

PRESS RELEASE

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India: Supreme Court decision ending criminalization of consensual same-sex relationships is a momentous step forward for human rights

The ICJ welcomed the Supreme Court's judgment in *Navtej Singh Johar et al v. Union of India and others*, which effectively ends the threat to a large segment of the Indian population that they will be held criminally liable for exercising their human rights.

The Court has issued a long-overdue ruling that the criminalization of consensual same-sex relationships under Section 377 violates the Indian Constitution, and is in breach of India's obligations under international law. This long-awaited judgment testifies to the work of activists and lawyers in India, who have shown the potential of the law to affirm human rights and equality.

"This judgment will not only have an impact in India. Its influence should extend across the world. The ICJ hopes that it will provide an impetus for other countries, especially those of the Commonwealth of Nations, to revoke similar provisions that criminalize consensual sexual relations," ICJ Asia Pacific Director Frederick Rawski stated.

The Court underscored that provisions of Section 377 contravened international law and standards on equality, privacy, non-discrimination and dignity guaranteed in international human rights treaties to which India is a party. These include the International Covenant Civil and Political Rights and International Covenant on Economic Social and Cultural Rights.

The Court also noted that the Yogyakarta Principles, which address sexual orientation and gender identity in international law, reinforce these protections. This is a vital jurisprudential recognition that LGBTI persons are entitled to full equality, and protection of their rights under India's Constitutional and international human rights law.

In the judgement, which reverses the December 2013 *Koushal* decision, the Court held that discrimination based on sexual orientation is a violation of fundamental rights to autonomy, privacy, equality, dignity, and non-discrimination. It underscored that decriminalization of homosexuality is only the first step and that LGBTI persons are entitled to equal citizenship in all its manifestations. The Court also recommended that wide publicity be given to judgment to ensure de-stigmatization of identity through sensitization training on barriers to access to justice faced by LGBTI persons.

"Even a landmark decision by the Indian Supreme Court cannot alone end the discrimination against people based on their sexual orientation or gender identity. It is time for the Indian Parliament to conduct wide-ranging review of existing legal framework, repeal discriminatory laws, and address other gaps in the law that prevent LGBT persons from fully exercising their rights," Rawski added.

For background, see the ICJ's July 2018 [Briefing Paper on Navtej Singh Johar et al. v. Union of India and Others](#), and its February 2017 report, "[Unnatural Offences": Obstacles to Justice in India Based on Sexual Orientation and Gender Identity](#)."

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