

Decriminalizing Consensual Same Sex Relations: A Critical Analysis of Navtej Singh Johar V. Union Of India

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Abstract— The decision in *Navtej Singh Johar V. Union of India* marked a transformative moment in Indian constitutional law by decriminalizing consensual same-sex relations and partially reading down section 377 of the Indian Penal Code, 1860. This research critically examines the constitutional foundations and implications of the judgment, particularly its reliance on Articles 14, 15, 19, and 21 of the Constitution of India. It analyses how the Supreme Court expanded the scope of fundamental rights by recognizing sexual orientation as an intrinsic aspect of identity, thereby reinforcing the principles of dignity, privacy, equality, and individual autonomy.

The study traces the judicial evolution from *Maz Foundation V. Government of NCT of Delhi* to *Suresh Kumar Koushal V. Naz Foundation*, culminating in the progressive reasoning adopted in the *Navtej* judgment. It further explores the court's articulation of constitutional morality over majoritarian morality and its alignment with Global Human Rights Standards.

While acknowledging the judgment as a landmark step toward decriminalization, the research highlights its limitations in achieving substantive equality for the LGBTQIA+ community. Issues relating to marriage, adoption, inheritance, and broader social acceptance remain unresolved. The paper concludes that although the design significantly advanced constitutional protections, further legislative and societal reforms are necessary to ensure comprehensive recognition and protection of LGBTQ+ rights in India.

Keywords— *Navtej Singh Johar, Section 377 IPC, LGBTQ+ Rights, Constitutional Morality, Fundamental Rights, Right to Privacy, Equality and Non-Discrimination, Sexual Orientation, Indian Constitution, Decriminalization, Human Dignity, Transformative Constitutionalism.*

I. INTRODUCTION

In 2018, the Supreme Court of India decriminalized consensual sexual interactions between adults of the same sex in a historic verdict. Before this breakthrough verdict, the Indian Penal Code, 1860 (Section 377¹) considered such relationships unlawful. The 1861 colonial law was based on the 1553 Buggery Act², which prohibited sexual behaviors deemed "against the order of nature." Section 377 of the IPC affected people worldwide since it intersected with the Constitution's golden triangle and sexual orientation. Prior to the *National Legal Services Authority v. Union of India*³ verdict, transgender individuals were not legally recognized. This ruling destroyed the gender identity system. The ruling stressed a person's dignity, privacy, and freedom to choose their partner without government interference, emphasizing their individuality.

This lawsuit concerns whether same-sex unions are "unnatural offences" since they violate nature. The verdict overturned the *Suresh Kumar Koushal v. Naz Foundation*⁴

¹ "Section 377, The Indian Penal Code, 1860.

² The Buggery Act, 1553 25 Hen. 8 c. 6.

³ *National Legal Services Authority v. Union of India* WP (Civil) No 400 of 2012.

⁴ *Suresh Kumar Koushal vs. Naz Foundation* Civil Appeal No. 10972 OF 2013

ruling, which allowed for legal punishment of LGBT activity under the Indian Penal Code. Decriminalization was supported by the harm principle⁵, which asserts individual sovereignty over body and mind. As they don't harm society, consensual same-sex partnerships shouldn't be illegal.

The *Naz Foundation* originally questioned Section 377's legitimacy. It unfairly discriminated against gays, violating the Indian Constitution's human dignity and privacy guarantees (Articles 21 and 15). The definition of "sex" in Article 15⁶ includes both biological and sexual orientation. The Court deemed Section 377 unlawful because consenting same-sex partnerships cannot be criminalized.

II. STATEMENT OF PROBLEM

Navtej Singh Johar v. Union of India decriminalized consensual same-sex partnerships, however it only partly addresses prejudice. This verdict is a landmark for dignity and privacy, but it has not yet led to legal or social equality. LGBTQIA+ people still lack legal recognition for their marriage, adoption, and inheritance rights. Deep-rooted institutional prejudices and broad social stigma persist. The judgment's influence must be critically

⁵ Mill, J. (2011). *On Liberty* (Cambridge Library Collection - Philosophy). Cambridge: Cambridge University Press."

