The more expert we become in talking about sexuality, the greater the difficulties we seem to encounter in trying to understand it. Despite sustained attempts through many years to 'demystify' sex, and several decades of much proclaimed—or condemned—'liberalism' and 'permissiveness', the erotic still arouses acute moral anxiety and confusion. This is not because sex is intrinsically 'naughty', as a sensitive commentator has rightly remarked, but 'because it is a focus for powerful feelings'.

– Jeffrey Weeks

It is the affective that connects the old and the new, and we don’t mean nostalgia here, but the possession of a historical imagination (much like C. Wright Mills' 'sociological imagination'). Establishing this affective link between the past and the present is a way to undo the binarised nature of the hyphenated 'pre-' and the 'post-' that characterise most temporal posturing in history. By bringing the affective in, the old and the new get reconfigured as a tactile continuum rather than as the before and after of a material flashpoint moment. Flashpoints that get treated as harbingers of history are also history vanishing moments: “a centripetal turbulence of illumination so powerful that it may blind the past even as it spotlights the present and lights up the future.” And when critique is mounted by reading history as flashpoints, it is a truncated, blinkered history that results in a compromised and sanitised politics. A

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politics that fossilises the past, valorises the present, and simply paints a 'clean' picture: no contradictions, no contestations, no mess. A picture that irons out the unruly creases of historical inexplicability and is ready to adorn the manicured walls of an aesthetically curated memory museum. It is this practice of creaseless curation of the old and the new into ornate frames of history that this special double issue of the Jindal Global Law Review (JGLR) aims to work against, by using the lens of queer theory to “giv[e] up notions of universality, truth and rigid identities.”

This JGLR special issue draws inspiration from Jeffrey Weeks' prophetic observation quoted above. It is by foregrounding the 'powerful feelings' that build the continuum between the old and the new – not on a linear temporality, but a meandering, crooked, going back and forth, up and down, inside and out way – that we plan to make some contingent sense of queer sexuality's 'histories of the present'. If these histories – as articulated by the authors in this volume – are connected in any way, it is through an abiding commitment to queering flashpoint historical moments to problematise any fixated and captive explanatory framework for understanding the interactions between law, culture, queer sexualities, and neoliberalism. These four key words animate a crisis in the current political imaginary of the idea of justice that this issue will try to work through.

To that end, the issue offers a messy miscegenation of ideas, arguments and positions that cannot necessarily be captured within neat categories of disciplines, ideologies or experiences. To be messy here is indeed a purposeful political act that resists being sucked into the binarised traps of east/west, hetero/homo, straight/queer, pleasure/pain, new/old, base/superstructure, theory/practice, conformity/subversion, modernity/tradition, agent/victim, and the like.

When 'powerful feelings' are injected into the practice of critical inquiry, we discover the unruly calibrations within and beyond the binaries, and we also come to recognise a breed of power that does not only operate with teeth gritting dangerous glory, but one that is insidiously benign and uses the governmentalised technology of consent to smoothly discipline our conduct in the name of welfare and self-care. In response, the authors in this volume are creatively disloyal to their disciplinary trainings and locations, and intensely committed to the practice of resistance and


radical transformation. While each essay performs the ethical task of self-reflexivity, the authors in this volume do not claim to speak in the authentic voice of the ‘true queer’. Instead of getting trapped within queer identitarian categories of authentic self-definition, they use queering as a method of critique. As Michel Foucault reminds us:

A critique is not a matter of saying that things are not right as they are. It is a matter of pointing out on what kinds of assumptions, what kinds of familiar, unchallenged, unconsidered modes of thought, the practices that we accept rest [...] Criticism is a matter of flushing out that thought and trying to change it: to show that things are not as self-evident as we believed, to see that what is accepted as self-evident will no longer be accepted as such. Practicing criticism is a matter of making facile gestures difficult.6

To engage in queering then is, as Gibson-Graham tell us, “reading for difference rather than dominance.” 7 This is at the core of the vision with which the issue was conceptualised, to ask, among others, the questions: what happens to queer identity when it moves out of its home base of sexuality?8 Does it lose salience when asked questions that do not necessarily have any direct connections to sex and sexuality? To ask these questions does not mean to speak of a post-identity, post-ideology politics, or to dismiss the kind of politics that we disagree with, but to question the historical antecedents that have contributed to the construction of queer subjectivities, and the flashpoint break between the pre and the post of their moments of coming into being. To what use are these identities being put? How are they being materially and symbolically mobilised at a time in history that we call neoliberal? How do queer identified subjects negotiate their everyday and ordinary lives and desires through their interactions with the law? Does this interaction turn them into museumised objects: despised and exoticised at the same time?

