCL reiterates its position that sec. 377 IPC should be repealed and does not have a place in the law books of a modern India.

PUCL also calls upon political parties to undo the historic injustice done to the LGBT community and immediately repeal S 377 IPC in the current session of Parliament itself.

The problem with the BJP is that Section 377 falls like a dead bang in the middle of the conflict between the party's aspiration and reality. The Narendra Modi-led government aspires to present an image of India as a modern liberal democracy to the rest of the world, a beacon of hope in the region, a bastion against illiberal forces, despite of this effort to present India as modern it fails to ask for justice for the people suffering due to this law.

CONGRESS ON SECTION 377

Unlike the Bhartiya Janta party congress hasn't seemed to take a silent position on the case and has openly said against the supreme court ruling. 'In the Congress Party, we have always believed that Section 377 should be decriminalized. Matters of choice and whom you want to love should be left to individuals, rather than society at large and rather than making it a criminal offense,' said/ Congress spokesperson Randeep Surjewala told ANI. Surjewala expressed certainty that the Supreme Court would do justice to the Lesbian, Gay, Bisexual and Transgender community (LGBT) by examining the matter through a larger Constitutional bench.

Similar sentiments were echoed by another Congress leader Magma said, 'If the law wants to think about them, then it's good. If the law has decided to refer it further, then it is good for the community. Congress always support people's sentiments and stand with them in their fight. This is the same in this case.' Meanwhile, BJP spokesperson Nalin Kohli said it would be apt to wait for the final verdict of the apex court in the matter. 'I don't think it would be correct to speak about the merits of the case in terms of the arguments on both sides because now the matter is before the honorable Supreme Court,' he said.

AAP ON SECTION 377

The Aam Aadmi party showed their disappointment with the judgment of the Supreme Court which upheld the Section 377 of the Indian Penal code and reversing the landmark judgment of the Delhi High Court on the subject. The Supreme Court judgment thus criminalizes the personal and private behavior of consenting adults. All those who are born with or choose a different sexual orientation would thus

be placed at the mercy of the police. This not only violates the human rights of such individuals, but goes against the liberal values of our Constitution, and the spirit of our times.

Aam Aadami Party hopes and expects that the Supreme Court will review this judgment and that the Parliament will also step in to repeal this archaic law.

MORAL CORRECTNESS OF THE LAW

Those against legalizing homosexuality present the argument that it is against the moral values of the society. They say that what is forbidden in religion need not be prohibited in law. Morality cannot be criteria to restrict the fundamental rights of citizens. A legal wrong is necessarily a moral wrong but vice versa is not correct also. A moral wrong becomes a legal wrong only when its consequences are for society, not only the person committing it.

In 2008 Additional Solicitor General PP Malhotra said:

“Homosexuality is a social vice and the state has the power to contain it. [Decriminalising homosexuality] may create a breach of peace. If it is allowed then the evil of AIDS and HIV would further spread and harm the people. It would lead to a big health hazard and degrade moral values of society.” A view similarly shared by the Home Ministry.

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QUESTIONS A RESOLUTION MUST ANSWER

- Will the people of Kashmir qualify for self-determination and on what grounds?
- In case of independence being granted to Kashmir, what measures will be taken to ensure that Kashmir is helped in its pursuit to become a stable independent state?
- What measures will be taken to address the alleged human rights violations within Kashmir?
- How will a settlement be made between India and Pakistan to prevent further threat to regional security?
- How will the interests of neighboring nations and the stake of the international community be protected given the delicate situation in Pakistan?

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DSMUN '17

POSITION PAPER GUIDELINES

Position papers are usually one to one-and-a-half pages in length. Your position paper should include a brief introduction followed by a comprehensive breakdown of your country's position on the topics that are being discussed by the committee. A good position paper will not only provide facts but also make proposals for resolutions.

A good position paper will include:

- A brief introduction to your country and its history concerning the topic and committee;
- How the issue affects your country;
- Your country's policies with respect to the issue and your country's justification for these policies;
- Quotes from your country's leaders about the issue;
- Statistics to back up your country's position on the issue;
- Actions taken by your government with regard to the issue;
- Conventions and resolutions that your country has signed or ratified;
- UN actions that your country supported or opposed;
- What your country believes should be done to address the issue;
- What your country would like to accomplish in the committee's resolution; and
- How the positions of other countries affect your country's position.

SAMPLE DRAFT RESOLUTION

General Assembly Third Committee

Authors: United States, Austria and Italy

Draft Resolution GA/3/1.1

Signatories: Greece, Tajikistan, Japan, Canada, Mali, the Netherlands and Gabon

Topic: "Strengthening UN coordination of humanitarian assistance in complex emergencies"

The General Assembly,

Reminding all nations of the celebration of the 50th anniversary of the Universal Declaration of Human Rights, which recognizes the inherent dignity, equality and inalienable rights of all global citizens, **[use commas to separate perambulatory clauses]**

Reaffirming its Resolution 33/1996 of 25 July 1996, which encourages Governments to work with UN bodies aimed at improving the coordination and effectiveness of humanitarian assistance,

Noting with satisfaction the past efforts of various relevant UN bodies and nongovernmental organizations, Stressing the fact that the United Nations faces significant financial obstacles and is in need of reform, particularly in the humanitarian realm,

1. Encourages all relevant agencies of the United Nations to collaborate more closely with countries at the grassroots level to enhance the carrying out of relief efforts; **[use semicolons to separate operative clauses]**
2. Urges member states to comply with the goals of the UN Department of Humanitarian Affairs to streamline efforts of humanitarian aid;
3. Requests that all nations develop rapid deployment forces to better enhance the coordination of relief efforts of humanitarian assistance in complex emergencies;
4. Calls for the development of a United Nations Trust Fund that encourages voluntary donations from the private transnational sector to aid in funding the implementation of rapid deployment forces;
5. Stresses the continuing need for impartial and objective information on the political, economic and social situations and events of all countries;
6. Calls upon states to respond quickly and generously to consolidated appeals for humanitarian assistance;
7. Requests the expansion of preventive actions and assurance of post-conflict assistance through reconstruction and development;
8. Decides to remain actively seized on the matter. **[end resolutions with a period]**

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