

HOMONATIONALIST ASSEMBLAGES AND POLITICAL AMBIGUITY:
INTERROGATING THE “PROGRESSIVE” NARRATIVE OF LGBT+ RIGHTS IN INDIA

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Declaration

I hereby declare that this thesis is the result of original research; it contains no materials accepted for any other degree in any other institution and no materials previously written and/or published by another person, except where appropriate acknowledgment is made in the form of bibliographical reference.

I further declare that the following word count for this thesis are accurate: Body of thesis (all chapters excluding notes, references, appendices, etc.): 17,100 words

Entire manuscript: 19,421 words

Signed – Arpita Biswas

Acknowledgments

I dedicate this thesis to my father, who passed away unexpectedly while I was pursuing this degree.

To start with, I would like to thank my mother and my sister, who supported me through the difficult process of choosing to complete this degree. It is safe to say that I would not have been able to move to another continent and continue attending classes if it wasn't for their patience and their dedication to my education.

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Abstract

In this thesis, I aim to interrogate a linear narrative of “progressive” LGBT+ rights that emerged in the aftermath of the judgment that decriminalized homosexuality in 2018. In this narrative, there is a breaking point of LGBT+ rights, for which the Hindu right-wing is credited. In this regard, I will attempt to deconstruct and interrogate this linear narrative, while illustrating the manner in which this narrative was formed through an assemblage. First, I will interrogate the claim that LGBT+ subjects are liberated or emancipated by focusing on the inequalities suffered by transgender subjects. Further, I will demonstrate that the trope of “progress” can only be noticed with regard to Hindu, cis-male, upper-caste queer subjects. I will also argue that these subjects have materialized as the “ideal” subject at this point in time due to the opportune confluences of Hindutva and neoliberalism. I will also argue that these confluences hide the myriad of human rights abuses that occurred at the same time as *Navtej Singh Johar*. Lastly, by analyzing the confluences of Hindutva and neoliberalism, I will also analyse the political ambiguity of the Hindu right-wing and the impact this could have on the narrative of “progressive” LGBT+ rights.

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Introduction

In 2018, the Supreme Court of India struck down a part of Section 377 of the Indian Penal Code, a provision which criminalized “homosexual acts” in India since the 19th century (*Navtej Singh Johar v. Union of India*). While the provision only criminalized “carnal intercourse” which included “deviant” sexual acts, it has been implicitly understood for generations that the provision criminalized homosexuality itself. This was for a range of reasons, including the conflation of sexual identities with sexual acts (Tellis, 2019) and also because the provision allowed the police to apprehend people who were thought to be participating in homosexual acts (Ratnam, 2019). Considering all of the above, the passing of *Navtej Singh Johar* was considered to be a landmark moment in the Indian LGBT+ rights movement.

Considering the taboo nature of homosexuality in the country and the manner in which politicians and influential public figures would speak out against homosexuality [will be discussed in further detail in Chapter 3], the decriminalization of homosexuality had the promise of being revolutionary .

In this context, it is also important to specify that this judgment came about after 15 years of court hearings and several other judgments passed by the Delhi High Court and the Supreme Court of India.¹

¹ In 2009, a human-rights NGO that worked on issues relating to the LGBT+ community, the Naz Foundation, filed a petition in the Delhi High Court, challenging the constitutionality of Section 377 of the Indian Penal Code. A 2-judge bench of the Delhi High Court ruled in their favor and declared part of Section 377 to be

Despite the positive implications of this judgment on the surface level, it had also been criticized by several members of the LGBT+ community for its classist and exclusionary implications. In addition, the judgment and the history of the legal proceedings have been criticized by constitutional law scholars, who state that the content of the law is not “unconstitutional” as such and the fact that it is read as homophobic is contingent on a reading that conflates sexual activities with sexual identities (M.P. Singh, 2009; Tellis, 2019). Further, these scholars have also stated that the decriminalization of homosexuality by the judiciary would not have as much of a far-reaching positive impact on the lives of LGBT+ people and that a more positive approach would involve the parliament navigating the “messiness” of homophobia and introducing positive laws and rights, as opposed to merely limiting negative laws (M.P. Singh, 2009; Tellis, 2019, p. 67). As Tellis expertly states, “...it is important to engage with the question of the immorality of homosexuality, not paper over it with the rhetoric of the morality of the Constitution” (Tellis, 2019, p. 72).

unconstitutional (*Naz Foundation v. Government of NCT of Delhi*). However, in 2013, this judgment was challenged in the Supreme Court by a Hindu astrologer, Suresh Kumar Koushal, resulting in the judgment *Suresh Kumar Koushal v. Naz Foundation*. Over the course of these 2013 Supreme Court hearings, the 2-judge bench of the Supreme Court openly ridiculed homosexuality in the court room, often laughing during the proceedings and stating that “they had never met a gay person” (Bhuyan, 2018). The judgment of this bench, which recriminalized homosexual acts under Section 377, infamously stated that homosexual acts should not be decriminalized because it would only impact a “miniscule minority” of the population (*Suresh Kumar Koushal v. Naz Foundation*). This phrase was later referred to in 2017 judgment that recognized a fundamental right to privacy (*Justice K.S. Puttuswamy v. Union of India*) and further in 2018 in *Navtej Singh Johar v. Union of India*. In these last two judgment, the Supreme Court attempted to rectify its mistakes and offered an apology for the phrasing used.

The particularly confusing nature of these judgments and the ambiguous role they have played in bringing about “developments” in the LGBT+ community brings me to a crucial aspect of Ashley Tellis’ critique of *Navtej Singh Johar*. Tellis (2019), while analyzing the intricacies of the judgment, critiques the tone of the judgment as self-congratulatory, “smug” and remarks on the “self-appointed superiority” of the judges. This critique is of value to my analysis, because it implies that the judiciary was concerned with the optics that this judgment would project on a global scale, rather than any constructive development in the lives of LGBT+ people or any disenfranchised group of people in the country. This also ties in with the tone in which *Navtej Singh Johar* was reported on, wherein people celebrated the idea that India had “stepped” into modernity (Justice Done: Section 377 of IPC has no place in a modern democracy, 2018; Flock, 2009). Reading the two together, we could assume that the identity of the liberated queer subject was being utilized by the judiciary to project a certain image of the country. This fits into the framework of “homonationalism” developed by Puar (2007) in *Terrorist Assemblages* [the implications of this connection will be discussed later].

However, separate from Puar’s (analysis of homonationalism, I would not state that the judgement amounts to a “celebration” in the manner that Puar describes the celebration of queer liberation in the United States. Specifically, I do not believe that the political party in power have celebrated or even acknowledged the judgment in question. In fact, I believe that they have exercised “strategic silence” (Kaul, 2017) (Justice Done: Section 377 of IPC has no place in a modern democracy, 2018) on this matter, which is a common political tactic employed by the BJP. This will be discussed later in detail.

Since the judgment was pronounced after the recognition of a fundamental “right to privacy” by the Supreme Court of India [which is further discussed in Chapter 1] and concerned itself

with homosexual acts in “private spaces”, there were legitimate concerns about the impact the judgment would have on sex workers or for those who were most frequently violated in public spaces (Tellis, 2019). There were also criticisms levelled at LGBT+ members who were celebrating the Supreme Court judgment, while the rights of transgender people were at risk of being taken away by the Transgender Persons (Protection of Rights) Bill [analysed in Chapter 1]. In this context, it could also be argued that the judgment was passed at a particularly divisive and violent time in Indian history.

Background of Political Events

The 2014 elections marked the dawn of a new political era, one in which the Indian National Congress party [the “INC”] had been dethroned (Burke, 2014). The Bharatiya Janta Party [roughly translates to “Indian People’s Party; hereinafter referred to as the “BJP”] had won a significant number of seats at the 16th Lok Sabha elections² (Election Results 2014: International media hails BJP's win, cautions challenges await Narendra Modi , 2014) and would go on to win the largest majority of seats since 1985 in the 17th Lok Sabha elections in 2019 (India election results 2019: Narendra Modi secures landslide win , 2019). The Indian National Congress Party, one of India’s oldest political party’s [established in the 19th century; played a significant role in the Indian anti-colonial movement to gain independence from the British] had heretofore maintained a stronghold in the Lok Sabha (Chatterjee, Hansen, &

² The Indian parliament is bicameral; consisting of the Rajya Sabha (upper-house) and the Lok Sabha (lower-house). Democratic elections are held every 5 years to determine the elect members of the Lok Sabha. These elected members will then elect the Prime Minister. For more information, please refer to India : Constitution and politics.

Jaffrelot, 2019). The INC maintained this stronghold in the Lok Sabha from the 1950s [a few years after Indian Independence] till the 2000s, with the exception of a few terms (Guha, 2013). It is also important to specify that high-level members of the INC have been direct descendants of the Nehru-Gandhi family, the most significant members being Jawaharlal Nehru, former prime minister Indira Gandhi, Sonia Gandhi [current president of INC] and noted political figure Rahul Gandhi (Guha, 2013). Amongst many factions of society, this created the perception of political malaise in the Lok Sabha and fed into the idea that the INC was elitist and nepotistic in nature (Guha, 2013).

In the context of all of the above, when the BJP won a majority of Lok Sabha seats in 2014 and went on to win a larger majority of seats in 2019, their victory was welcomed by many. The leader of the BJP, Narendra Modi, had been a significant and notorious political figure in Indian polity since the late 20th century. In 2002, during Modi's rule as the Chief Minister of Gujarat, several Hindu terrorists carried out a large scale pogrom against the state's Muslim population (Engineer, 2003; SIT interrogates Narendra Modi twice over Gujarat riots, 2010; Majumder, 2011). This event was considered to be an effort at ethnic cleansing. Several reporters and scholars alleged that the Chief Minister was complicit in encouraging the Hindu terrorist factions to attack the Muslims (Engineer, 2003; SIT interrogates Narendra Modi twice over Gujarat riots, 2010; Majumder, 2011). Even though the former Chief Minister was given a "clean chit" by the commission that was appointed to conduct an investigation into his involvement in the riots (Langa, 2019), several eminent scholars and political theorists believe that he was responsible for the riots (Mahaprashasta, 2019).

Since the 2014 election and the 2019 re-election of the BJP party, there has been a sharp increase in instances of caste-based and religious-based violence in the country (Deshpande,

2017; “Bihar has highest rate”, 2018; Bhowmick, 2017; Agrawal, 2020). Specifically, instances of violence against *Dalits* [a group of people who are disenfranchised by the Hindu caste system and have been considered to be “untouchables” for generations (Das & Mehta, 2012)] and Muslims has increased manifold, which has led to scholars making pointed connections with the BJP’s ideologies, Modi’s involvement with the RSS and the aforementioned increase in violence across the nation.

Ideologically, the BJP mirrors the Rashtriya Swayamsevak Sangh’s [the “RSS”] principles (Chatterjee, Hansen & Jaffrelot, 2019). The RSS is a paramilitary organization, described as the “longest running fascist movement in the world” (Chakrabartty, 2020), which abides by the principles of *Hindutva* and whose ultimate goal is to build a purely Hindu nation [detailed descriptions of the RSS’s inner workings are discussed in Chapter 3]. Modi himself has been affiliated with the RSS since he was a child (In pictures: Narendra Modi's Early Life, 2014). Further, the current organizational structure and the ideologies of the BJP party is considered to be similar to that of the RSS (Chatterjee, Hansen, & Jaffrelot, 2019). It is important to mention that the President of India, Ram Nath Kovind, is also a member of the RSS (Mukhopadhyay, 2017).

