A PANEL DISCUSSION ON

EQUALITY, DIGNITY AND JUSTICE FOR ALL:

LEGAL DISCOURSES ON DECRIMINALIZING HOMOSEXUALITY

“Let us move from darkness to light, from bigotry to tolerance and from the winter of mere survival to the spring of life – as the herald of a New India – to a more inclusive society.”

- Chief Justice Dipak Misra and Justice AM Khanwilkar,
  Navtej Singh Johar & Others v Union of India

As we mark the seventieth anniversary of the Universal Declaration of Human Rights, in a landmark decision in respect of Navtej Singh Johar & Others v Union of India case, the Supreme Court of India on September 6, 2018 struck down Section 377 of the Indian Penal Code 1860 in so far as it applies to consenting adults, thereby freeing millions from the shadow of India’s colonial-era sodomy law, which led to criminalization of people based on their sexual orientation and gender identity.

The judgment reaffirms that individual autonomy and liberty, equality for all without discrimination, recognition of identity with dignity and privacy of human beings constitute the cardinal principles that form the basis of the fundamental rights enjoyed by all Indians, irrespective of their sexual orientation and gender identity.

The judgment also reaffirms India’s commitment to constitutionalism and international human rights law, and the transformative power of the Constitution which recognizes and makes reparations for historical discrimination. It is recognized that as the first step, the wrongs done so far have to be undone and a dialogue has to begin so as to make way for progressive and inclusive realization of the social and economic rights embracing all.

The landmark judgment references upon a remarkable range of sources, including international and comparative law. Aside from citing the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, the Court has also relied upon the Yogyakarta Principles. In addition, the Court has also cited judgments and considered legal developments from a host of other national as well as regional and international courts.

In the short span of three months since it was pronounced, the judgment has been quoted by, and sparked conversations amongst lawyers, activists and courts across the globe.

The Permanent Mission of India is inviting all to a panel discussion with Dr. Menaka Guruswamy and Arundhati Katju, the lawyers who represented Navtej Singh Johar and other lead petitioners, spearheading this quest before the Supreme Court of India.

The panel discussion will cover issues including the evolution of legal discourses in India on this subject; how the judgment has articulated the developments in international human rights law with the understanding of violations suffered by persons on grounds of sexual orientation and gender identity and is informing the international human rights dialogue in this context.