So, what will a new collection of essays add to an already expansive and sophisticated body of critical scholarship on law, culture and queer sexuality? Will it break new ground? Will it merely rehash old ideas? We will leave that evaluation to our readers. And in any case, we are not approaching this issue with a polarised understanding of the old and the new. It would suffice to say that the process of putting together this issue has been so exhilarating an experience that the readers also

8. This question was raised by Janet Halley at the 2011 Institute for Global Law and Policy; The Workshop, at Harvard Law School.
sharing even a bit of that as they read through the essays that follow would suffice.

The first cause of exhilaration stems from the very fact that we were attempting to disturb the doctrinal foundational pitch of a law journal. Although JGLR’s previous issues have featured interdisciplinary work, the disciplinary location of all such work was the law, and only the law. We have inverted – in fact, queered – the pitch. A majority of our contributors are non-lawyers, and for the lawyers, their work declares a departure from the law’s disciplinary precincts. Yet, the interrogation of the law – as a discourse of power, and an experience of regulation and liberation – is never abandoned. Rather it has been strengthened by drawing on a range of inter- and cross-disciplinary perspectives, primarily from the Humanities.

The second reason is the overwhelming response that we received to our call for papers. The call was verbose, opinionated and political. We were expecting very few responses given that we had purposefully narrowed down the theme so much. But even after we selected the contributions that are part of this special issue, we realised that there were so many of them that we have to spread the volume across two issues; which gave us the opportunity to carry such a fantastic collection of essays. We are certain, that across the two volumes, the essays will evince the kind of critical historical continuum that we have been discussing here. Thirdly, the issue carries the works of very established and young scholars within the same space. This co-habitation isn’t just a coincidence, but a deliberate attempt at our end as editors to curate the two issues in a way that they contribute towards a more democratic and non-hierarchical practice for critical scholarship.

The second issue of this volume that will appear in a few months from now will focus broadly on the transnational universalising politics around queer organising and imagination, and its racist and imperialist proclivities. Issue 1 unpacks the experiences of the hyphenated '-post' ('-modern'/ '-colonial'/ '-criminalisation'/ '-legalisation') moments in the journey towards queer emancipation (or to use a more identitarian expression, LGBTQI rights) in India and two other non-Western countries, namely Indonesia and Argentina; and certain parts of the developed world, namely Spain, Australia, UK and Canada. The essays collected here disrupt linear narratives of liberation that law and modernity expound, and also capture an occasion where the liberal law’s standard of ‘consent’ falls woefully short of even comprehending a dissident sexual practice. Through the rest of this introduction, we provide a summary of themes that this issue hopes to engage with.
I. FROM REPRESSSION TO EMANCIPATION?

Stories of queer liberation always seem to be framed within linear narratives of repression to emancipation. These narratives are closely aligned with our understanding of liberal rights, where the advent of democracy, constitutional legalism and capitalism are considered co-terminous with the advent of modernity and civilisation, and thus the acceptance of sexual outlaws within the fold of full and equal citizenship.

Interestingly, this linear progressive trajectory of history was also used as the justification for colonialism, and still holds tremendous purchase when it comes to claiming the identity-based LGBTI rights using the language of the law. Drawing on the colonial legacy today comes the accusation of non-Western countries being backward and homophobic, and in need for immediate law reform to decriminalise sodomy, legalise same-sex marriage and civilisationally uplift culture (which works as short-hand for religion) by opening up to secular markets. Such an explanation erases alternative histories of sexual desire and resistance, and makes us conveniently forget the colonial acts that in fact legislated homophobia into the law and subsequently into the cultures of postcolonial states. A linear narrative of history thus relies heavily on flashpoints to mark the civilisational break between Western progress and Eastern primitivity, where constitutional/ legal protection of LGBTI rights serves as the marker of how evolved a postcolonial democracy is (if it qualifies as a democracy at all in the West's view).