In the context of the above, scholars have stated that there has also been a concerted effort to maintain the “integrity of the ethnic [Hindu] nation” (Chatterjee, Hansen & Jaffrelot, 2019, p.5) and a “personalization and centralization of power” (Chatterjee, Hansen & Jaffrelot, 2019, p.6), with Prime Minister Narendra Modi at the centre. Further, there has reportedly been an unprecedented rise in instances of “populism, nationalism, authoritarianism, majoritarianism” (Chatterjee, Hansen & Jaffrelot, 2019, p.5) since the election of the BJP party and their subsequent reelection in 2019.

Continuing the discussion on the Godhra riots, there have also been other pogroms and instances of ethnic cleansing under the rulership of BJP since 2014 (Bhatia, 2020). The most prominent instances include the displacement of millions of people in Assam due to the National Register of Citizenship, the annexation of Kashmir (Ellis-Petersen, 2019) and the passing of the Citizenship Amendment Act, 2019 (Citizenship Amendment Act comes into effect from today as MHA issues notification , 2020), along with the Delhi pogrom of 2020 (Bhatia, 2020).

The National Citizenship Register (the “NRC”) refers to a state-wide list used to impose citizenship-related limitations on Assamese people (Assam final NRC list released: 19,06,657 people excluded, 3.11 crore make it to citizenship list, 2019). Released in 2019, this list creates a distinction between “legitimate” citizens and excludes those who are considered to be “illegal immigrants”. In the list released in 2019, around 2 million Assamese people were excluded, leaving them stateless and displaced (Assam final NRC list released: 19,06,657 people excluded, 3.11 crore make it to citizenship list, 2019).

In late 2019, the Citizenship Amendment Act (the “CAA”), a legislature which allows Hindu, Christian, Parsi, Sikh, Buddhist and Jain people who have faced “religious persecution” in Pakistan, Afghanistan or Bangladesh to seek citizenship in India (Citizenship Amendment Act comes into effect from today as MHA issues notification , 2020). The legislature explicitly leaves out Muslims who have faced persecution in these countries. Considering the power of the CAA and the distinct possibility that the NRC would be imposed on a national level, large parts of the country protested against the CAA and NRC. Critics have rightfully observed that if these two legal instruments were to be read together, they could have the effect of declaring

Indian Muslims as “illegal” and displacing them (Citizenship Amendment Act comes into effect from today as MHA issues notification , 2020). In response to the enactment of these instruments, widespread protests broke out across the country and in various other parts of the world (Cancelled visits, call for sanctions: International fallout of Citizenship Act , 2019). During these protests, a pogrom was carried out in North East Delhi, resulting in the deaths of hundreds of Muslims. This pogrom was considered to be orchestrated by members of the BJP party and the Delhi police (Kamdar, 2020). These acts of violence are still being carried out by the Delhi police, resulting in the unjustified arrest of student activists across the city [this will be discussed further in Chapter 3].

Considering all the above instances, and the role of the state and judiciary in actively causing harm to members of the Muslim and Dalit communities, it is surprising that the state would display “progressive” tendencies with regard to LGBT+ rights. My research revolves around this contradiction and accordingly, I will attempt to understand if there is any correlation between these sets of events, or whether their concurrent occurrence is purely coincidental.

In this thesis, I will interrogate the aforementioned “progress” of the Indian LGBT+ rights movement [a popular narrative that surfaced after *Navtej Singh Johar*] and the specific assemblage that surfaced in the aftermath of the judgment. According to my research, a linear narrative surfaced in the after-math of this judgment, in which there was sudden, widespread acceptance of homosexuality in India. Further, the Hindu right-wing ruling party [the BJP], under whose rule this judgment was passed, was now considered to be queer-friendly (Awasthi, 2018). The conceptualization of the state as queer-friendly was also due to their “acceptance” of, and their alleged support towards queer people. In this thesis, I will analyse the tools that were utilized in constructing this assemblage of events.

In this regard, I will demonstrate that it is only the Hindu queer subject [referred to as the ideal queer subject] that has gained support from the state and in doing so, I will illustrate the manner in which this ideal queer subject is constructed. Further, I will analyse the “celebration” of LGBT+ rights and deconstruct the Hindu right-wing’s “support” of LGBT+ rights. I will also analyse the manner in which this specific assemblage had the impact of rearranging other political and legal events in this time frame, effectively hiding instances in which Muslims and *Dalits* were disenfranchised by the same state that granted rights to the LGBT+ community.

In the context of analyzing this assemblage of events, I will also analyse the ambiguous nature of decisions made by the BJP, since my research suggests that there seems to be a lack of internal logic in their political agenda. In this regard, I am of the opinion that there are two possible responses: 1) There is complete chaos in their decision-making and this chaos is profitable (Kaul, 2017) and 2) they are truly only motivated by Hindutva and neoliberalism, resulting in the decisions they make. Analysing this political ambiguity will also help with tracing the true motivations of the BJP party.

Methodology

Data and events analysed

There are several legal and socio-political events that have been analysed or relied upon to make broader connections across the thesis. The legal events analysed include Supreme Court judgments and the introduction of new legislative and parliamentary acts. Since *Navtej Singh Johar* was passed in 2018, I chose to focus on legal events in the time span of 2017-2019, to understand broader judicial trends and to analyse whether the passing of *Navtej Singh Johar* could be traced to a judicial trend within the specified time period. In this regard, I chose to focus primarily on judgments passed by a constitution bench of the Supreme Court from late 2017 to 2018. In 2017, a constitution bench was brought together to adjudicate upon 7 matters of constitutional importance. One of these matters was to determine the constitutional validity of Section 377 of the Indian Penal Code, which used to be the provision that criminalized “carnal intercourse” and implicitly, homosexual acts. The reason I have chosen to focus on the other 6 matters that were adjudicated upon by the constitutional bench is because of their unified focus on matters of constitutional law, the time period during which they were adjudicated upon and the overlap of the judges who presided on these cases and lastly, the socio-political climate during which these judgments were passed.

To analyse these judgments I have employed the legal methodological tool of Judicial Behavior Analysis. Judicial Behavior Analysis is utilized to understand the over-arching behavioral

patterns of individual judges, groups of judges or of courts (Tate, 1983). To analyse Judicial Behavior, Tate (1983) states that researchers can rely on “content analysis” and “observations”. Content analysis refers to the study of judgments, speeches and opinions and observations refers to the analysis remarks or incidents including that of individual judges or of the court. It is important to state in this context that while I have analysed Judicial Behavioral patterns of the Supreme Court from 2018-2019 and of certain judges, I have refrained from drawing specific observations about the judiciary. This is because of the influence of assemblage theory, which rejects the strict boundaries of the judiciary and of individual judges. In this regard, making specific assertions about the behavior of the judiciary or to hold specific judges or benches responsible for certain remarks or judgments would be counter-intuitive, since I am analyzing the “harnessing” power of Hindutva and neoliberalism and attempting to understand the manner in which these harnessing powers shape the judiciary and their decisions.

For the first chapter, I have relied upon the primary source of the judgments to ensure factual accuracy and secondary sources like online news reports, journal articles and books, which analyse the cultural and political impact of these judgments. In the rest of the thesis, I have also referred to academic or non-fictional books, academic journal articles, online news reports, online opinion editorials and YouTube videos [which are in the form of news reports]. I have relied on a large number of online news reports and online opinion editorials because there is limited academic discussions on the events that are being analysed for this thesis. This is because the events being analysed are of a recent nature, and any discussion on them is limited to short-form pieces like opinion editorials and YouTube videos.

In an attempt to analyse discourse from a broad political spectrum, I have referred to a variety of sources. However, I have found that the discourse on homonationalism was limited to left-

leaning or liberal perspectives. The discourse I could find on the intimacies between the right-wing and LGBT+ rights was of a narrative or historical nature, which would only define the presence of queer identities in Hinduism. These sources lacked a critical perspective, for which I chose not to rely on them.

There are several other instances and moments in India's socio-political and cultural history that have been referred to and analysed. These include the arrest of student activists in 2020, the political tensions around organizing Mumbai's annual pride parade and comments on LGBT+ rights and identities made by prominent Indian figures like Laxmi Narayan Tripathi and Keshav Suri. These events have been relied upon to make broader connections to theoretical concepts and to make connections to other events as well.

In each instance, I have cited a primary source and a possible secondary source. The secondary source analyses or draws upon the event as well, which highlights the academic significance of analyzing such an event.

“Assemblage” as a tool of an analysis

Puar in *Terrorist Assemblages* (2007) defines “assemblage” while interrogating the usefulness of intersectional methodologies of research and the pitfalls of identity politics. Puar defines “assemblage” in opposition to intersectionality. She states that “as opposed to an intersectional model of identity, which presumes that components—race, class, gender, sexuality, nation, age, religion—are separable analytics and can thus be disassembled, an assemblage is more attuned to interwoven forces that merge and dissipate time, space, and body against linearity, coherency, and permanency” (Puar, 2007. p. 212) .

I chose to use the theories of assemblage as a tool to analyse the events mentioned above since this methodological tool allows me to look beyond static identities and allows for the exploration of a varied and large set of events in order to analyse the state of LGBT+ rights in India. At first glance, these events might appear distinct and divided along the lines of gender, religion, public infrastructure or digital infrastructure, public space, etc. However, using theories of assemblage helped me look beyond rigid definitions of identity and infrastructure and to focus on the gravitational pull or in this instance, the “harnessing” power of Hindutva and neoliberalism that shaped these events.

Theoretical Framework

Introduction

In the literature review, I will analyse the applicable literature for this thesis, which can be divided as follows: 1) Scholarly work analysing the implications of *Navtej Singh Johar* and concurrent developments in the LGBT+ rights movements in India. Tanvi Kanchan (2019) and Nishant Upadhyay's (2020) work are relevant in this context. Their work turns a critical eye on the "progress" of the LGBT+ rights movement at large, and interrogates the ongoing human rights crises in India, 2) the scholarly work of Jasbir Puar, with regard to homonationalism, piecing and capacitation and 3) scholarly work on the convergences of *Hindutva* and neoliberalism. In this regard, I analyse Bacchetta (2014), Sircar (2017) Upadhyay (2020) and Kaul (2017).

Literature Review

"Homonationalism" is a theoretical concept developed by Jasbir Puar in *Terrorist Assemblages* to analyse American political discourse post-9/11 (2007). In *Terrorist Assemblages*, homonationalism is defined as a form of "sexual exceptionalism" which ensures that certain gay and lesbian citizens are afforded "national recognition and inclusion... contingent upon the segregation and disqualification of racial and sexual others from the national imaginary" (Puar, 2007, p.2). In other texts, Puar states that certain gay and lesbian citizens are folded into the nation's framework by deploying an idea of a respectable sexuality which is contrasted with the "perverse" sexuality of racialized others (Puar, 2013). Puar deploys homonationalism to examine the ways in which the sexual perversion of the "racialized other" was contrasted with

the “proper” homosexual subject in the context of the rising visibility and acceptance of American LGBT+ people and the concurrent torture and sexual abuse against detainees in Abu Ghraib carried out by the American military (2007). Puar also uses concepts like “piecing” and “capacitation” in *The Right to Maim*, which will be relied upon in Chapter 2 of this thesis. Briefly, Puar states that “piecing” is a process of transforming a subject’s body, in line with neoliberalism and capitalism. Through piecing, previously disenfranchised subjects like transgender people can be transformed into subjects that are “useful” to the state or the economy (Puar, 2017). Further, “capacitation” is the process of converting bodily capacity into bodily debility, which results in the subject being reproduced in line with the values of neoliberalism and capitalism (Puar, 2017). This will be analysed further in Chapter 2, while discussing the construction of the “ideal queer subject”.

Puar clarifies that homonationalism should be understood as a “process” and a “field of power” and not merely a singular event (2013). Further, Puar goes on to state that homonationalism should also be understood as an “assemblage” of events and practices, through which sexuality emerges as a static “identity” (2013).

