

Statement on the need to overturn section 377 of the Indian penal Code

Monday 18 September 2006, by [SEN Amartya](#) (Date first published: 15 September 2006).

AMARTYA SEN'S STATEMENT [supporting the open letter of Vikram Seth and others on the need to overturn section 377 of the Indian Penal Code]

I have read with much interest and agreement the open letter of Vikram Seth and others on the need to overturn section 377 of the Indian Penal Code. Even though I do not, as a general rule, sign joint letters, I would like, in this case, to add my voice to those of Vikram Seth and his cosignatories. The criminalisation of gay behaviour goes not only against fundamental human rights, as the open letter points out, but it also works sharply against the enhancement of human freedoms in terms of which the progress of human civilisation can be judged.

There is a further consideration to which I would like to draw attention. Gay behaviour is, of course, much more widespread than the cases that are brought to trial. It is some times argued that this indicates that Section 377 does not do as much harm as we, the protesters, tend to think. What has to be borne in mind is that whenever any behaviour is identified as a penalisable crime, it gives the police and other law enforcement officers huge power to harass and victimise some people. The harm done by an unjust law like this can, therefore, be far larger than would be indicated by cases of actual prosecution.

It is surprising that independent India has not yet been able to rescind the colonial era monstrosity in the shape of Section 377, dating from 1861. That, as it happens, was the year in which the American Civil War began, which would ultimately abolish the unfreedom of slavery in America. Today, 145 years later, we surely have urgent reason to abolish in India, with our commitment to democracy and human rights, the unfreedom of arbitrary and unjust criminalisation.

P.S.

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