

THE DECRIMINALIZATION OF SECTION 377: A CRITICAL REVIEW

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By striking down Section 377 of the Penal Code, the Supreme Court of India made clear its constitutional responsibility to protect every person's dignity, autonomy and right to equality. The Navtej Singh Johar judgment of 2018 reaffirmed that sexual orientation is an integral part of a person's identity and that the rights associated with sexual orientation are guaranteed by Articles 14, 15, 19 and 21 of the Indian Constitution. The Navtej Singh Johar ruling, therefore, represents a significant socio-legal change in the way LGBTQ+ people will be perceived in India and the types of treatment they will receive from the Government of India as provided for by the Constitution of India. While the Supreme Court's ruling in Navtej Singh Johar has removed legal discrimination against LGBTQ+ persons in India, the movement for acceptance, entry, and deinstitutionalization will keep on after the removal of Section 377, creating an enormous body of case law surrounding LGBTQ+ rights in India, but continuing to strive toward achieving full and substantive equality for LGBTQ+ people within democratic India.