It is here that postcolonial theory and subaltern studies make an entry with theoretical tools that disrupt this neat narrative of universality to offer a queer history of layered contradictions. The essays by Brenda Cossman, Ratna Kapur and Vanja Hamzic are part of this disruptive tradition. Hamzic doesn't necessarily borrow entirely from these bodies of work, but shares a deep solidarity in political spirit in his discussion of alter-sexualities in the Indonesian Archipelago. A majority of essays in Issue 2 engage with this theme more closely.

9. See generally Martha Nussbaum, From Disgust to Humanity: Sexual Orientation and Constitutional Law (2010) (Nussbaum's work is a case in point of this repression to emancipation narrative.).
11. See in this issue, Brenda Cossman, Continental Drift: Queer, Feminism, Postcolonial.
II. FEMINISM: A STRAINED ALLY?

Cossman and Kapur's disruptions in this volume help us recognise another linear trajectory akin to the move from repression to emancipation. This one suggests that the birth (and we are attentive to the heteronormative connotation of this expression!) of queer theory happened out of feminist theory – and now they are part of the same family, sharing similar political visions and theoretical roots. And their intimacy is, “... just as in most bookstores [...] found on shelves located side by side or back to back.”14 Yet, as the blurb on the edited collection Feminism Meets Queer Theory says: “[...] they can also seem like strangers, needing mediation, translation, clarification.”15 The linear story goes that first there was feminist theory, and then came queer theory, and that is why queer theory must always pay its gratitude to feminist theory as its mother goddess. Few standard contentions that queer theory has with feminist theory are the latter’s difficulty with breaking out of the male/female binary, the mounting of an analysis that is uneasy with discussing sexuality outside of its critique of reproduction and violence, the struggle to resolve whether feminism ‘carries a brief’ for an unambiguous and essentialist subject called ‘the woman’, and gender-subjugation as always understood in terms of men dominating women.

Fed up with feminism's continued discomfiture and marginalisation of queer sexuality and drawing on queer theory’s commitment to an anti-identitarian politics, in 2008 Janet Halley made a charmingly provocative argument about 'how and why we should take a break from feminism' in her book Split Decisions.16 Cossman and Kapur's essays in this volume engage with this suggestion of a 'break' to understand what the consequences of such a manoeuver might be when queer theory moves to the postcolony. Does it recreate another binary of theory being Western and experience being Southern? Or does queer theory undergo a transformation through its “continental drifts”? Does theorising become the queer academic's privilege whereas identity politics remains the drudgery of the materially discriminated homosexual? While Cossman and Kapur do not suggest a complete break from feminism (they acknowledge its contribution to their own political positioning as queer feminists), they do offer insights into disruptive acts that queer theory can perform to push feminism's boundaries to imagine a “radical alterity” that makes space for solidarity building and “homosexual disidence in law.”

14. FEMINISM MEETS QUEER THEORY vi (Elizabeth Weed & Naomi Schor eds., 1997).
15. Id.
The strained relationship between feminism and queer sexuality has been more than apparent in India (and South Asia) as well, especially with the difficulty that the women's movement and feminist scholarship has had with speaking about lesbians and trans-women, let alone considering queer-identified women (and sex workers) part of the movement. On many occasions, queer sexuality has been considered a bourgeois issue that concerns only upper class/caste women. In India, after a conspiracy of silence on the sexuality question within the women's movement, one of the first spaces where lesbians found articulation beyond the context of violence was at the 1994 edition of the National Conference of Autonomous Women's Movement held at Tirupati. As Nivedita Menon notes:

[T]he initial response of the established leadership of the women's movement was entirely homophobic and even today the alliance is not an unproblematic one. [...] [At the Tirupati Conference] an open and often acrimonious discussion on lesbianism took place, with the greatest hostility coming from leftist groups, decrying lesbianism as an elitist deviation from real political issues.

Soledad Cutuli's essay explores similar tensions around the integration of travestis within the LGBT movement in Argentina.

