



## Campus Law Centre

### Report on the Talk by Ms. Sandra Aisling Duffy on ‘Sexual Orientation and Gender Identity Rights’

The Seminars, Debates and Discussions Society (SDS) of Campus Law Centre (CLC), University of Delhi, organized a talk on ‘**Sexual Orientation and Gender Identity Rights**’ on April 7, 2017, in the Seminar Hall of CLC. The speaker for the session was Ms. Sandra Aisling Duffy, a Ph.D. scholar at the Centre for Criminal Justice and Human Rights,



University College Cork, Ireland. Her doctoral research focuses on frameworks of legal gender recognition in the international human rights context and she had been invited to share some noteworthy observations from her work.

At the talk, Ms. Duffy chose to focus on the evolution of gender recognition jurisprudence in Europe, with emphasis on the judgments of the European Court of Human Rights (ECtHR), which is a supra-national judicial wing of the Council of Europe. She highlighted the lack of knowledge displayed by the ECtHR when dealing with transgender rights that is evidenced by its focus on the medical manifestations of gender identity, thereby defeating transgender persons’ right to self-determination and self-expression.

The speaker traced the progress that the ECtHR has made since *Rees v. The United Kingdom* (1986) and *Cossey v. The United Kingdom* (1990), where it ruled against interfering in the UK’s discriminatory laws, to *B v. France* (1992) and *Goodwin v. The United Kingdom* (2002), which were landmark cases where the Court brought out a long anticipated interpretation of European Convention of Human Rights (ECHR) that ensured justice for the

transgender/transsexual community. The ECtHR had not only granted the community the right to legal recognition but also guaranteed certain personal freedoms like the right to marry. The decision in the *Goodwin* case is very similar to the decision of the Supreme Court of India in *NALSA v. Union of India* [(2014)5 SCC 438] since it is based on the principle that there is no reason why the determination of gender should be based purely on biological criteria.



However, in subsequent judgments, the Court has continued to rely upon the wisdom of medical professionals to the detriment of transgender and transsexual persons. Ms. Duffy

ended her speech with a discussion on *AP v. France (2017)* where the ECtHR put an end to forced sterilization of trans-people.



The event concluded with a question and answer session with students looking to understand the ECHR and transgender rights in the larger context of UN backed international conventions and covenants that have a persuasive effect on municipal legislations around the world.