⁶ *Supra* note 10"

assessed to evaluate its success in attaining constitutional equality.

III. RESEARCH QUESTIONS

- A. *What constitutional grounds and basic rights underpinned the Supreme Court's ruling in Navtej Singh Johar v. Union of India?*
- B. *How did the ruling redefine the parameters of privacy, dignity, and equality for LGBTQ+ rights in India?*
- C. *How did the Court resolve the tension between majoritarian morality and constitutional morality in the decriminalization of same-sex relations?*
- D. *What has been the legal and societal effect of the Navtej Singh Johar verdict on the rights and lived realities of LGBTQ+ persons in India?*
- E. *How does the ruling align with worldwide legal standards on the decriminalization of same-sex relations and the safeguarding of LGBTQ+ rights?*

IV. RESEARCH OBJECTIVE

This discussion will analyze the ruling in Navtej Singh Johar v. Union of India, focusing on the decriminalization of consensual same-sex relations as authorized by the Constitution of India. We shall examine its ramifications in the legal domain, social context, and constitutional framework. We will also examine its impact on the rights of the LGBTQIA+ community, personal liberty, and the broader framework of human rights in the nation.

V. LEGAL PRECEDENTS AND CONSTITUTIONAL DEBATES

Articles 14 (Right to Equality), 15 (Prohibition of Discrimination), and 21 (Right to Life and Personal Liberty) of the Indian Penal Code were allegedly breached in 2009 in the case Naz Foundation v. Government of NCT of Delhi. Consensual sexual activity between adults and same-sex couples cannot be criminalized, according to the Delhi High Court's ruling. Therefore, sexual activity that begins with the permission of the person involved is exempt from Section 377.

In the 2013 case of Suresh Kumar Koushal v. Naz Foundation, the Delhi High Court had its decision overturned by the Indian Supreme Court. Given that the LGBTQ+ community was considered a "insignificant minority," the Court determined that Parliament, and not the Supreme Court, should have the authority to propose laws.

Navtej Singh Johar v. Union of India (2018) was a landmark decision by the Supreme Court of India that decriminalized adult consensual sexual intercourse. The court ruled that the ban on these connections violated the constitution. While Articles 14, 15, 19, and 21 were upheld

by the Court, the application of Section 377 to matters involving minors, bestiality, and non-consensual activities is necessary.

The petitioners claimed Section 377 was arbitrary and ambiguous since it lacked clear definitional bounds as stated in the constitution. They further argued the clause was discriminatory and violated privacy, dignity, and freedom. The Supreme Court said LGBTQ+ inclusion is based on self-determination, autonomy, privacy, and dignity and is part of India's morals, not just popular opinion. Justice D.Y. Chandrachud claims heteronormativity marginalizes sexual and gender diversity. Justice Indu Malhotra apologized for LGBTQ+ persecution and prejudice in a landmark address. Legal academics like Shradha Chaudhary say the ruling innovatively utilizes "love" into constitutional analysis, portraying it as both an expression of human freedom and a powerful social force that may transform society.

Many are discussing LGBTQ+ civil rights following the Navtej Singh Johar verdict. This is especially true for difficult and understudied areas like marriage, adoption, inheritance, and taxes. Even though criminal sanctions have been eliminated, same-sex couples face legal uncertainties in gift taxes and marriage recognition. The Supreme Court raised marital equality in Parliament in 2023, underlining the legislative prerogative. The ruling ensured slow justice. In Sreeja S. v. Commissioner of Police, the Supreme Court acknowledged same-sex couples living together, emphasizing adult autonomy and consent in intimate relationships.