### III. LAW AS SPECTACLE

The law works as the most potent flashpoint moment. Queer struggles in most parts of the world work towards demanding repeal of anti-sodomy laws, seek legal recognition of same-sex marriage and laws to protect them from discrimination. We don't need to over-emphasise how important these efforts are. What we remain concerned about is the way in which the law is projected as the singular point where queer oppression and emancipation meet: one that is at the root of homo/trans/queer phobia, and one that is the most potent response to it. The cruelty of this experience is aptly captured in the term 'Pharmakon'. Derrida's reading of this expression, first introduced by Plato, means

17. See generally Embodyed Violence: Communalizing Women's Sexuality in South Asia (Kumari Jayawardena & Malathi De Alwis eds., 1996); A Question of Silence? The Sexual Economies of Modern India (Mary E. John & Janaki Nair eds., 1998); The Violence of Normal Times: Essays on Women's Lived Realities (Kalpana Kannabiran eds., 2005) (barring marginal references, all these works primarily focus on violence and a critique of reproductive heterosexuality).
18. Sexualities 23 (Nivedita Menon eds., 2007). (emphasis added)
19. Travesti is the term used by local male to female transgenders to refer to themselves in Argentina.
20. See in this issue, Soledad Cutuli, Rethinking Queer Sexualities, Law and Cultural Economies of Desire.
medicine that is cure and poison at the same time. Escaping this double-bind of the law’s promise of justice and reality of violence becomes a formidable task for queer struggles.

The spectacle works in such a way that legal achievements tend to anaesthetise our collective ability to gauge its consequences. Can decriminalisation of sodomy be universally emancipatory? Can it not, in fact, be a more insidious mode of surveillance and regulation? Does same sex-marriage recognition reproduce hetero-patriarchy? Can the trope of the right to privacy, that is used on most occasions to legally challenge anti-sodomy laws, become a marker of class privilege? Can the claim to privacy be a depoliticising move that domesticates sexuality? Does legal emancipation ossify sexual identities as fixed and unchangeable? Is the almost universal cry for decriminalisation part of any larger politics connected to agendas of global governance and aid politics? Do decriminalisation and same sex-marriage rights operate as civilisational markers of progress?

The *Naz Foundation* judgment that read down Section 377 of the Indian Penal Code (India’s anti-sodomy law), as many would argue, is an outcome of the cultural acceptance of diverse sexualities that has taken place as a result of liberalisation and globalisation, as is evident from the Delhi High Court’s constant allusions to international human rights law and precedents, primarily from the United States. These references made apparent the cultural logic behind the court’s reasoning: India needs to live up to the progressive developments in other parts of the (Western) world by decriminalising sodomy. As Anjali Gopalan, founder of the petitioner organisation *Naz Foundation* said after the judgment was delivered, “Oh my God, we’ve finally stepped into the 21st century!”

The excitement of the moment notwithstanding, this spectacular declaration is indeed a history-vanishing flashpoint moment — where the ostensibly progressive present contributes to the making of queer emancipation at the cost of blinding us from a historicised understanding of the cruelly liberal genealogy of this very moment.

It cannot be denied that the judgment is progressive and historic. Upendra Baxi’s celebratory declaration was that it marked an “exceptional’ adjudicative moment.” What Baxi missed was how this spectacular exceptionalism worked as a blinding flashpoint that sought

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23. These arguments have been drawn from Oishik Sircar, *Spectacles of Emancipation: Reading Rights Differently in India’s Legal Discourse*, 49 (3) OSGOOD HALL L. J. (forthcoming 2012).
to recognise only the rights of those homosexual men who have the privilege of access to private space. The primacy put on private sex is clearly an elitist qualifier to read down the law, because it excludes from its purview a whole range of non-elite and indigenous sexually marginalised people who do not enjoy the privilege of private space. The 'privacy' standard is a myth, because those who do have access to private space were already outside of the reach of the law. As Ashley Tellis questions, “What is the point of allowing consensual sex between private adults of the same sex when most violations are of us in the public realm: in institutions, on the streets, in parks, toilets and wherever else?” Jason Fernandes has noted that the judgment prioritises the interests of urban, English-speaking, middle-class leaders of the queer rights movement in India, by overshadowing those very sexually marginalised (Hijras, Kothis, Panthis) who they claim to represent. The reading down of the law may thus now ostensibly allow for same-sex acts within private spaces, yet it ironically offers no protection for same-sex practices outside the normative parameters of home and domesticity.

