

Commonwealth countries should abolish colonial anti-LGBT+ laws

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It is high time ex-British colonies like India did away with discriminatory colonial laws that stand disowned by their originator - the United Kingdom

The relevance of the Commonwealth as an institution has become the subject matter of debate after the conclusion of the CHOGM 2018 in London. The official communique was widely seen to phrase important issues in too general terms and merely affirm what is after all non-controversial.

However, the importance of CHOGM 2018 may well lie in the import of British Prime Minister Theresa May's opening speech in which she noted that discriminatory laws criminalising same-sex relations 'continue to affect the lives of many people'. In a further elaboration, she went on to note that:

"I am all too aware that these laws were often put in place by my own country. They were wrong then, and they are wrong now. As the UK's Prime Minister, I deeply regret both the fact that such laws were introduced, and the legacy of discrimination, violence and even death that persists today."

The 'regret' that May expressed followed a campaign by LGBT activists around the world who wanted Britain to apologise as the anti-sodomy laws had blighted the lives of same-sex desiring people in the ex-British colonies. In fact, organisations from the Caribbean and Sri Lanka made a statement at the Universal Periodic Review of the United Kingdom where they sought an apology from the United Kingdom for exporting the anti-sodomy laws to all parts of the Commonwealth. The logic of the demand for apology was that by apologising 'the UK removes a key justification for the laws, i.e that it is part of the culture of the countries we come from.' They argued that 'the apology is a forceful reiteration of the fact that criminalisation of same-sex relations has nothing to do with pre-colonial cultures or traditions but everything to do with outdated Victorian moralities and by so stating will immeasurably strengthen the hands of those fighting for freedom from these laws.'

The expression of 'regret' by May assumes importance in the context of the Commonwealth as out of 52 members of the Commonwealth, 37 countries criminalise same-sex conduct. The colonial legacy when it comes to anti-sodomy laws, is bitter. Some countries of the Commonwealth, such as Nigeria and Uganda, have modified these laws to make them even more stringent. These laws seek to control LGBT persons' ability to express themselves, it demeans the dignity of LGBT persons and is an affront to the basic notion of personhood. Though these laws are nothing more than a 'coercive, brutal colonial imposition', a majority of the countries of the Commonwealth have not responded to these laws as nations seeking to extirpate a colonial legacy. The sovereign and equal members of the Commonwealth continue to defend what after all is a colonial legacy which should have been overthrown along with the colonial masters.

Britain's Prime Minister Theresa May's acknowledgement of her country's role in demeaning the

lives of LGBT persons is a tiny step forward in the battle for freedom and dignity for LGBT citizens in the Commonwealth. Credit: Reuters Files/Leon Neal/Pool

The point of these laws being an 'alien legacy' has been untiringly made by LGBT activists from across the Commonwealth. It is a truism, little heeded by the powers that be, that Section 377 of the Indian Penal Code drafted by Lord Macaulay without consultation with Indians, not only becomes the law in India but was transported on the backs of the British Empire to all corners of the commonwealth. The reason, same-sex relations stand criminalised in countries whose own indigenous traditions have no overt prohibition on same-sex relations, is because versions of Section 377 of the Indian Penal Code with its criminalisation of 'crimes against nature' becomes the law in the ex-British colonies.

Theresa May has acknowledged her country's role in demeaning the lives of LGBT person's in the Commonwealth. The acknowledgement is a tiny step forward in the battle for freedom and dignity for LGBT citizens in the Commonwealth. Theresa May's statement, powerfully reiterates what LGBT activists around the Commonwealth have been saying, i.e. these laws should not be defended, as these have nothing to do with modern notions of personhood and dignity and everything to do with colonial notions of second-class citizenship.

The grassroots level demand for apology is not meant to look backward, but forward. The act of apology has, as one of its essential components, a commitment to non-repetition. That being the case, it is now up to us, free citizens who happen to live in Commonwealth countries to demand that our own countries be it India and Sri Lanka in South Asia, Malaysia and Singapore in South East Asia, Ghana and Kenya in Africa or Bermuda and Guyana in the Caribbean, or Tonga in the Pacific, honour the true meaning of our constitutions and dispense with this colonial vestige which today stands disowned even by the progenitor of these laws - the UK.

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<https://thewire.in/lgbtqia/chogm-2018-heed-theresa-mays-regret-on-uks-role-in-demeaning-lgbt-lives>