As mentioned in the previous section, Puar’s (2012) analysis of “assemblage” is of significance for the purpose of my research. In “I’d rather be a cyborg than a goddess”, Puar recognizes the limitations of intersectional analysis and advocates for employing theories of assemblage, to understand the manner in which identities and events are structured. Similarly, I have chosen to rely on the theories of assemblage to interrogate the claim of LGBT+ rights progress in India and of the Hindu right-wing’s investment in the rights of the LGBT+ community. By employing theories of assemblage, I was able to analyse how this narrative was carefully

constructed by excluding people from other minority communities, like Muslims and *Dalits*. This will be discussed further in Chapter 2.

Referring back to the nuances of homonationalism, I would argue that Puar's conceptualization of homonationalism in the US and Israel might not fit completely with queer, right-wing and nationalist discourses in India. For instance, while discussing homonationalism in Israel, Puar states that the national embracing of LGBT+ rights and the "Brand Israel" campaign signifies an acceptance of gay and lesbians members of Israel which occurs concurrently with the Israeli occupation of Palestine (Puar, 2013). However, while homosexual acts have been decriminalized in India and concurrently, rights of Muslims and Dalits have been stripped away, there does not seem to be a strong focus on deploying an acceptable form of "sexuality" or an overt "celebration of queerness" in India. The ruling party of the country has yet to publicly acknowledge the progress of queer rights in the country, which is in sharp distinction to the discourses in the US and the Israel (Sharma, 2018b). In this thesis, I will analyse the departure from Puar's theory of homonationalism, specifically by analysing the "strategic silence" (Kaul, 2017) of the Hindu right-wing towards LGBT+ rights in India, as opposed to the American "celebration" of LGBT+ rights.

Nitasha Kaul (2017) in the "Rise of the Political Right in India: Hindutva-Development Mix, Modi Myth, And Dualities" analyses these "strategic silences" of the Modi government and discusses their profitability. By analyzing the contradictions present in the action of the BJP-led Modi government, Kaul discovers the existence of a powerful political myth (the "Modi-myth"). Further, they state that these inherent contradictions can also be "profitable", because they also allow the BJP government to attempt to appease all their constituencies, without truly

being held accountable to any of the constituencies (Kaul, 2017, p. 537). Lastly, they recognize the guiding principles of “Hindutva-development mix” at the root of these contradictions.

Following from the work of Kaul (2017), it is important to analyse the convergences between Hindutva and neoliberalism, since these forces play a central role in this thesis. Gopalakrishnan (2006) analysed the ideological convergence between Hindutva and neoliberalism, stating that even though they seem dissonant and perhaps completely contradictory, both are premised on socio-political agendas which centre “individual choices and decisions” (Gopalakrishnan, 2006, p. 2805) and appear to give primacy to the rule of law. However, in both instances, the rule of law or the state’s authority would only apply to a limited extent (as a “guiding principle”) and would make way for a “market place” that runs on entrepreneurial principles. In the case of Hindutva, the “market” is the nation-state, which according to Hindu right-wing principles is brought into existence to guide the rule of Hindutva, but not interfere with it (Gopalakrishnan, 2006, p. 2805). Further, Gopalakrishnan state that both sets of ideologies are premised on an ultimate “transformation” of society. In the case of neoliberalism, this transformation is conceptualized as a free market and in the case of Hindutva, it is conceptualized as a purely Hindu-nation.

Perhaps the most important part of Gopalakrishnan’s analysis is their detailed account of the BJP party’s move towards neoliberalism (Gopalakrishnan, 2016, p. 2807). Gopalakrishnan maps the party’s views on localized production and the global economy through the 90’s. They state that the BJP party started out by advocating for Indian companies and products and pushed to incentivize these market players. However, over the years, the party started to focus on India’s position as a “global economic power” and pushed for “economic rejuvenation” over

“economic nationalism” (Gopalakrishnan, 2016, p. 2807). This impacted the party positively and resulted in the support of a “higher-class of voters”.

Further, the convergences between Hindutva and queer neoliberalism have been analysed by Sircar (2017).

In “New Queer Politics in the New India”, Sircar (2017) analyses the confluence of “queer politics, Hindu right wing nationalism, and neoliberalism” (2017, p. 3). Sircar’s work was published in 2017 and a large part of his research analyses the events that led to the judgment decriminalizing homosexual acts in 2018. In his work, he analyses an assemblage of events, ranging from 2009-2014. These events are specifically the 2009 judgment of the Delhi High Court that decriminalized homosexual acts under the Indian Penal Code and subsequently, the 2013 Supreme Court judgment that overruled the Delhi High Court’s judgment from 2009 [which had the impact of recriminalizing homosexual acts]. Further, Sircar analyses the 2014 general elections in the country, that led to the rise of the BJP party and the subsequent reflection of politics in India’s queer culture.

Sircar’s (2017) work engages with critiques of queer neoliberalism and functions as an analysis of the “New India”, a nation where there are “new intimacies” between the far-right and the queer left. In his work, Sircar (2017) expertly focusses on the dangers of global “gay imperialism” and the manner in which Hindu queer citizens have successfully assimilated through class and religious solidarity, while by-passing the inconveniences of sexual identity. Sircar’s work aids in reformulating the binary between the far-right and the queer left, by demonstrating their shared interests of neoliberal inclusion. The resultant “emerging intimacies” are the focus of Sircar’s work.

While Sircar (2017) focusses on the “intimacies” that became apparent in certain socio-political times, which as he theorizes, came about as a result of the “modern Indian’s” desire to be assimilated into a global liberal framework since the ‘90s, my theorization does not solely focus on specific “intimacies”, but rather focusses on the harnessing potential of Hindutva and neoliberalism and its ability to shape socio-political and legal discourse. Further, I am interested in the inherent contradictions that arise from the convergences of Hindutva and queer neoliberalism and the manner in which these contradictions create a form of ambiguity. It is important to clarify that the analyses in my thesis will also be based on a different set of legal and socio-political instances than Sircar’s, since it has been written after 2019.

Continuing with the issue of *Hindutva* and queer neoliberalism, I will engage with Tanvi Kanchan’s (2019) work.

Kanchan (2019) analyses the media coverage of the *Navtej Singh Johar* judgment and concluded that news reports since 2018 have highlighted a societal tendency to favor the voices cis-gay, upper caste, Hindu men over gender non-conforming, Muslim or *Dalit* queer people. They also reflect on the role of neoliberalism and the “capitalist interests” of media outlets that led to the “appropriation” of queer culture and alienated several members of the queer community.

Kanchan’s analysis of a large set of news reports serves as a valuable resource for my analyses in this thesis (2019, p. 15). However, Kanchan’s theoretical analysis of homonationalism and neoliberal queer interests is vastly different from the approach I have employed in this thesis. For instance, Kanchan states that the exclusionary nature of the news reports and the over-

reliance on the trope of the “economically productive queer” was a result of the state and the media outlets “appropriating” queer culture in the aftermath of *Navtej Singh Johar v. Union of India*. My arguments in this thesis will not engage with the concept of “appropriation” since this would imply that there is a verifiable “past” and “present” in Indian queer discourses and that there is a “pure” subject who has been excluded from, and whose cause has been appropriated by the media’s discourse. Instead, I will engage with the idea that the ideal queer subject is harnessed by the principles of *Hindutva* and by neoliberal interests.

Lastly, to understand the convergences of *Hindutva* and queer neoliberalism, Nishant Upadhyay’s (2020) work on “homohindunationalism” is of importance.

Upadhyay (2020) in “Hindu Nation and its Queers: Caste, Islamophobia and De/Coloniality in India” analyses the rise of “homohindunationalism”, a practice of assimilation where “queer and trans bodies can also be willingly included within the Hindu nationalist project to uphold Brahminical supremacy and Islamophobia” (2020, p. 469). Upadhyay analyses the manner in which the Hindu right-wing hijacked or “appropriated queer and trans struggles” (2020, p.466) post-2018 by centering *Hindutva* and Hinduism in these discourses. Upadhyay (2020) also expertly deconstructs the manner in which the Hindu right-wing recreated caste-based and religious structures through the discourse on “modern” sexual rights, while ensuring that Muslim subjects were construed as “backward”. They also discuss the manner in which sexuality is “deployed” to disenfranchise Muslims and Dalits. While Upadhyay’s argument of fits into the homonationalist framework outlined by Jasbir Puar in “Homonationalism as Assemblage” (2013), it does not necessarily materialize in the events analyzed for this thesis. Based on this line of argument, I will argue in Chapter 3, that the Hindu right-wing’s sudden support of LGBT+ rights is not necessarily a “deployment” of sexual rights against Muslims

and Dalits, but a tactical move, in line with their historical support of women's rights and in more rare instances, the rights of Muslims. Lastly, I will employ Upadhyay's line of argument on the Hindu right-wing's purposeful ambiguities and the "contradictions inherent to the project of Hindutva" while discussing the convergences of Hindutva and neoliberalism as well.

I have relied on the works of Maitreyee Chaudhuri and George Mosse to understand the role of gender, sex and sexuality in shaping the Indian nation-state.

Chaudhuri analyses the growth of the modern Indian nation-state and the role of women in this construction. She states that women play the role of "cultural emblems" and by enacting their sacrificial duties of motherhood for the nation were heralded as "cultural reproducers of national/ethnic boundaries" (Chaudhuri, 1999, p. 127). Chaudhuri further analyses the separation between the public sphere and private sphere in post-colonial India and the deeper relegation of women into the private sphere. This appeared to be contradictory to the promises of "women empowerment" in post-colonial India. The aspect of the "cultural emblem" is significant for this thesis, because it illustrates the importance of "feminizing" the nation³, regardless of the inclusion of "feminine" subjects [in this context, women] into the nation. Chaudhuri also states that the construction of women as "cultural emblems" for the nation are projected as pre-discursive, to the extent where this correlation is considered to be "natural". There are similarities between the concept of the "feminized nation" and "queerphobic" national leaders (Bacchetta, 2019) that will be discussed in Chapter 3.

³ In this context, Chaudhuri refers to the concept of India as a "motherland" that must be protected.

It is also important to analyse George Mosse's work in this regard. Mosse in *Nationalism and Sexuality* studied the forms of "acceptable" sexuality and gendered behavior in Nazi Germany and in other parts of Europe. Through his studies, Mosse proposed that bourgeoisie ideas of appropriate and respectable gendered behavior [which included homosocial behavior between men] was imperative in shaping the boundaries of the nation-state. Mosse also signals an acceptable, moderate form of masculinity that was essential for the maintenance of the nation-state. The "masculine" identity referred had to have "strength of body and mind, but not brute force" (Mosse, 1984, p. 23). This is similar to Bacchetta's conceptualization of the ideal Hindu nationalist man as "a-sexual and hypermasculine" (2019). In both of these conceptualizations, there is a degree of "control" that must be exercised to maintain the subject's masculinity and subsequently, the boundaries of the nation-state.

On the issue of the Hindu right-wing, I have analysed sources that reflect on Hindutva, nationalism and queer identities. In a chapter titled *Queer Presence in/and Hindu Nationalism* from *Majoritarian State: How Hindu Nationalism is Changing India*, Bacchetta (2019) traces the convergences between queer identities and Hindu nationalism from the late 1800s (under British Rule) to more contemporary figures that display queer presences in Hindu nationalism. In this regard, Bacchetta argues that by tracing the history of the RSS, it is apparent that certain homosocial connections allowed the formation of the "brotherhood". Further, Bacchetta traces the emergence of "asexual hypermasculinity" as the ideal norm for the 20th century "Hindu Nationalist Man". She also argues that the image of the Hindu queer and that of the Muslim man are formed by putting together unwanted or discarded traits of the Hindu nationalist man, specifically that of effeminacy, hyper-masculinity or sexually aggression (Bacchetta, 2019, p. 383).