VI. NAZ FOUNDATION JUDGMENT V. SURESH KUMAR KOUSHAL

In the case of Suresh Kumar Koushal v. Naz Foundation, the decision of the Naz Foundation was appealed to India's highest court. Here, the Delhi High Court's ruling in Naz Foundation was reversed, thus criminalizing homosexuality anew.⁷

Based on the fact that Section 377 dealt with crimes "against the order of nature," the Supreme Court argued in Suresh Kumar Koushal v. Naz Foundation that it did not have the power to interfere with legislation and that only Parliament could rescind or change it. Second, the Court was of the opinion that an overly broad interpretation of privacy might pave the way for criminal activity. Openly gay people might once again face criminal prosecution according to this very controversial decision. The city of Aligarh powerfully shows how this loss has affected society.⁸

Everyone, regardless of their gender presentation or identification, is entitled to equal protection under the law,

⁷ "Hansal M. (Director). (2015). Aligarh [Film]"

⁸ "Art. 14 of the Constitution of India.

as stated in Article 14. Crucially, discrimination based on sexual orientation is now explicitly prohibited in both Article 16 and Article 15, which ban discrimination based on sex.⁹ Justice D.Y. Chandrachud stressed that the Supreme Court must fix the mistake it made in the Suresh Kumar Koushal case. In its landmark judgment on homosexuality, *Navtej Singh Johar v. Union of India*, the court thoroughly reviewed all previous rulings. In accordance with Article 14, the Court used the twin test and found that Section 377 failed to meet the requirements of intelligible differentia and reasonable linkage.¹⁰

The Court has ruled that the criminalization of consenting same-sex activity is unwarranted and that the legislation fails to provide a consistent basis for differentiation. Furthermore, the idea that what constituted moral behavior and what constituted acts "against the order of nature" was seen to be subjective. The word "sex" has to be expanded to include not just biological sex but also sexual orientation if the constitution is to be understood correctly.

An important part of individual autonomy is the ability to self-identify as one's gender and sexual orientation; the NALSA ruling clarified this right by recognizing it. The reasoning for the decision was that any restrictions imposed on these rights under Section 377 ought to be supported by valid reasons.

After a thorough review of all pertinent social and constitutional factors, the Supreme Court decriminalized consensual same-sex meetings between adults, reestablishing the LGBTQ+ community's dignity, equality, and freedom.

VII. CURRENT LEGAL STATUS

This landmark decision by the five-judge Supreme Court panel decriminalized consensual same-sex partnerships under Section 377 of the Indian Penal Code (IPC). Within the larger context of basic rights, the decision upheld the freedom of individuals to select their marriages without intervention from the government. The Supreme Court's reaffirmation of the right to privacy was a strong statement against discrimination based on sexual orientation. The term "sex" was defined broadly in Article 15(1) to include sexual orientation.¹¹

Additionally, the Court emphasized that constitutional conceptions change with society by referring to the progressive fulfillment of rights. Therefore, laws and their interpretations need to change throughout time to accommodate new social norms. People of the same sex who participate in consensual sexual acts are specifically shielded from criminal prosecution by Section 377, which

punishes sodomy, bestiality, and sexual offenses committed against children. Public understanding and acceptance of homosexuality have remained mostly unchanged since its legalization more than a year ago. Many different parts of society are affected by the pervasive prejudice and discrimination that LGBTQ+ people face.

Marriage, adoption, parentage, and inheritance are just a few areas where many concerns about family law still need to be resolved. An LGBTQ+ activist from Nazariya in New Delhi named Reyansh Naarang said, "We are still unable to marry or adopt." He added that full equality won't be attained for a few years.¹²

A preference for one sex over the other is, thus, an essential component of homosexuality. Sexual displays like this used to be frowned upon since they were seen as "against the order of nature." Modern discussion, however, acknowledges different orientations as fundamental to a more inclusive conception of liberty and equality, as LGBTQ+ research has shown.¹³

It doesn't matter whether someone is straight or bi; what matters is that they feel some kind of emotional, sexual, or romantic connection to someone of the same sex.

Bisexuality is defined as the experience of sexual attraction to both males and females.

The term "lesbian" may refer to a woman who has strong feelings of sexual and emotional attraction to another woman.

If a man has both romantic and sexual attraction to other guys, he is said to be gay.

