



# Section 377 - SC Verdict Decriminalises Homosexuality! View Timeline Now

Many competitive examinations include General Knowledge topics from Indian Constitution. You should be prepared about the recent happenings regarding Section 377 of IPC in India for SSC CGL, Railways RRB, Civil Services and IBPS PO and Clerk Exams. The Supreme Court has delivered the much-awaited judgment on the fate of Section 377 of the Indian Penal Code (IPC). It has now decriminalised consensual sex between adults of same sex and partially struck down Section 377. The 5-Judge led Constitutional Bench has delivered a unanimous verdict to partially strike down section 377, a colonial-era archaic provision declaring it to be unconstitutional. This article will help you not only for Prelims and Mains level but also in Interview where such topics are commonly asked to candidates. Find all the necessary information regarding these Section 377 in this article. You can also download this as PDF!

### What is Section 377?

In legal terms Section 377 of the IPC states that 'Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with imprisonment for life or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.' This archaic British law is operational in India since 1860. The criminalisation of homosexuality was first imposed by the British in 1860, which found sexual activities between members of the same sex against the "order of nature.

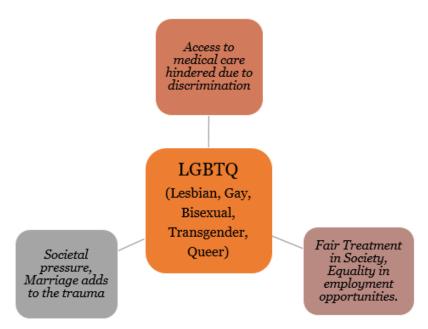






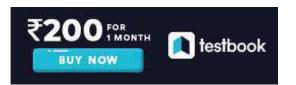


## Issues faced by LGBTQ Community



# A Brief Timeline of Section 377 in Indian History

Timeline	Events		
1992	The first known protest for gay rights in India was being held outside the police HQ in the ITO area of Delhi.		
1994	One of the first legal challenges to Section 377 came by the NGO AIDS Bhedbhav Virodhi Andolan (ABVA), which filed a petition for its repeal.		
1997	Two separate helplines and support networks, 'Dial Q For Help' was set up for LGBTQ Indians in crisis.		
2000	The 172nd report of the Law Commission of India recommended the deletion of Section 377, but however no action was taken.		







2001	The question of validity of section 377 in the 21st Century was first raised by NGO
2001	Naaz Foundation in Delhi HC.
2009	The Delhi HC had decriminalized homosexuality among consenting adults, holding
	it in violation of Article 14, 15 and 21 of the Constitution of India. It was of the view
	that Section 377 denies a gay person a right to full personhood which is implicit in
	notion of life under Article 21.
2012	A two-judge bench of SC overturned the Delhi HC's decision, stating it to be legally
	unsustainable. SC back then observed that the HC had overlooked the fact that only
	a miniscule fraction of the country's population constitute LGBT.
	The Supreme Court reinforced criminalisation of homosexuality and observed that
2013	its Parliament duty to scrap archaic laws. This judgment was highly criticised by the
	LGBTQ community in India and was seen as a setback for human rights.
2016	Again a plea was filed challenging the constitutional validity of Section 377, this time
2010	directly by the citizens affected by it.
2017	SC in a landmark judgment held Right to Privacy as a fundamental right. It observed
	that the "right to privacy and the protection of sexual orientation lie at the core of
	Articles 14, 15 and 21 of the Constitution.
2018	In January, SC escalated the issue to a larger 5 member Constitutional Bench to
	review its earlier judgment on homosexuality.
2018	Even the Centre, later left the matter to wisdom of the court with regard to the
	aspects of criminalising consensual unnatural sex between two consenting adults.









2018

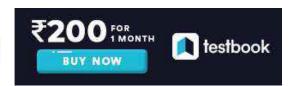
In July, the SC also reflected on the trauma the LGBTQ community faces and the lack of medical facilities as well. Justice Chandrachud even orally observed that a person's choice of a partner is a fundamental right to life, and a 'partner' might also include same sex partner.

# **How the World Views Homosexuality!**

- In 2011, the United Nations Human Rights Council passed its first resolution recognizing LGBT rights, which was followed up with a report from the UN Human Rights Commission documenting violations of the rights of LGBT people, including hate crime, criminalization of homosexuality, and discrimination.
   Following which, the UN Human Rights Commission also urged all countries to enact laws protecting basic LGBT rights.
- As of March 2017, 23 countries, the overwhelming majority of developed and developing democracies recognized same-sex marriage.
- While as of August 2018, 72 countries had laws criminalizing homosexuality, with most of these being African and Islamic countries.

#### Here's List of Top 10 Nations where:-

Homosexuality is allowed	Homosexuality is offence
Netherlands	Egypt
Belgium	Zimbabwe
Canada	Nigeria
Spain	Afghanistan







Sweden	Bangladesh
Portugal	Malaysia
Argentina	Sri Lanka
Denmark	Pakistan
France	Kenya
Brazil	Mauritius

#### What this Verdict on Section 377 beholds?

The five-judge Constitution Bench headed by Chief Justice of India Dipak Misra including Justices Fali Nariman, A M Khanwilkar, D Y Chandrachud and Indu Malhotra of the SC has struck down the archaic Section 377. The Indian Culture also contains Kamasutra, the ancient treatise on love talks about feelings for same sexes. The Bench while delivering the judgement on the constitutionality of Section 377 made a special mention to those areas of the section which criminalises consensual unnatural and indefensible sex. The court also observed that Section 377 was also used as a weapon to harass the members of the LGBT community. It upheld that the LGBT community possesses the same human and fundamental rights as other citizens. The bench also concluded that the other aspects of Section 377, which deals with unnatural sex with animals and children will remain in force and shall be punishable under Section 377 of IPC.

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