For the purpose of this thesis, Bacchetta's most valuable argument relates to the Hindu right-wing's "monopolization of public discursive spaces" (2019, p. 376). Bacchetta expertly highlights how right-wing organizations constantly expand on the image of the "other", which is useful for the purpose of nation-building. She also specifies that the expansion practices are concurrent with global "neoliberal capitalism". Further, I will refer to Bacchetta while analyzing the inherent contradictions in the functioning of the RSS and the construction of the "Muslim other" through gendered and sexual tools.

Conclusion

The theoretical framework detailed above highlights the research gap that I will attempt to address. In the field of South Asian queer studies, there are few scholarly pieces that address and interrogate Puar's theory of homonationalism, in the Indian context. The scholarly pieces that have studied Puar's theory of homonationalism, seem to support its applicability in India.⁴ For instance, Upadhyay (2020) develops on the concept of "homohindunationalism" in line with Puar's theories of homonationalism. In Puar's analysis, they identify American sexual exceptionalization and recognize the liberal-rights granted to white queer subjects and its subsequent impact on subjects of color and Muslim subjects. In Upadhyay's analysis, they identify a similar structure, with upper-caste, Hindu subjects taking the place of white subjects and subjects of color being replaced by *Dalits* and Muslims. While I do agree with Upadhyay's analysis of sexual exceptionalization, in my research, the applicability of Puar's structure of

⁴ Sircar's (2017) analysis is noteworthy but their article was published in 2017, which was before *Navtej Singh Johar* was passed and before the re-election of the BJP party. Bacchetta's (2019) analysis focusses heavily on the history of the RSS, and the convergences of nationalism and gender, while mine focusses on legal developments.

homonationalism is not as apparent as it is in Upadhyay's research. In this regard, I believe my thesis will be able to address this research gap.

Chapter 1. Legal rights and judgments

Introduction

As mentioned in the Introduction, the Supreme Court of India decriminalized homosexual acts under the Indian Penal Code in 2018 (*Navtej Singh Johar v. Union of India*, 2018). This judgment was passed by a specially constituted Constitutional Bench of the Supreme Court, which heard seven matters of constitutional importance from late-2017 to mid-2018. In this section, I discuss a few judgments that were also passed by the same constitution bench, along with other judgments and statutes.

This chapter maps out significant events that possibly led to the passing of *Navtej Singh Johar* and interrogates the hypothesis that members of other minority communities were further disenfranchised from 2018-2019.

Rights for transgender people

The trajectory of transgender rights in India is also an important consideration for this thesis. In this context, there are two important legal events; the National Legal Services Authority v. Union of India judgment of 2014⁵ and the Transgender Persons (Protection of Rights) Act, 2019. First, the National Legal Services Authority v. Union of India (NALSA) judgment was

⁵ This is the only legal event outside the time frame of 2017-2019 that is being considered. It is only being considered because of its relevance to the theme and because debates related to the NALSA judgment were revisited when the Transgender Persons (Protection of Rights) Act, 2019 was being discussed.

passed by the Supreme Court and acknowledged the right of self-identification for people of the “third gender” (Mahapatra, 2014). The judgment also declared that people of the “third gender” should be provided access to public resources (including employment and education) through affirmative action.

While communities of transgender and intersex people in India like the *hijras*, *kothis* or *kinnars* (among many others)⁶ have significant roots in Indian history (Gettleman, 2018), members of these communities are still disenfranchised and face severe violence and discrimination from different factions of Indian society (Dutta & Roy, 2014; CLPR, 2019). Members of these communities are often subject to custodial violence, which includes physical and sexual abuse (Changoiwala, 2018). This, along with a lack of access to public resources and benefits [like the guarantee of subsidized food under India’s Public Distribution System] created structural barriers against their welfare (CLPR, 2019). Considering the above, the NALSA judgment was also considered to be a momentous victory for LGBT+ rights in India. It is important to specify that unlike *Navtej Singh Johar*, this judgment led to “positive” rights for people of the “third gender” through affirmative action and guarantee of access to public resources, whereas *Navtej Singh Johar* merely limited the negative impact of criminalizing homosexual acts.

Second, the Transgender Persons (Protection of Rights) Act, 2019 was a controversial legislature that was passed by the parliament in 2019. This Act and the recently passed Rules of the Act, have been heavily panned by transgender activists for being restrictive and for reversing the positive impact of the NALSA judgment (Masih, 2019; Mohan, 2020; Knight;

⁶ Please refer to Gettleman (2018) for a broader discussion on the lives of *hijras* and *kinnars*.

2019). The Act and the Draft Rules are restrictive in the following ways: for a transgender person to “officially” recognize as their preferred gender or as a person belonging to a “third gender”, a medical board has to deem that they are in fact their preferred gender. This Act problematic for several reasons, including its rejection of the aforementioned NALSA judgment [specifically the manner in which it takes away the right of self-determination from transgender people]. In addition, the recently released Draft Rules specify that a psychologist’s report is mandatory to apply for a “Certificate of Identity”, without specifying the necessary details of the psychologist’s report that would either qualify or disqualify an applicant from receiving a “Certificate of Identity” (Singh & Shankar, 2020).

Further, the Act criminalizes sexual assault or abuse of transgender people. However, the penalty for the accused is lesser than the penalty imposed for sexual assault in the Indian Penal Code [“IPC”](Masih, 2019; Mohan, 2020). These legal instruments evidently draw a distinction between crimes against cis-women [the IPC sexual assault provision only recognizes cis-female victims and cis-male perpetrators] and crimes against transgender people, implying that the former requires more protection than the latter.

The trajectory of transgender rights in India is a significant aspect of this thesis, since it proves that there are discrepancies in the way in which cis-gay and lesbian (possibly Hindu) Indians are treated and in the way transgender Indians are treated.

Ayodhya judgment

In 2019, the long-awaited decision in the case of the Ayodhya dispute was adjudicated upon and the judgment was pronounced by a constitutional bench of the Supreme Court(Al Jazeera,

2019). This case adjudicated upon the ownership of a disputed land, which was the site of the Babri Masjid [a mosque] in the early '90s. Hindu terrorists demolished this mosque in 1992, based upon the belief that it was allegedly the birthplace of a Hindu deity. In 2019, this disputed land was handed over to a Hindu trust [who then commenced the building of a temple] and a separate, much smaller piece of land was handed over to the Muslim *waqf* board who were a part of the proceedings. The Supreme Court was largely criticized for this judgment, stating that it was not of legal or constitutional importance for the judges to consider contested archaeological evidence of the existence of a temple (Mander, 2019). Further, the judgment was pronounced a few months within the introduction of the aforementioned Citizenship Amendment Act and the annexation of Kashmir, implying that there was a concerted effort to dissolve the rights and interests of Muslim citizens.

The Ayodhya judgment played a significant role in Indian polity, since it signalled the beginning of a series of events where Muslims were unjustly targeted [as mentioned in the background]. It also signalled the dissolution of a judiciary whose interests could be separated from those of the central government.

In the context of this thesis, it is important to mention the support the Ayodhya judgment received from certain factions of the Indian LGBT+ community, specifically from prominent *kinnar* activist, Laxmi Narayan Tripathi. Tripathi came out in support of the judgment and in support of the Hindu temple being built in *Ayodhya* (Dixit, 2019). In 2018, Tripathi

spearheaded a first-of-its-kind, *kinnar akhara* ⁷ and participated in the *Kumbh Mela*, a Hindu religious festival (Press, 2019). Furthermore, Tripathi has also stated that a battalion of *kinnar* people should be included in the Indian army and that they could “storm” into Pakistan and “would help erase Pakistan from the world map” (Upadhyay, 2020; Bhattacharya, 2019). In this context, it is also important to note that *hijras* and *kinnars* are often considered to have figured prominently in Hindu mythology, specifically in the Ramayana and Mahabharata [two important Hindu epics and religious texts] (Gettleman, 2018) . Their significance in Hindu mythology might help understand the manner in which Tripathi valorises them as martyrs in her narrative. In this context, it is also important to note that Tripathi belongs to a dominant caste and is Hindu.

Upadhyay (2020) states that Tripathi’s support of Hindutva and the far-right’s policies implies that she is interested in “mobilizing her caste positionality to align herself with Hindutva forces and become a dominant *kinnar* voice in propagating Islamophobic, brahminical, nationalist state violence” (Upadhyay, 2020, p. 473). In my analysis, this mobilization or “alignment” with dominant caste interests and with Hindutva is reminiscent of Puar’s theories of “capacitation” and “piecing” in *The Right to Maim*. In this context, Tripathi is able to “piece” her queer

⁷ According to Kumar (1998): “The closest colloquial translation of akhada would lie between club and school, in that it refers to almost any organized activity with one teacher, and open membership dedicated to that one activity. There were, and are, akharas of kajli and qawwali singing, of poetry and recitation, of sword and lathi fighting, and of religious teaching.¹ They all have gurus or ustads (teachers); what they teach is vidya, kala (specialized knowledge, art); what the students must have is shauk (passion); and what they must do to learn the art is riyaz (regular practice)”

identity and be included into the national “registers of productivity” and “capacitate” herself by transforming her queer identity from merely non-normative, to productive.

Women’s Rights

In the context of the rights of women, significant progress seems to have been made from 2018-2019. There are three important judgments relating to the rights of women that were pronounced in this time period.

First, the judgment that lifted a decades-long ban and allowed women to enter the Hindu temple of *Sabarimala*, a site where women had previously been denied entry (In 4:1 Verdict, Supreme Court Allows Women's Entry Into Sabarimala Temple , 2018). This passing of this judgment [in 2018] proved to be extremely divisive and led to riots in Kerala (Sabarimala: India's Kerala paralysed amid protests over temple entry , 2019). In 2019, the Supreme Court considered appeals to this judgment and ordered that the case be re-opened in 2020. Critics of this judgment included legal purists, who believed that religious laws and customs should not have been interfered with, along with right-wing organizations and their supporters, who stated that the “sentiments of the devotees” had to be considered while allowing women entry into the temple (Trivedi, 2018). The *Sabarimala* temple has historically banned women who are of “menstruating age”, since the deity worshipped in the temple is young, male and celibate and allowing women who are capable of menstruating would “offend” the deity. While the scope of this discussion is not entirely within the ambit of this thesis, I would like to point out the egregious manner in which women are physically excluded in order to maintain the sexual purity of male figures. As mentioned by Bacchetta (2019), the figure of the Hindu Nationalist man is created through the exclusion of Muslim and queer men who are considered to be either

effeminate, sexually aggressive or hypermasculine. By weeding out these traits, the Hindu Nationalist man is constructed as one who is “asexual” and “hypermasculine”. Further, I would argue that the strict exclusion of women from the *Sabarimala* temple reconfigures the ideal of the Hindu nationalist man as one who must refrain from sexual activity [assuming that allowing women inside poses a threat of desire] to establish their masculinity. This is also similar to Modi’s cultivation of an ascetic image, as a part of which he publicly denied his marriage for decades [only revealing it during the 2014 Lok Sabha elections], along with his assertion that marriage can “corrupt” people (Hajari, 2014). ⁸

Second, the banning of triple *talaq* marked a significant moment for the rights of women in India. Under Muslim personal laws, husbands can verbally divorce their wives by saying “*talaq*” [divorce] three times. This process is called the “triple *talaq*” (Mustafa, 2017). This verbal process of divorce was criminalized through the passing of The Muslim Women (Protection of Rights on Marriage) Act, 2019. However, this judgment and the parliamentary proceedings related to the judgment have been heavily criticized by legal scholars and the reasons for this criticism have been enumerated below.

The specific form of divorce was available to Muslim men under Muslim personal laws because Article 25 of the Indian Constitution guarantees “freedom of conscience and free profession, practice and propagation of religion”. This Article allows people of different religions to carry out their religious beliefs under their own distinct personal laws or codes. In

⁸ For more on the appeal of ascetic and celibate politicians in India, please refer to Tapper (2014).

a similar way, Hindus who wanted to deny women entry into the *Sabarimala* temple mentioned earlier have also had their right to practice the religion of their choice under Article 25.