Wendy Brown notes in the American context of decriminalisation of sodomy on the grounds of privacy:

Privacy, for example, is for many feminists a site that depoliticizes many of the constituent activities and injuries of women: reproduction, domestic assault, incest, unremunerated household labour, and compulsory emotional and sexual service to men. Yet for those concerned with sexual freedom, with welfare rights for the poor, and with the rights to bodily integrity historically denied racially subjugated peoples, privacy generally appears unambiguously valuable [...] Like rights themselves, depending on the function of privacy in the powers that make the subject, and depending on the marked identity that is at issue, privacy will be seen variously to advance or deter emancipation, to cloak inequality or procure equality.

27. These are identity categories that non-elite sexually marginalised persons use in India, instead of using the category of gay. Culturally, the performance of these identities are also very different from being gay or just homosexual.
The lesson, then, is to not treat the liberal virtues of privacy as a universal emancipatory idea but, rather, as one that also has the ability to disenfranchise. Pharmakon again.

A large number of essays in Issue 1 engage with the 2009 flashpoint judgment of the Delhi High Court (HC) in the *Naz Foundation* case. There has been so much written on *Naz* since then but the postcolonial and queer critiques that authors in this volume offer have been sadly absent from much of what has been published so far, barring a few exceptions. Scholarly and activist writing on law, sexuality and culture in India – both pre and post *Naz* – that have used the 'queer' tag in the naming and framing of their work have continued to do so within the identity politics framework where queering as a method of critique was given short shrift.

Contributions in this volume hope to make a departure on that front. While Cossman and Kapur extend their 'taking a break' analyses into the realm of the *Naz* judgment, Neil Cobb’s, Ashley Tellis’ and Zaid al Basset’s essays in this volume provide nuanced and novel readings of what the future of *Naz* might hold for queer emancipation in India. A queer rereading of *Naz* – in ways that are interested in cutting through the rhetoric of magic and celebration that seems to surround it all the time – while we wait for the Supreme Court of India (SC) to decide on Sec. 377’s fate is imperative, not because the SC might overturn or uphold the HC judgment, but because *Naz* and the cultural, bio-

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31. Two notable collections that were published post the *Naz* judgment are the special issue of the NUJS Law Review [2 NUJS L. REV. (2009)] and Law Like Love: Queer Perspectives on Law (Arvind Narrain & Alok Gupta eds., 2011); See particularly Ratna Kapur, Out of the Colonial Closet, But Still Thinking ‘Inside the Box’: Regulating ‘Perversion’ and the Role of Tolerance in De-radicalising the Rights Claims of Sexual Subalterns, 2 NUJS L. REV. 381 (2009); Fernandes, supra note 28.

32. See generally Queering India: Same-Sex Love and Eroticism in Indian Culture and Society (Ruth Vanita ed., 2002); Because I Have a Voice: Queer Politics in India (Arvind Narrain & Gautam Bhan eds., 2005); Law Like Love: Queer Perspectives on Law (Arvind Narrain & Alok Gupta eds., 2011) (An edited volume that attempted a move away from discussing sexualities only from an identitarian lens but ultimately couldn’t escape fixed notions of queer identities is The Phobic and the Erotic: The Politics of Sexualities in Contemporary India (B. Bose & S. Bhattacharya eds., 2007). An edited volume that attains some success by not letting identity politics overshadow the engagement with critique is Menon, supra note 18 (though it does not offer anything specific as a queer critique of sexualities.)).


34. See in this issue, Ashley Tellis, Disrupting the Dinner Table: Re-thinking the ‘Queer Movement’ In Contemporary India.

