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Human Rights, Sexual Orientation and Gender Identity in the Commonwealth: Struggles for Decriminalisation and Change

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Book Review

Human Rights, Sexual Orientation and Gender Identity in the Commonwealth: Struggles for Decriminalisation and Change

Corinne Lennox and Matthew Waites (Eds)

London, Human Rights Consortium, Institute of Commonwealth Studies, School of Advanced Study, University of London, 2013, pp. 582, ISBN 9780957354883 (paperback)

Available online at <http://commonwealth.sas.ac.uk/publications/house-publications/lgbt-rights-commonwealth>

The Human Rights Consortium, in collaboration with the Institute of Commonwealth Studies, has published *Human Rights, Sexual Orientation and Gender Identity in the Commonwealth*. Edited by Corinne Lennox (Lecturer in Human Rights, Institute of Commonwealth Studies/Human Rights Consortium) and Matthew Waites (Senior Lecturer, Sociology, University of Glasgow), the volume comprises 13 peer-reviewed chapters by academics and activists (including the Hon. Michael Kirby, formerly on the bench of the High Court of Australia) presenting analyses of struggles for decriminalisation and change across 16 national contexts covering all regions of the Commonwealth. The countries covered include the UK, Canada, Australia, Singapore, Malaysia, India, Pakistan, Sri Lanka, Bangladesh, South Africa, Botswana, Malawi, Uganda, Jamaica, Trinidad and Tobago, and the Bahamas. As a consequence the book offers what is possibly the most extensive analysis to date of the global struggle for decriminalisation of same-sex sexual behaviour and relationships.

The evolution of human rights discourse in relation to sexual orientation and gender identity has reached a high point, with same-sex marriages now being allowed in an increasing number of countries. However, 78 countries worldwide continue to criminalise same-sex sexual behaviour, and 42 of these are in the Commonwealth. While the law has been liberalised in many countries, most notably those of the so-called developed world, more hard-line approaches continue to predominate elsewhere, and have even become more pronounced.

Human Rights, Sexual Orientation and Gender Identity in the Commonwealth: Struggles for Decriminalisation and Change challenges these developments as the first book to focus on experiences of lesbian, gay, bisexual, transgender and intersex (LGBTI) and all non-heterosexual people in the Commonwealth. It emerges from a conference on Lesbian, Gay, Bisexual and Transgender (LGBT) Rights in the Commonwealth: Historical Legacies and Contemporary Reforms, held in London in 2011.

The stated aim of the book is to inform public debates and share insights from different strategies for decriminalisation and change. Its starting point is the gradual move from the criminalisation of same-sex sexual behaviour across the British Empire, and

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the decriminalisation of such conduct in England and Wales in 1967. This both limits and defines the scope of the book, the individual chapters of which reflect varying disciplinary, political, professional and activist backgrounds.

In many respects the editors' introduction is one of the most useful contributions. It introduces the debates over human rights, sexual orientation and gender identity in the Commonwealth. A total of 16 countries are discussed in the body of the book in regional groupings.

Although the book does indeed make a valuable contribution to the literature, by bringing together in one place a comprehensive assessment of the current state of the law, at least in the Commonwealth, on the laws in relation to sexual orientation, it does present some problems. For instance, in chapter three, 'This alien legacy: the origins of "sodomy" laws in British colonialism', by Human Rights Watch, there is criticism of an affidavit from the Indian Ministry of Home Affairs in a long-running case on section 377 of the Indian Penal Code, punishing 'carnal intercourse against the order of nature with any man, woman or animal'. The Ministry had argued that section 377 'responded to the values and mores of the time in the Indian society'. Human Rights Watch argued that section 377 did not do so, as it was imposed on India undemocratically. 'It reflected only the 'British Judeo-Christian values of the time'. It is not clear, however, whether this is correct, or indeed whether it is relevant; if contemporary society holds a particular attitude to homosexuality, it may not matter what its origins may be. It may indeed be influenced by indigenous ideas, or by imported laws, or a mixture of the two.

Indeed, the interplay between religion and law is the theme of another chapter, that by Kevin Ward, on 'Religious institutions and actors and religious attitudes to homosexual rights: South Africa and Uganda'. That chapter contrasts the liberal legal attitude to homosexuality and more conservative society in South Africa and the more hostile official attitude in Uganda, where society was traditionally more tolerant.

Overall, this is a book well worth reading for its varied accounts of the changing attitudes of law, government and society to human sexuality. Although the march towards open acknowledgement and acceptance of sexual orientation and gender identity may not be as easy or as smooth as some might wish, it is instructive to consider the varied experience of a range of countries sharing, at the least, a common legal heritage.

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