The aforementioned Act grants Muslim women “protection” from sudden abandonment by their husbands. However, this form of “protection” is seemingly provided by criminalizing the actions of Muslim men.

Critics have stated that the Muslim Women (Protection of Rights on Marriage) Act, 2019 has large gaps as far as rehabilitating abandoned Muslim women is concerned and that it could have provided more constructive or “positive” rights for Muslim women, rather than a meek attempt to “protect” them (Mustafa, 2017; Vardarajan, 2019) . Further, the criminalization of triple *talaq* has been referred to as an “overkill” (Mustafa, 2017), since the intended impact could have been achieved with a mere ban on the process and the imposition of criminal charges on Muslim men is unjustified and would perhaps exacerbate the issue of abandonment.

Most importantly, critics have stated that the ban of the triple *talaq* was legally unnecessary since the Supreme Court had previously nullified this system of divorce (Mustafa, 2017). Therefore, this Act aims to criminalize a divorce process that had no “legal consequences anyway” (Mustafa, 2017). As noted journalist and activist Siddharth Vardarajan (2019) states, the problem of Muslim women being abandoned stems from a larger issue of women in India being abandoned by their husbands, an issue which may not be solved by the aforementioned Act.

In the absence of a larger discussion on the issue of marital abandonment in India and considering the BJP party’s overwhelming support for the Muslim Women (Protection of

Rights on Marriage) Act, 2019, it could be deduced that this legislature was enacted to demonize Muslim men. The strategic silence on the abandonment of Hindu women by their husbands and the implications this would raise about Hindu men, further leads me to believe that the enactment of the Muslim Women (Protection of Rights on Marriage) Act, 2019 was perhaps enacted under the guise of “gender justice” but was carried out to demonize and disenfranchise Muslim men.

In addition, other legal developments in this time period illustrate the judiciary’s stance on gender justice. Specifically, the judiciary’s reluctance to criminalize marital rape in 2017 proves that they might not be committed to the cause of gender justice.⁹ In light of the above, the selective nature of the ruling party’s “gender justice” should be eyed with caution and their strategic silence on the crimes committed by Hindu men against Hindu women should be acknowledged as well. This strategic silence will be analysed through the inner-workings of the RSS in Chapter 3.

Third, the offence of adultery under the Indian Penal Code was decriminalized. Under this provision, men participating in extra-marital sexual relationships with married women could be held liable for adultery by the husband of the woman (Rajagopal, 2018). The logic behind

⁹ Marital rape is a rampant problem in India, with reportedly 4.5% of married women stating that they have been subject to it. It should be noted that a bill criminalizing marital rape was introduced in the Parliament in 2019, but is still pending. Further, in 2017, a Supreme Court judgment criminalized marital rape if the offence was carried out against minor wives. For more information, please refer to Bhuyan (Government Denies Marital Rape Occurs, National Survey Shows 5.4% of Married Women are Victims, 2018), Srivastava (2016) and Agarwal (2017).

this law can be traced back to rules and laws of property ownership, where a man could be punished for “trespassing” on another man’s property (which in this case was his wife).

Privacy and data protection

The constitutional bench deliberated on the constitutional validity of a legislature that made mass-surveillance possible in India (ET, 2018). This case dealt with the constitutional validity of Aadhaar (and the Aadhaar Act), an identificatory card that was meant to serve as a proof of residence in the country, but quickly turned into a method of mass-surveillance. The Aadhaar system required the mass collection of biometric information, like fingerprints and iris scans, which was then stored in an unprotected, centralized databases and used as a verification for the distribution of ration and for the public distribution of subsidized food products by the government. Aadhaar was also being linked to several other services, like income tax payments, bank accounts and mobile numbers, which effectively created a mapping system wherein a citizens activities could be traced through their Aadhaar card (Rautray, 2017).

The constitutional bench in 2017 also deliberated on a case where the fundamental right to privacy in India was recognized (Rautray, 2017). This case was largely related to the previous Aadhaar case and was considered a milestone for liberal rights in India. This judgment was passed prior to the *Navtej Singh Johar* case and also paved the way for the decriminalization of homosexual acts.

Analysis of judgments/ Conclusion

These judgments and the response they evoked help in mapping the rise of Islamophobia, neoliberalism and Hindutva.

In the Ayodhya judgment the manner in which the highest court in the country attempted to resolve a question of historicity, while communalizing the issue, signalled the growth of Hindutva. The recognition of the constitutional validity of a mass surveillance-system could also be understood as a nation-building exercise, in which the state has untethered power and the means to discipline individuals through complete surveillance (Mukunth, 2018). Lastly, the right to privacy signalled the recognition of growing neoliberal interests in India. Interestingly, Puar states that an increased claim for privacy from certain queer citizens can also be understood as an aspect of homonationalism (Puar, 2017).

It is also important to acknowledge the seemingly contradictory judgments that were passed and legislature that was enacted in a similar time frame. These legal pronouncements seem contradictory because, while most of them seem to uphold human rights and constitutional laws, there are massive gaps as far as the rights of Muslim citizens are concerned. Even the judgment that seems to uphold the rights of Muslim women has been criticized for being “useless” and perhaps a veiled threat against religious personal laws. The implications of these contradictions will be addressed in Chapter 2 and 3, through theories of the queer terrorist, sexual exceptionalism of Hindu queers and the “profitability” of tension.

Further, it should be alarming that the BJP was able to orchestrate Islamophobia under the guise of “gender justice” in such an expert manner, while practicing silence on much broader issues. It appears as though there was an effort to publicize the “deviant” nature of Muslim

men in the nation's imaginary and reopen an old debate on the public, national scale that did not necessarily need to be revisited.

Lastly, it has also been suggested that the annihilation of the triple *talaq* would make way for the ruling party to eradicate religious personal laws in the country [largely Muslim and Christian personal laws] and instate a Uniform Civil Code (Mustafa, 2017). This would have an extremely negative impact on religious minorities in the country, since their constitutional right to practice their religion would be disrupted without the legal protection of personal laws. Further, the Uniform Civil Code could prove to be a seemingly “neutral” way to instate Hindutva principles.

Referring to the section on the rights of women, I would like to draw attention to certain comments made by a former Chief Justice of the Indian Supreme Court [Dipak Misra] on marital rape. When asked about the legality of marital rape, Misra [who was speaking in a personal capacity at a public lecture] stated that marital rape should not be criminalized because it would lead to “absolute anarchy” in Indian families (Ex-CJI Dipak Misra Says Criminalising Marital Rape Would Lead To 'Absolute Anarchy' , 2019). Interestingly, Misra was the Chief Justice of the Indian Supreme Court when *Navtej Singh Johar* was passed and was in fact, one of the judges on the bench [hence, he was responsible for the decriminalization of homosexuality]. In sharp contrast to his comments on marital rape, Misra, in his support of homosexuality and while empathizing with queer subjects, quoted German philosopher Goethe saying “*I am what I am, so take me as I am*” (Bhuyan, How 'Unconvicted Felons' Stood in the Supreme Court and Watched Section 377 Fall, 2018). The possibility of analyzing these contrasting quotes is limited since they were made at different forums and in different capacities but, I would like to acknowledge the obvious disparity between these statements and

cast further aspersions of the judiciary's actions of decriminalizing homosexual acts under Section 377 of the IPC.

Chapter 2 – The construction of the “ideal” queer subject

Introduction

In Chapter 2, I will further interrogate the narrative of “progress” by analyzing how this assemblage of events “pieces” and “capacitates” certain queer subjects.

In the context of this Chapter, it is also important to discuss the “harnessing” of certain identities, as discussed by Puar in “Homonationalism as Assemblage” (2013). In this article, Puar conceptualizes sexuality as the “intensification of habituation” instead of conceptualizing sexuality as a static pre-formed identity. In this regard, Puar also states that “sexuality is just one form of bodily capacity being harnessed by neoliberal capital” (2013, p. 41). Simply put, this conceptualization of sexuality moves beyond static categories of identity [most often employed in an intersectional analysis] and acknowledges that certain “identities” emerge through a process where the subject attempts to reach the ideal of the queer subject, or in Puar’s terms, the “disciplinary model of a subject”. This ideal queer subject was also harnessed as a form of “bodily capacity”, transforming its previous position of “bodily debility”.

The “harnessing” power mentioned above is reminiscent of Puar’s theorization of “assemblages” in *Terrorist Assemblages* (2012). In this context, Puar theorizes “assemblages” as deconstructing the boundaries of the subject and state, in a manner that serves the interests of the state. In this regard, I would argue that the “harnessing” power mentioned earlier, can be conceptualized as the gravitational pull of Hindutva and neoliberalism, which blurs the boundaries of the subject, reconfiguring them as a subject who is ideal for the interests of the state [which in this context results in the “ideal queer subject”]. This gravitational pull also

distorts or blurs the disenfranchisement of Muslims and *Dalits*, by focussing on the linear “progress” of the LGBT+ community.

This distinction is important because it shifts focus from the sole queer subject to the harnessing power of the neoliberal economy and the power of homonationalist discourses. This shift would also help in understanding that any subject or identity can be harnessed by neoliberal interests and that perhaps it is not merely the queer subject whose cause is being “appropriated” (Kanchan, 2019).

The “ideal” queer subject

A certain sexual identity or subject emerged in the aftermath of *Navtej Singh Johar*. Based on the work of Sircar (2017), Kanchan (2019), Upadhyay (2020) and Kumar (2020), this subject can be characterized as cis-gay, Hindu, upper-caste, upper-class and male. In addition, through the instances analysed in this chapter, it is evident that economic power and neoliberal values are also desirable in these queer subjects. In the context of this chapter, this subject emerges through its effort to become the “ideal subject” through processes of piecing and capacitation. It is also important to note that the harnessing of the “ideal subject” is part of a larger project of reconceptualizing India as a *Hindu* nation by instilling the values of *Hindutva*.

Sircar (2017), while discussing the possible future of LGBT+ rights in India¹⁰ and the fear of sexual minorities being oppressed under the rule of the BJP, rightfully predicts that LGBT+ rights may in fact flourish under the rule of the BJP, owing to the powerful convergences between Hindu-ism, neoliberalism and queer Indian identities. Further, he argues that LGBT+ rights may be embraced by the Hindu right-wing to push forward a narrative of tolerant Hinduism vs. intolerant Islam.¹¹ He also identifies the growing power of the upper-class, upper-caste “neoliberal and queer Hindu subject(s)” in this narrative, who according to Sircar, perform “homonationalist and homocapitalist practices with aplomb in their ostensibly chic queer lifestyle” (Sircar, 2017, p.21).

In the aftermath of *Navtej Singh Johar*, Kanchan (2019) and Upadhyay (2020) also analyse the rise of a specific queer identity and a particular subject. Kanchan, while analyzing media coverage and news reports of *Navtej Singh Johar* notices the over-representation of upper-caste, upper-class, Hindu, cis-gay men. They trace this over-representation to the structures of Indian media houses, who according to Kanchan, often tend to be casteist and discriminatory themselves. So in Kanchan’s analysis, certain media houses and their infrastructures reproduce

¹⁰ This article was published before *Navtej Singh Johar* was passed and before the BJP government entered their second term. So, Sircar is navigating apprehensions of the “Secular Left” (Sircar, 2017) towards the end of the BJP’s first term.

¹¹ Hindu epics like the Mahabharat and Ramayana have queer characters and acknowledge queer identities. However, the relationship between Hinduism and queer identities goes beyond the representation of queer Hindu subjects and warrants a discussion on Hinduism’s inherent casteism. For more details on the intricacies of queer identities and Hinduism, please refer to Pattanaik (2014) Further, for more details on the casteist implications mentioned above, please refer to Upadhyay (2020, p. 466- 470).

inherently neoliberal values, which tend to be exclusionary and discriminatory, while contributing to the rise of this specific queer subject.