35. See in this issue, Zaid Al Basset, Section 377 and the Myth of Heterosexuality.

36. See Engel, supra note 4 (“Queer theory [...] is a politics of language and a technique of rereading rather than of taking part in the process of resubjectivation – the mobilization and transformation of desires, the cultivation of capacities, and the making of new identifications.”).
medical, governmental and developmental mobilisations around it have seldom been subject to deep scrutiny. In a similar vein, Susana Lopez Penedo’s article interrogates the complicated and limiting outcomes of same-sex marriage legalisation on the LGBTIQ movement in Spain.37

The law distinguishes between 'good' and 'bad' sexuality by primarily using the barometer of 'consent' and limitations to measuring of legal consent in sexual relations and transactions are very well theorised.38 The law still persists and consent is indeed the most effective qualifier for which kinds of sexual interactions should and should not be criminalised. Of course, when it comes to dissident sexual acts like sodomy, the law conveniently suspends legality, embraces conservative morality and makes consent irrelevant. Ingrid Olson’s essay powerfully challenges the law’s spectacle by looking at the cultural limits of sexual consent in the case of sadomasochism: a practice that continues to be tabooed and censored even within queer and sexuality-affirmative circles and literature.39

IV. NEOLIBERAL TECHNOLOGIES

Neoliberalism is the proverbial elephant in the room when it comes to liberal discourses on queer emancipation. There are several political-economy definitions of what it is and why it is dangerous,40 but we would like to work with a tentative definition that understands neoliberalism as 'the cultural technology of disciplining conduct'. While capitalism as an ideology puts into operation a political formation of governance like liberalism, neoliberalism is the condition where practices of liberalism get naturalised, internationalised and internalised by individuals who inhabit liberal or liberal-aspiring state formations.

Culturally, neoliberalism has very smoothly done three things to ensure its robust and brutal longevity: first, it has enabled the mutation of the state into a firm; second, it has given birth to the responsibilised and self-governing citizen; third, it has constantly projected experiences

37. See in this issue, Susana Lopez Penedo, Queer Politics In Spain: There Is Life After Same-Sex Marriage Legislation.
38. See generally A. Wertheimer, Consent to Sexual Relations (2003).
39. See in this issue, Ingrid Olson, Asking For It: Erotic Asphyxiation, And The Limitations Of Sexual Consent.
40. One of the most widely accepted definitions is from D. Harvey, A Brief History of Neoliberalism 2 (2007) (“Neoliberalism is in the first instance a theory of political-economic practices that proposes that human well-being can best be advanced by liberating individual entrepreneurial freedoms and skills within an institutional framework characterized by strong private property rights, free markets and free trade. The role of the state is to create and preserve an institutional framework appropriate to such practices.”).
of human precarity and risk as entrepreneurial/ developmental/ funding opportunity. These three ramifications of neoliberalism on human minds and bodies have had arresting consequences on the idea and practice of legally claiming LGBTI rights.\footnote{This argument is borrowed from Oishik Sircar, \textit{Some Paradoxes of Human Rights: Fragmented Refractions in Neoliberal Times}, 2 (Monsoon issue) \textit{Journal Indian L. \\& Soc’y} 187 (2011).}

The new mantra of citizenship under neoliberalism is one where every individual is told that they can be citizens with rights as long as they perform certain prescribed codes of respectable citizenship which are for their own good. Under neoliberalism, the script of this seduction is not a preserve of the state any longer but authored under the demands of transnational market forces. The promise of integration is a difficult temptation to resist for those who have historically been outside of the folds of formal citizenship. Not being integrated is to not be treated as a citizen with rights and being incorporated into the folds of citizenship might afford you rights but those rights also result in initiating a unique form of self-surveillance and regulatory technology. Pharmakon redux. So what exactly does the seduction of the state/ market complex do to the queer person? As Jasbir Puar in her reading of the situation in the US notes:

\[T\]here is a transition under way in how queer subjects are relating to nation-states, particularly the United States, from being figures of death (i.e., the AIDS epidemic) to becoming tied to ideas of life and productivity (i.e., gay marriage and families). The politics of recognition and incorporation entail that certain – but certainly not most – homosexual, gay and queer bodies may be the temporary recipients of “the measures of benevolence” that are afforded by liberal discourses of multicultural tolerance and diversity. This benevolence towards sexual others is contingent upon ever-narrowing parameters of white racial privilege, consumption capabilities, gender and kinship normativity, and bodily integrity.\footnote{Jasbir Puar, \textit{Terrorist Assemblages: Homonationalism in Queer Times} xii (2007).}

