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## ARTICLE 377

Chapter XVI, Section 377 of the Indian Penal Code dating back to 1861, introduced during the British rule of India, criminalises sexual activities “against the order of nature”, arguably including homosexual acts.

### **HISTORICAL BACKGROUND**

- 157 years old.
- Britishers added it in 1861.
- In 2001 Naz Foundation challenges the section constitutionality, files petition in Delhi HC.
- In 2003, Delhi HC dismisses the petition.
- In 2009, Delhi HC decriminalizes the homosexuality, calls 377 violation of Articles 14, 15, 21 of constitution.
- In 2012, SC upholds section 377 reversing the verdict.
- In 2015, Shashi Tharoor introduces private member’s bill to decriminalize homosexuality: Lok Sabha quashed it.
- In 2016, 5 LGBT activists move SC.
- In 2018, SC begins hearing and decriminalizes homosexuality. Thus, changing India into **One Nation**.
- India has joined the group of 125 nations.

### **PERSPECTIVES**

- Violation of Fundamental Rights – Art. 14,15,19,21.

#### **14 – Equality before the law**

#### **15- prohibition of discrimination on the basis of sex, religion, caste, colour or place of birth**

#### **19- Protection of certain rights regarding freedom of speech**

#### **21- Protection of life and personal liberty**

- Protection against harassment.
- More binding → more development (As stated by World Bank)

### **EXAMPLES**

- 1867 – England
- 1981 – Scotland
- 1982 – Northern Ireland
- Mali, South Africa
- China – 2002
- Baharain, Turkey, Jordan
- United States of America
- France (1<sup>st</sup>)
- Germany

### **WAY TO GO....**

- Still no marriage, child adoption law.
- Need to change the mindset.