Similarly, Upadhyay (2020) acknowledges the popularity of the upper-caste, upper-class, Hindu male in Indian LGBT+ discourses, with a specific focus on caste and religion. In this regard, Upadhyay expertly argues against the idea that *Navtej Singh Johar* had a decolonizing impact, since it does not address or challenge caste-based discrimination. So, analyzing Upadhyay's work, the rise of a certain queer subject can be traced to systemic caste-based and religion-based oppression and also through the rise of "homohindunationalism", a process through which these discriminatory structures are erased and the Hindu queer subject is folded into the interests of Hindutva (2020, p. 469).

In light of the above, in this chapter, I would like to analyse the processes that are utilized to "produce" or materialize this ideal queer subject. I refer to this subject as "ideal" because they are ideal for incorporation into the Hindu nation. In the following sections, I will analyse the processes of incorporation, which are piecing and capacitation and the values they are incorporated through, which I will argue are Hindutva and neoliberalism.

"Piecing" and the Hindu-ised incorporation of queer identities

As mentioned in the Theoretical Framework, the nuances of Puar's (2017) "piecing" will be discussed in this section. Piecing can be defined in the following manner"

"In The Right to Maim, Puar invokes the differences between "piecing" and "passing" while discussing the Americans Disabilities Act and also while analyzing the emerging trends in

transgender rights discourses. Puar uses the term “piecing” in opposition to and in conjunction with the term “passing”, to illustrate how trans normative citizens conform to capitalism. According to Puar, piecing is also a demonstration of trans exceptionalism and is a departure from the desire of transgender people to merely pass as cis-gendered. Guided by the concept of trans exceptionalism, Puar states that piecing is in line with neoliberal demands on the trans normative citizen and allows them to isolate and transform specific parts of their body, in order to be productive members of society.

Puar makes a distinction between desiring gender normativity (implied through passing) and desiring a role in capitalist production (implied through piecing), implying that the latter is more relevant in biopolitical discourse on “control societies” (Puar, 2017, p. 49). “Piecing” also ties in with the misguided notion that transgender bodies and people are the future of gender identities and the uninhibited flexibility of their identities makes them resourceful for capitalist production. Further, piecing is important from the context of biopolitics, since it allows for “integration”(Puar, 2017, p. 49). Integration, as used by Puar, does not merely signal the achievement of gender normativity for transgendered people, but illustrates the manner in which trans normative people can ultimately become resourceful for larger biopolitical regimes, like the state (Puar, 2017, p. 49).” (Biswas, 2020a)

In this section, I will analyse the applicability of “piecing” in the context of the aforementioned *kinnar* community and specifically, in the context of Laxmi Narayan Tripathi’s political views.

As mentioned earlier, Tripathi is a prominent *kinnar* activist, who has been known to support right-wing policies of the BJP government (Dixit, 2019). For instance, Tripathi showed support for the construction of the Hindu temple at the site of the Babri Masjid demolition [the *Ayodhya*

case discussed in Chapter] and stated that she would march along with other *kinnars* in support of the construction of the temple (Upadhyay, 2020; Bhattacharya, 2019). Similarly, while expressing her political sentiments in the wake of India's militaristic attack on Pakistan in 2016, Tripathi stated that a battalion of *kinnar* women could march into Pakistan and "erase it from the map" (Upadhyay, 2020; Bhattacharya, 2019).

In this context, Tripathi's offering of her body and the bodies of other *kinnar* women in service of the nation is illustrative of the process of "piecing" (Puar, 2017). Based on Puar's reading of piecing vs. passing, it is also important to specify that Tripathi is not merely desiring "gender normativity" in order to pass, but is instead making a case for why she would be ultimately "useful" to the state. Her statement about the battalion of *kinnar* women does not over-shadow or erase her non-normative gender identity, rather it fuses her religious, caste and gender identity to create a hyper-*Hindu* queer identity, which allows her to be included into the folds of Hindutva and neoliberalism. This process of fusing allows her to "piece" her identity as a *kinnar* woman, by conflating productivity and the principles of Hindutva in a manner which is undeniably for the benefit of the nation. In line with Upadhyay's (2020) theorization, this would prove that any queer person who meets the requirement of the "ideal subject" mentioned earlier could be included into nation's imaginary and transform themselves into agents who act in service of the nation.

Further, the "offering" of a *kinnar* battalion signals that Tripathi is willing to offer more than mere allegiance to the ruling party and is instead offering a service that could result in transforming the boundaries of the nation itself. It could be argued that in this instance, "piecing" is transforming the boundaries of the subject and the boundaries of the nation as well.

Remarking on the connections between “piecing” and the “flexibility” associated with it, which is a trademark of “neoliberal market economies”, Puar states that this promise of unending flexibility makes the body of the transgender subject [in this context] “enterprising”.¹²

This perception of bodily fluidity and productivity would be slightly different in the Indian cultural context. While the transgender subjects mentioned in Puar’s analysis have to “piece” in conformity with neoliberal standards of productivity, it could be argued the *hijras* or *kinnars* tap into the historicity of their identities and “piece” themselves along the interests of *Hindutva*, along with neoliberalism. Further, through this narrative, they are actively working at establishing the trajectory of a glorified Hindu past where queer subjects could be folded into the nation’s imagery. This creates a possibly false linear narrative where Hindu queers can claim that their culture is being erased, which allows them to yearn for the “good old days”, establishing that Hindu-ism is essential for the progress of LGBT+ rights. In this binarized narrative, Muslims and Christians are often blamed for perpetrating homophobia and transphobia (Upadhyay, 2020). Therefore, through this process of “piecing” they are also re-establishing the principles of the Hindu right-wing.

In all instances, it is imperative that the “piecing” is resourceful to the state and for the larger purpose of *Hindutva*.

¹² Puar voices Halberstam’s concerns about this perspective and also cautions against this promise of “futuraity” often imposed on transgender bodies (Puar, 2017, p. 46).

In a similar manner, I would argue that the success of the LGBT+ rights movement in India is largely contingent on the ability of certain Hindu queer people to piece their otherwise disenfranchised identities into productive identities that can be of service to the nation and in service of the principles of Hindutva and neoliberalism.

The subject of “capacitation”

In addition to “piecing”, I would argue that “capacitation” also allows previously disenfranchised queer subject to become a part of the national imagery. As mentioned in the literature review, “capacitation” is the process undertaken to meet “neoliberalism’s heightened demands for bodily capacity” (2017, p.1).

Further, *“capacitation allows bodily debility to be turned into bodily capacity, in order for some subjects to align with “registers of productivity” (Puar, 2017, p. 39) and be aligned with the nation’s economic interests. This process seems similar to that of “piecing”, since, in both the processes the final goal is to accrue bodily capacity. Further, both processes allow formerly disenfranchised subjects to be folded into the aforementioned “registers of productivity”.*” (Biswas, 2020b)

Through this framework I will analyse the possible “capacitation” of certain Indian queer subjects in the aftermath of *Navtej Singh Johar* and the manner in which they have been capacitated under the aegis of *Hindutva* and neoliberalism.

This process of capacitation can be credited for the eventual rise of the “ideal subject” in the Indian LGBT+ rights discourse and the apparent transformation of the “queer” subject from a

symbol of national doom to a more ambiguous symbol of development [will be discussed further in Chapter 3].

It is also important to specify that the processes of capacitation and piecing move focus from the communities that are being further disenfranchised, to those that are the ultimate beneficiaries. In this context, this proves that the assemblage of socio-political events mentioned in the first chapter are over-shadowed by a linear narrative of “progress” for the LGBT+ community. However, this does not necessarily imply a causal function that the queer subject is personally responsible for. It is necessary to clarify that it is the state that “harnesses” identities, further capacitating them and it is not the independent, personal choice of a queer subject to capacitate themselves. Further, it is important to note that the transformation of the queer subject also does not have a linear trajectory. In a latter part of the thesis, I will argue that the “queer” subject has been transformed from a negative subject to a more ambiguous subject, whose value is derived from their relevance in neoliberal discourses, which is not necessarily a positive move.

The fight to recognize “economically productive” queer subjects

In 2018, one of the petitioners in *Navtej Singh Johar* , openly gay hotelier Keshav Suri became a national figure for his involvement with the judgment. Suri is heir to a chain of luxury hotels across the country and is one of the few openly queer people in India’s corporate circles (Thani, 2018) . Suri is also notable for his contribution to queer India’s cosmopolitan lifestyle. His contribution is in the form of a LGBT inclusive, high-end nightclubs that he operates out of his hotels (Gandhi, 2019). Suri’s non-profit organization, Keshav Suri Foundation, also conducts

training workshops for members of the LGBT+ community and imparts skills that might not otherwise be accessible to queer people.

Suri's perspective and opinions are of significance for this thesis because they signify a form of queer neoliberalism. In the lead up to *Navtej Singh Johar*, Suri stated that the decriminalization of homosexual acts would stimulate a "pink economy" and "activate gay spending in India" ("Gay Sex Ruling", 2018). In order to support this statement, he relied on reports by the World Bank that estimated the "cost of LGBTQ exclusion to the Indian economy" (Badgett, 2014). Shifting focus from Suri's actions, it is important to question the motive of this report. According to Sircar, this report was released at a fortuitous time by the World Bank and could have been a "message to the neoliberalism loving BJP party" (Sircar, 2017) that had just come into power. Sircar, while analyzing the work of legal scholar Rahul Rao, also comments on the allyship of organizations like the World Bank and questions their role in neoliberalization of the LGBT+ rights movement.

With regard to capacitation, it is evident that an economically productive queer subject could be included into the national imaginary [since Suri's petition was successful and led to the decriminalization of homosexual acts]. By focusing on neoliberal interests and economic productivity, it is possible for previously debilitated queer subjects to become capacitated. It is yet to be seen if their queer identities are over-shadowed in this process of capacitation, or if similar to piecing, their queer identities are transformed into productive identities.

However, based on the above, it is safe to say that a "ideal" queer subject is one who can be economically productive, or at the least, achieve "capacitation" for productivity.

The “depoliticization” of pride

India has seen local pride parades being organized for nearly two decades, starting from the first pride parade organized in Calcutta in the late 90's (Alagarsamy, 2019). While pride parades are often charged political sites, with demands being made for queer liberation and often the liberation of other minority communities as well, they can also become sites of divisive politics. Sircar (2017) analyses the contentious nature of Indian pride parades and their inseparability from Hindu right-wing forces. Sircar (2017) also comments on nationalistic slogans that were used at Mumbai's pride parade in 2010 these events, along with instances where attendees have sang the national anthem.

In contrast to the politicized nature of pride parades mentioned above, there seems to be a push for the “depoliticization” of pride in recent years.

In early 2020, the Mumbai police rejected an application to host the city's annual pride parade at the August Kranti Maidan (“Police Revokes Permission”, 2020) . This event had been organized at the same location for more than a decade, but this year, the application was rejected due to the police's apprehensions that the pride parade would coincide with the ongoing countrywide protests against the Citizenship Amendment Act and that participants of the parade would carry posters denouncing the annexation of Kashmir and the CAA (“Police Revokes Permission”, 2020). Further, the police authorities recommended other venues for the organizers, implying that a certain air of civility was involved in this process. Aside from the glaring difference in the treatment of CAA protestors as compared to the treatment of pride organizers by the police, there are troubling implications about the depoliticization of queerness.. Till 2018, pride parades in India were filled with protestors demanding that the

provision criminalizing homosexual acts under the Indian Penal Code be scrapped and evidently, the Mumbai police did not reject applications on these grounds in any other year. The assertion that pride parades must refrain from “political” activity seems to imply that only democratic protests are considered to be “political” and not the instances where attendees have sung the national anthem or chanted nationalistic slogans.