The experience in India will not be very different where \textit{Na\=z} marks this flashpoint moment of integration and it will not come as a surprise if the terms of recognition for queer subjects are predicated on the hegemonic constructs of the Hindu nation, the heteronormative Indian family and the universal image of the chic, entrepreneurial and consumer citizen – one who is both culturally and economically disciplined to serve the ends of neoliberalism. Brenda Cossman pithily captures the characteristics that this newly crowned sexual citizen will fashion:
They are experts in the arts of self-conduct. And they shop. Their citizenship is sexualized beyond heterosexuality, commodified through a celebration of market consumption, and domesticated through a new emphasis on the intimate sphere not only as a site for caring for others but for care of the self. They are citizens who are sexed but not too much; citizens who not only consume but better yet, teach each other to do so; citizens devoted to the conduct of self and other improvement [...] The process of becoming citizens is one that operates its own technologies of inclusion and exclusion and constitutes subjectivities through these technologies. I argue that the new modality of sexual citizenship is one that is privatized, domesticated and self-disciplined.43

Cossman’s context is also the US, yet the trends she points at are already underway in India with popular media and advertising opening up to recognising queers as consumers. Understanding the cultural ramifications of decriminalising adult, consensual and private sex in the Naz judgment also helps us unpack this better. Similarly, Damien Riggs’ essay points at the conservativeness and racist overtures in the representation of happy, homosexual and domesticated couples in the popular media in Australia.44 In the Indian context, Ashley Tellis’, Neil Cobb’s and Aniruddha Datta’s essays point at the mutation of neoliberal disciplining technologies informed by the discourses of global governance, biopolitical technologies of public health, queer organising around HIV/AIDS interventions for the pathologically created category of Men-Who-Have-Sex-With-Men (MSM) and the use of the medium of Bengalee music that appeals to middle-class sensibilities. All of these disciplinary methods have close links with the markets of international aid, discourses of developmentalism and the aesthetic morality of respectability. While all these essays unmask the troubling consequences of the neoliberal construction of sexual citizenship as ostensibly liberating for queer subjects, they also foreground the quotidian practices of resistance in the “political society”46 of the postcolony by subaltern queer subjects against their assimilation into neoliberal nations and markets and it is the practice of this resistance that continues to fuel the imagination of a radical queer futurity.

44. See in this issue, Damien Riggs, ‘Paradoxes of Visibility’: Lesbian and Gay Parents in the Australian Print Media.
45. See in this issue, Aniruddha Dutta, Claiming Citizenship, Contesting Civility: The Institutional LGBT Movement and the Regulation of Gender and Sexual Dissidence in West Bengal, India.
V. APOLOGIA AND AUTOCRITIQUE

I am permanently troubled by identity categories, consider them to be invariable stumbling-blocks, and understand them, even promote them, as sites of necessary trouble.

– Judith Butler

A dislocation of identity as the primary foundation for solidarity opens up space for the creation of “affective communities” connected by ‘powerful feelings’. Butler's provocation gives us, as editors, the opportunity to unburden (not resolve) ourselves of an ethical dilemma: what does it mean when two married, heterosexual people (a man and a woman) with declared queer-feminist and Marxist ideological positions edit a journal on queer sexualities? Is this part of the hegemonic script of appropriation? Is this the classic retelling of the liberal normative framework being inclusive, and thus legitimate, expecting the non-normative to eventually assimilate into its fold? What right do we have to represent queers? In the spirit of this journal's theme we must say: we don't have a right, we have a critique! A critique that, as Janet Halley writes, “argues that identity is not the core truth and safe zone of authenticity and authority posited by our most widely shared assumptions about identity politics; instead it suggests that identity may be part of the problem.”