This could either be evidence of the gradual depoliticization of pride parades [after *Navtej Singh Johar*] or the gradual Hindu-isation of pride parades. In this context, it is also important to specify that “political” opinions are still voiced at pride parades and that certain parades have been sites for protest against the Citizenship Amendment Act and the National Register of Citizenship as well, like in Assam (Northeast, 2020).¹³

Conclusion

Considering the analyses of the scholars mentioned in this Chapter, there is a specific trend that can be noticed. Namely, that the “ideal” queer subject is being “harnessed” through the convergences of Hindutva and queer neoliberalism. The convergences of Hindutva and neoliberalism has made it possible for formerly disenfranchised subjects to “piece” their non-normative identities into productive identities. This “productivity” materializes in the form of economic productivity and through service of the nation. I would also like to add that the confluence of these forces also hides the disenfranchisement of other minority communities,

¹³ Similar initiatives were taken in the city of Pune. For more information, please refer to Shinde (2020).

as mentioned in Chapter 1. To further interrogate this claim, the 3rd Chapter will be dedicated to analyzing the connection of nationalism and gender and to further understanding how the assemblage of events in Chapter 1 is consistently erased or blurred, to uphold the linear narrative of progress.

Chapter 3. Hindutva and the “reordering of gender and sex” of Muslims

In Chapter 2, I analysed the first half of the hypothesis, which is the “progress” of LGBT+ rights and the construction of the ideal queer subject. In this context, I analysed the exclusionary processes involved with harnessing an ideal queer subject and in the creation of a linear narrative of “progress”. In Chapter 3, I will discuss the other part of this hypothesis, which is the disenfranchisement of the Muslim “other” and specifically, the manner in which the intimacies between Hindutva, neoliberalism and sexuality are deployed to create or “harness” the image of the deviant, over-sexualized, Muslim “other”. In this discourse, there is an evident division that is created. On one side is the “tolerant” and valorized Hindu, who is accepting of women’s rights and LGBT+ rights and on the other side is the intolerant, “backward” Muslim subject. In this chapter, I will analyse the Hindu right-wing’s attempts at neoliberal inclusion and debunk the idea that they are proponents of LGBT+ rights.

Debunking the right-wing’s support of homosexuality

A few politicians affiliated with right-wing organizations like the RSS have spoken out in favour of *Navtej Singh Johar*, stating that homosexuality was always embraced and celebrated in Hinduism and that it was in fact Christian and Muslim communities that were homophobic (Awasthi, 2018). With regard to the BJP and the RSS’s stance on LGBT+ rights, it is not entirely easy to locate their intentions since they have changed their position on the issue through the years. Around 2013, when the judgment to decriminalize homosexuality was being adjudicated upon in the Delhi High Court, representatives of the RSS publicly stated that homosexuality was not a part of “Indian culture” and that homosexual acts should not be decriminalized (FirstPost, 2013). However, in 2018, when the Supreme Court did

decriminalize homosexual acts, right-wing supporters and proponents of RSS and BJP stated that Hinduism was “always” tolerant of homosexuality and it was in fact Muslim communities in India who were intolerant and homophobic (Awasthi, 2018). While Awasthi’s comments are not representative of the RSS’s stance on homosexuality, it is also not far removed from the organization’s actual stance either. After the decriminalization of homosexuality in 2018, the RSS stood by the judgment, stating that these acts should not be “criminalized” but also maintained that these acts are “unnatural” and that the organization would not support or recognize “relationships” of this nature. Further, in 2019, an eminent member of the RSS stated that the organization never “opposed the decriminalization of gay sex but had reservations about the institutionalization of gay marriage” (Hebbar, 2019). They further stated that the issue of gay marriage in India could eventually be considered and was not completely off-the-table (Hebbar, 2019).

This sudden shift in the narrative of homophobia amongst Hindu right-wing organizations has been analysed in detail by scholars like Upadhyay (2020) and Kanchan (2019) who state that religious and political organizations have “appropriated” queerness in the aftermath of the judgment and “deployed” (Kanchan, 2019) it to further their Islamophobic and casteist interests (Upadhyay, 2020). While I agree that the shift in their narrative is suspicious, I would argue it is part of the ambiguity that political organizations maintain at all times (Anasuya, 2016) and is a part of the “strategic silence” they employ while commenting on any human rights issues (Kaul, 2017). Bacchetta (2019) also conceptualizes these events as inherently contradictory and states that there are three positions that the Hindu right-wing maintains on homosexuality; first, that it is immoral but, there is a possibility of redemption; second, that there are “too many of them” so society needs to start making way for them and third, that it is “not Indian” (Bacchetta, 2019, p. 385-386).

While scholars like Kanchan (2019) and Upadhyay (2020) expertly analyse the shift in the Hindu right-wing's stance, in my analysis, the instances of right-wing organizations upholding the *Navtej Singh Johar* judgment have been infrequent. Further, their support has always explicitly been about Hindutva interests and not about embracing "queerness".¹⁴ In contrast to Puar's conceptualization of the American and Israeli support and celebration of LGBT+ rights, I would argue that in the Indian context, there has only been strategic silence and ambiguity from BJP and RSS and any form of "celebration" becomes a part of the political ambiguity.

In this context, we can further understand RSS' attempts at queer inclusivity through the following statements. RSS' All India Campaign chief stated that "sexual preferences are private and personal" and supporters of the organization embraced RSS's statement, stating that "the only non-negotiable thing is patriotism and duty towards the nation" (Awasthi, 2018). These statements further prove that "queerness" can become a non-essential aspect of a queer person's identity, as long as they can be capacitated into a "productive" member of society and folded into the national imaginary. The relegation of sexuality or queerness into the private sphere and the over-emphasis on "patriotism and national duty" signifies that it is not necessarily that certain queer citizens can "pass" as normative subjects, rather that they can "piece" their hyper-*Hindu* queer identities, further consolidating queerness with essential aspects of Hinduism; patriotism and political passivity.

¹⁴ In my research, this is evident from the language of "culture", "society", "morality/immorality" they have employed over the years, as can be noticed in the preceding paragraphs.

It is also relevant to mention that the RSS's acceptance of homosexuality is not odd or exceptional if we consider the organization's engagement with other minority groups. The Rashtriya Sevika Samiti functions as an "all-female" version of the main organization. This "all-female" organization hosts camps and gatherings where young women are initiated, taught self-defense techniques, along with the virtues of motherhood and the importance of inculcating Hindu values in their lifestyles (Iyengar, 2017). Similar to the judgment criminalizing triple *talaq* analysed in Chapter 1, it is important to note that this does not signal progress for women, as much as it signals the state's desires to erase Islamic identities and forward the interests of Hindutva.

Further, the RSS is also affiliated with another organization called the Muslim Rashtriya Manch which is a Muslim organization, affiliated with the RSS (Raza, 2014). This is surprising since one of the RSS's goals is to build a Hindu ethno-religious nation, which is supported by Hindutva values, where all non-Hindu citizens have to accept Hinduism as their religion (Sharma, 2018a). To understand this phenomenon, a deeper discussion is warranted on whether an evidently ethno-religious organization like the RSS is "appropriating" the causes of minority communities in order to establish their reign or if Hindutva is guided by larger principles of neoliberalism and capitalism, in which queers, women and Muslim people [who adhere to these principles] could be accepted as well.

Considering the above, it appears that the organization "appropriates" the causes of all minority communities, perhaps as a way to ultimately erase these identities, by subsuming their interests as Hindu interests. Therefore, I am of the opinion that Upadhyay's (2020) analysis is partially relevant, in that it is not merely "queerness" that is being deployed against other minority communities, but several other causes as well.

The emergence of a specific queer identity referred to by Kanchan (2019) and Upadhyay (2020) and the “embracing” of queer rights by the right-wing happens to fall in line with the mobilization towards Hindutva. So it could be argued that what appears to be an act of “support” for queer rights [whether real or orchestrated], is in fact an attempt by certain organizations to mobilize people for the “common cause” of Hindutva (Upadhyay, 2020). This is not to say that queerness is widely accepted and not vilified, it is more to say that queerness in a subject can be ignored (Sharma, 2018b), as long as the queer person in question can “harness” or “piece” other aspects of their identity, like Hinduism [while ignoring their “queer identity” for the sake of the Hindu nation].

In addition to hyper-*Hindu* queer identities being harnessed in subjects, there are instances where Hinduism and the myth of an inclusive Hindu religion are deployed against Muslims and Christians, in order to mobilize Hindutva interests. Bacchetta (2019) highlights the manner in which Hindu mythology is deployed in relation to the above [this is discussed in the next chapter].

Further, there are other instances in which Hindu queers and Hindu mythology has been valorized. This practice is prevalent in contemporary LGBT+ rights discourses, either as a way of seeking rights in a liberal rights framework or as a way to disrupt the narrative of Hindutva and Hinduism being inherently discriminatory (Upadhyay, 2020).¹⁵ Notable queer writers and public figures, like Ashok Row Kavi (Singh & Rampal, 2018) and Laxmi Narayan Tripathi,

¹⁵ Laxmi Narayan Tripathi’s quotes from Chapter 1 and Chapter 2 also prove this “valorization”.

have commented on the compatibility of queerness with Hinduism, Hindu mythology and also with the ethos of the BJP and RSS. Further, notable queer author Devdutt Pattanaik has written several books and articles about the acceptance of homosexuality in Hinduism and the inclusive nature of Hindu mythology (Saxena, 2017). Pattanaik also argues that there is a stark difference between *Hindutva* and Hinduism, implying that the former is an aggressive form of nationalism and the latter is a peaceful religion (Pattanaik, 2017). However, this distinction has been criticized as “convenient” since it ignores the creation and maintenance of the caste system in the Hindu religion (Arpita, 2020).

Regardless, there are still those who insist that Hinduism is accepting of queer identities and LGBT+ rights. This has a twofold purpose. First, it confirms that homophobia and the Indian laws that condemned it were a colonial import that had to be erased and second, it reaffirms their apprehension that, in contrast to Islam, Hinduism is allegedly more tolerant than we had been led to believe.

By imbricating homophobia as a specific cultural fault that can be traced back to colonialism [which is placed in the past] and the looming threat of being overpowered by Islam in the near future, a convenient linear narrative is drawn that allows proponents of *Hindutva* to take credit for the success of the LGBT rights movement (Upadhyay, 2020). This is faulty for several reasons; first, colonization cannot be neatly divided into “before” and “after” since it has been well-documented that remnants of colonialism are present in modern-day India [most prominently through the caste system] (Mendoza, 2016, p. 107-110). Second, as mentioned earlier, proponents of *Hindutva* have evidently flipped positions on their tolerance of homosexuality. The internal contradictions of these organizations carry obvious implications about sexual exceptionalization in this discourse. Similar to Puar’s (2017) work on US sexual

exceptionalization, Hindu sexual exceptionalism indulges in purifying homosexual identities and claiming ownership over them as well.

In the following section, I will analyse the manner in which the purity of the Hindu queer and the alleged inclusivity of Hinduism are deployed in the creation of the Muslim “other”. Further, I will analyse the manner in which the discourse of Hindu right-wing state and its allied organizations construct the Muslim body as “deviant” or as fearful through the “reordering of gender, sex and sexuality” (Bacchetta, 2019, p. 393).

The “otherization” of Muslims and the “valorization” of Hindu queers

In “Majoritarian State”, Bacchetta (2019) states that the “deviant”, sexualized Muslim “other” is created through the “reordering of gender, sex and sexuality”. Further, she analyses “queer sexualities in the postcolonial world” in various ways, namely through concepts like “queerphobic xenophobia”, “queerphilia” and “selective queer national-normativization”. By analyzing these concepts and their import, Bacchetta analyses the “formation, maintenance, everyday life and mobilizations of Hindu nationalism” and the significant role played by queer identities in this formation (2019, p. 377). This is an important theoretical construct because it highlights how queerness can be deployed for Hindutva interests in multiple ways. For the purpose of this thesis, I will focus on the manner in which Hindu queers are “valorized” and Muslim figures are “otherized”.

In this regard, Bacchetta’s highlights a form of sexual exceptionalism [as mentioned in the previous Chapter], referring to it as “selective queer national-normativization”. This refers to the exceptionalization of certain Hindu queer individuals who can be folded into the imaginary

of the nation (Bacchetta, 2019, p. 378). It is important to specify that the subjects or figures Bacchetta identifies as “queer” are not necessarily homosexual, but are what Bacchetta refers to as “queerphilic”. “Queerphilia” refers to the valorization of select Hindu figures along the lines of Hindu symbols and deities who are “bigendered” (Bacchetta, 2019, p. 377).

In this regard, Bacchetta deconstructs the image of famous Hindu nationalist leaders as “bigendered” (2019, p. 377). In Bacchetta’s analysis, “bigender” refers to the assimilation of traditional binary gendered characteristics into one person. In this regard, Bacchetta analyses texts and biographies of leaders like Dr. Hedgevar, Atal Bihari Vajpayee and Narendra Modi, and notices similar trends in these narratives (2019, p. 390 – 393). In most of the above instances, the leaders are defined as ascetic, with pure intentions, who were childlike and taught people that they have “the right to cry” (2019, p. 390 – 393). I would also like to refer to Modi’s status as one of the most popular Hindu right-wing leaders of all time and the correlation this may have with his explicitly ascetic nature. As mentioned earlier, Modi has previously stated that married people would not be fit for leadership since they are more pliable to “corruption”. Further, to reiterate, Modi has been married but denied his marriage while he was the Chief Minister of Gujarat and only declared it prior to national elections in 2014. This is also reminiscent of Chaudhuri’s analysis of the “cultural emblem” of the woman as essential to the creation of the nation.

Bacchetta also states that this “bigendered” nature of Hindu nationalist leaders displays a sense of “queerphilia” that is important amongst Hindu right-wing organizations. This image of the “bigendered”, “queerphilic” Hindu nationalist man is created by imposing characteristics like hyper-masculinity and sexual aggression onto the Muslim man. However, it is important to

note that these “bigendered” men were still homophobic and stated that Hindu homosexuals would bring about the fall of the nation (Bacchetta, 2019).

Similar to Puar’s discourse on the “queer terrorist” (Terrorist Assemblages, 2007) and the intimate connections between sexualization and terror, Bacchetta highlights the “Hindu nationalist reordering of Muslim, gender, sex and sexuality” (2019, p. 393) which is materialized by violating Muslim bodies.

Puar’s image of the “queer terrorist” can be understood as follows:

“In Terrorist Assemblages, Puar describes the convergences of queerness and terror through the term “queer terrorist”. In this text, Puar illustrates the manner in which the U.S. established its national exceptionalism post the 9/11 attacks by normalizing liberal American sexualities and otherizing allegedly perverse Islamic sexualities (through their own techniques of sexual torture). Sexuality was an important tool used to demarcate how backward the U.S’s enemies were and how progressive the U.S. was. Further, the notion of perversion, according to Puar, is imperative in understanding the image of the Islamic terrorist and U.S exceptionalism. Puar forwards the idea that queerness cannot be separated from the terrorist, as they are both bound by these notions of perversion and deformity. Puar also states that the exercise she is undertaking is not one of inscribing queerness onto the terrorist, but of recognizing the queerness which is formative in the shaping of terrorist bodies. In this regard, Puar outlines the junctures at which queerness and terrorist bodies unite. First, both are figures of national terror who cannot be trusted. Second, neither can be truly detected as “queer” or “terrorist” and this gives rise to national anxieties about eluding surveillance. Third, both identities, through their inability to mirror ideal masculinities (whether that is

national or sexual), are readily marked as feminine. Fourth, their impending death is at the root of their identities; the queer body is usually seen as riddled with HIV and the terrorist body is seen as that of the suicide bomber.” (Biswas, 2019)

In this regard, Bacchetta also highlights the extreme levels of sexual violence that have been meted out on Muslim people during pogroms and riots by Hindu nationalist terrorists. Bacchetta highlights the manner in which Muslim women were sexually violated during the 1947 partition of India and Pakistan and during the 2002 Gujarat riots. Further, she highlights the repeated castration of Muslim men during these riots and the implications of the image of the “Muslim-as-hypermasculine-hypersexual” (2019, p. 394). It is important to note that these violent acts are contrasted with the apparently “queerphilic” attitudes of the Hindu right-wing. Bacchetta essentially recognizes several different sites where sexuality is deployed and the various implications this has for queer rights. One of these sites is that of the communal riot.

In the aftermath of the Delhi pogrom in 2020, there were similar instances of Muslim citizens being “otherized” through sexual abuse. Several student activists, who were charged with inciting violence at riots, were arrested in the months following the riot. One such student was Safoora Zargar, who was detained while pregnant and denied bail several times (Gupta, 2020). In addition to the unjust detainment of Safoora, her personal life was also subject to intense personal scrutiny, often through the deployment of sexual harassment (Gupta R., 2020). For instance, right-wing internet users alleged that Safoora’s pregnancy had happened out of wedlock. Further, pornographic videos were circulated of a woman who happened to look like Safoora, with the implication that she had engaged in sexual intercourse outside of marriage and was therefore, obviously unchaste. This later turned out to be fabricated, along with the incorrect assertion that Safoora was unmarried (Gupta R. , 2020). However, there are glaring

implications about the image of Safoora [a Muslim student activist] that was being constructed. A linear narrative was being drawn by internet users, with attempts to draw connections between Safoora's work as an activist and her sexual life (Gupta R. , 2020). The image becomes evident; a "sexually deviant" Muslim woman who has sex out of wedlock [and perhaps also consents to it being recorded], which leads to her becoming pregnant, also dares to protest against an unjust law that excludes Muslim citizens, therefore implying that all her actions are deviant and she perhaps needs to be detained. Following from Bacchetta's theory on the "reordering of Muslim, sex, gender and sexuality", I believe that these are attempts to either defame or sexually harass Safoora in order to reorder her gender identity and sexual expression. This reordering is performed to police her "deviant" behavior and as an attempt to punish her for her attempt to speak up.

It is also important to note that the sexualization of the Muslim figure can also be found in other sites, specifically in media representations. For instance, in "Mr. and Mrs. Iyer", a 2002 dramatic romance about a Muslim man and an upper caste Hindu woman, there are displays of the "corrective ways" in which Muslim peoples bodies are surveilled and policed (Dar, 2009, p. 106-110). In one scene, a bus full of tourists is raided by Hindu terrorists [who implicitly belong to the RSS] who aim to detect Muslims on the bus. In order to detect them, they force the men they are suspicious of to lower their trousers and bare their genitals, to check for circumcision. This ritual or practice highlights many aspects of Hindutva and Hindu terrorism, specifically the need to constantly surveil Muslim bodies, the intricate ways in which sex, gender and terror are imposed on Muslim bodies and the growing strength of Hindutva and Hindu terrorists through processes of sexualization.

Conclusion

Considering all the instances mentioned above, it is evident that Hindu terrorism against Muslims is acutely linked to gender and sexuality and the site of a riot doubles as a site of “reordering gender, sex and sexuality”.

On a more material note, these instances of sexual violence and terror carried out against Muslims is largely ignored in Indian LGBT+ discourses.¹⁶ It could also be argued that the assemblage of “progressive” LGBT+ rights in India not only ignores sexual violence against Muslims, but also profits from the abuse of Muslim bodies. Bacchetta mentions that the “selective queer-national normativization” [which allows the inclusion of homosexual subjects into the national imaginary] is intrinsically tied to “queerphobic” discourses as well (2019).

¹⁶ There were very few articles found on Safoora’s sexual abuse, none of them from major news sources. However, Safoora is well-known and notable and has been valorized as a public activist for her sacrifices.

Conclusion

Referring back to the central research question, I would submit that the narrative of “progressive” LGBT+ rights is misleading, or false, and is assembled together by ignoring the convergences of Hindutva and neoliberalism that are harnessing these “progressive” identities.

I would also like to revisit the discussion on the “celebration” of LGBT+ rights in India. In contrast to the work of Upadhyay (2020) and Kanchan (2019), I would posit that LGBT+ rights have been embraced by many factions of society, including the judiciary. However, to me, this does not signify “celebration”, since the ruling party’s has been consistently silent on the issue. One could argue that the RSS has been encouraging or accepting of homosexuality, but I would point out that their narratives are also rife with internal contradictions. In some instances, they have even contradicted their past opinions on homosexuality (Hebbar, 2019), implying that they might be influenced by the opportunistic motives of Hindutva and neoliberalism.

This brings me to an essential point forwarded by Bacchetta, namely that the Hindu right-wing is constantly “monopolizing public discursive spaces” and redefining the image of the “other”. I would argue that this undoubtedly proves the influence of Hindutva and neoliberalism, since it displays a high degree of ambiguity, which is perhaps maintained in order to broaden the reach of *Hindutva*. In this regard, it would be useful to refer to Kaul’s work on the “Hindutva-development mix”.

Nitasha Kaul’s (2017) work on the convergences between Hindutva and neoliberalism (what they refer to as the “Hindutva-Development mix”) highlights the contradictions prevalent in the actions of the Modi government. Kaul (2017) specifies that these contradictions are most

evident in the government's efforts to appease big businesses, while also claiming to support trickle-down economics and support farmers under a "development" model.

Further, based on Kaul's work, I would argue that the contradictions in the state's actions is important in creating a "salient shared identity for a group" or a "political myth". Citing the work of Bottici, Kaul states that "political myths" can work in both ways and can be a source of "oppression and liberation"(p. 532). Kaul also states that a political myth does not have to be descriptive, but can "create a reality". Most importantly, Kaul states that political myths can centre Hindutva and Development "as the central tropes of a narrative that may not be correct, consistent, or scientific, but it is a dramatic narrative that allows for an accumulation and reproduction of significance through work on multiple sites" (2017, p. 532).

The elusive nature of this political myth allows the state to defer accountability. According to Kaul, the seeming contradictions in the actions of the BJP government are not hidden, rather they are met with strategic silence by the state. Similarly, it can be argued that the trajectory of LGBT+ rights in India has not been condemned or celebrated for covertly political purposes and has rather merely been met with silence. This reason can also be found in Kaur's work, where they state that the seeming contradictions arising from the actions of the state are not mishaps or misgivings, but rather avenues for profit (Kaul, 2017, p. 537) . Kaul highlights that the BJP-led government functions over a vast spectrum of social stratas and physical locations and the "deliberate stance of systematic inconsistency" makes way for the creation of "tension" which is "profitable" (2017, p. 537). Therefore, according to Kaul, it is in the interest of the state to maintain these contradictions and "tension". Upadhyay (2020) also recognizes the inherent contradictions within the far-rights discourse on gender and sexuality and similar to Kaul (2017), recognizes that these contradictions are an "inherent part of the Hindutva project"

(p. 472). Specifically, they state that *“the contradictions and ambiguities between support shown by the RSS, the calculating silence of the BJP, and the unconditional support of gay Hindutva supporters all attest to the fact that queer and trans desires can be assimilable within the Hindu fold as long as these desires emulate neoliberal, casteist, Islamophobic, and nationalist agendas of the Hindutva project.”* (Upadhyay, 2020, p. 472)

Similarly, I would argue that a deeper look into the motivations of the Hindu right-wing may not be warranted, since it is the ambiguity of the far-rights projects that allows it to function as a “political myth”.

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