If we are approaching this project as editors by foregrounding our sexual identities as straight people, who of course by virtue of their class, caste and marital status, have already accrued privileges that are symbolically too powerful to ignore, what does it mean to have this conversation? Are we engaging in a confessional of sorts to gain higher moral ground? What drives our desires to curate this collective project of queer critique? Are we fetishising 'queer'? Does it serve our moral interests in publicly showing how our scholarship is so 'open' and

49. We borrow the template for this response from Wendy Brown & Janet Halley, Introduction, in Left Legalism/Left Critique 1 (Wendy Brown & Janet Halley eds., 2002) (“A colleague of ours was giving a paper on the vexed problem of veiling among contemporary Islamic women and Western feminist responses to it. From the audience, and American woman of South Asian descent challenged our colleague, a feminist Arab secularist, for intervening in a domain properly belonging to religious Arab women: “What right do you have to be saying such things?” “Right?” our colleague responded. “I have no right—I have a critique!”” [emphasis in original]).
'progressive? Rather than arguing in defence of us assuming the position of editors, we hope that readers and our authors would treat this as the inauguration of a friendship that does not use identity as the sole qualifier for constructing ideas of belonging but one that is built on the values of ethical representation, a relationship of accountability and a shared challenge against heteronormativity and its mutations inside capitalism, patriarchy, caste, religion and all other structures of domination. As editors, we are driven by a commitment to political transformation and a belief in queer theory's critical and utopic possibilities, in the hope that, as the late human rights lawyer and activist K. Balagopal said, in the process of condemning oppression, we would “condemn a bit of ourselves.” Actually, so much more than a bit.

This self-reflexive practice of condemnation must also extend to asking questions about our location as academics in the heart of the neoliberal academy. Isn't this exactly the kind of seductive assimilation that we cautioned against a little earlier? It is this very contradictory nature of identity, location and ideology that we want to engage in this special double issue and we hope this brief reflection in autocritique bears out that commitment. A commitment that does not assume that identitarian or ideological locations of being feminist, queer or Marxist can in themselves be emancipatory or that they can respond favourably to other experiences of exclusion. As one of the editors has argued elsewhere about queer exclusionist tendencies in India:

[T]he [queer] movement [in India] is not immune to racist, casteist, sexist or religious prejudice. We must not shy away from asking: can there be a right-wing queer? Can sexual liberation come at the cost of religious domination? Could we have had several queer people voting for Modi in Gujarat? If yes, what would we see them as – Hindus or homosexuals? Are we comfortable with Hindu homosexuals voting for a Hindu nation? What are the connections between queer emancipation and economic liberalization? Can there be a lesbian woman, a senior executive who works with Vedanta [aluminum], who wants to blast off the Niyamgiri hills, blames the Dongria-Kondh for being primitive beasts, and chastises her heterosexual sister for falling in love with a lower-caste man? Has globalization benefitted queers, or has it in fact entrenched class prejudice within the movement?


In conclusion, we'll return to where we started: the affective connections between the old and the new. These connections, in fact, animate a similar set of contradictions. For example, the new intimacies between sexuality and neoliberalism that celebrate modernity and the birth of the disciplined sexual citizen are nothing but reproductions of the old colonial desire of civilising the native. In the case of colonialism, the native was being disciplined to be brought into the folds of civilisation and today the queer is being tamed and brought into the folds of the secular market and nation-state. The new intimacy between queer organising and the law is akin to the old and continuing desire for legalism and rule of law in the postcolony that will help it to become a democracy. The new intimacy between public health and queer visibility is a very sophisticated repetition of colonial quarantine measures and methods of surveilling bodies that carried 'contagious diseases'.

This volume aims to offer no closure to this continuum of contradictions but acknowledges that these are deep ethical concerns that must be confronted if we wish to seriously interrogate meanings of queer emancipation beyond the modernist, governmentised legalism that seduces us with aplomb. The politics of emancipation is a failed project if it talks of closures. As Nivedita Menon inspiringly reminds us:

> I understand emancipation as a process without closure, it is not a goal that we can reach. Each victory becomes the site of a fresh cooptation, but conversely too, each defeat releases new potential to resist oppression. To move away from legal and state-centered conceptions of political practice is to recognize political practice as the perpetual attempt to eliminate oppression rather than the achievement of this elimination. Nevertheless ‘emancipation’ remains a horizon that should drive our political practice.53

This special issue is a modest contribution towards recognising this “indefiniteness of [our collective] struggle[s],”54 and hopes to keep our 'powerful feelings' alive.

54 Michel Foucault, Body/ Power/ Knowledge: Selected Interviews and Other Writings 1972-1977 56-7 (1980) (“For each move by one adversary, there is an answering one by another [...] one has to recognize the indefiniteness of the struggle.”).