What we mean when we talk about someone's "gender identity" is their sense of self, which has nothing to do with their biological sex. The interior experiences of a person shape their gender identity via impacting their behavior, appearance, and relationships with others.

According to the majority of medical and psychological research, homosexuality is not a mental illness or anomaly. Compared to their straight counterparts, gay and lesbian people are just as capable communicators, thinkers, and emotional controllers, according to the research.

It seems to be fairly stable throughout cultures and countries, however real research suggests that about 10% of the world's population identifies as gay. Previous theories that cultural, social, or moral standards impact the frequency of homosexuality are challenged by this discovery. Attempts to "cure" homosexuality are driven by societal and cultural prejudices, not a shortage of mental health treatments, according to mounting research.

¹² Anie Banerji, One year after landmark ruling for LGBT+ rights in India, challenges persist, REUTERS(Sept 16, 2019, 10:19)"

¹³ "International Commission of Jurists (ICJ), Yogyakarta Principles - Principles on the application of international human rights law in relation to sexual orientation and gender identity, (March 2007)."

⁹ Art. 19 (1) (a) of the Constitution of India

¹⁰ *Navtej Singh Johar v. Union of India W. P. (Crl.) No. 76 of 2016.*"

¹¹ "Ibid

The biological difference between heterosexual and gay males is like a variation, not a phase or condition, according to Leonard Sax. He makes comparisons between the traits shared by those who are naturally more adept with their right and left hands and those who are naturally more adept with both. The bottom line is that sexual orientation is only a pattern of attraction, and that everyone is different.

The American Psychological Association is only one of several scientific organizations whose studies have shown that people's sexual preferences vary. In her 2005 book *Why Gender Matters: What Teachers and Parents Need to Know about the Growing Science of Sex Differences*, Sax emphasizes the biological basis of sexual orientation and the inherent variation of sexual orientation.

VIII. CHALLENGING THE CONSTITUTIONAL MORALITY

The Indian Constitution guarantees every citizen the right to personal autonomy, including the right to an individual's sexual life, free from state intrusion. Fundamental to constitutional morality—which extends beyond a literal reading of the Constitution—are principles for building a more equitable, varied, and inclusive society.

When the Constituent Assembly first convened, ideas about constitutional morality were in their infancy. Cooperation among the three arms of government is essential to achieving the four freedoms enumerated in the Constitution's preamble: justice, liberty, equality, and fraternity. People are free to express themselves within this framework in their own unique ways, provided they do not violate any laws. The preferences and way of life of the broader public, or even subsets of that population, might vary greatly.¹⁴

To love and accept others unconditionally is fundamental to being human. In its 1948 Universal Declaration of Human Rights (UDHR), the United Nations recognized the right to a decent life as one of the fundamental human rights. The effective protection of other basic rights depends on this acknowledgment, according to the Universal Declaration of Human Rights. Article 21 of the Indian Constitution ensures the right to human dignity and autonomy, as well as the freedom of expression.¹⁵

¹⁴ “Major W.T. (1990) Criminal Law. In: Basic English Law. Macmillan Professional Masters. Palgrave, London.

¹⁵ Universal Declaration of Human Rights (1948).
State of Kerala and Anr. v N.M Thomas and Ors, 1976 (1) SCR 906

IX. INTERNATIONAL PERSPECTIVE

The US Supreme Court's 2015 decision states that before the 20th century, most Western countries saw homosexuality as immoral and illegal, which caused discrimination and devaluation of their unique identity. This court's decision upholds the constitutional rights of homosexuals and so safeguards their freedom of choice, privacy in relationships, and dignity.¹⁶ A couple's bond might be strengthened if they are more forthcoming and honest while having sexual interactions. The fact that a person's sex determines their sexual orientation was proven in 2016. Decisions on jurisdiction:

- A. *Discrimination based on sexual orientation weakens employees since they are treated differently because of their gender.*
- B. *Sexual orientation discrimination is based on sex and is considered sexual discrimination.*
- C. *Sexual orientation discrimination is harassing workers who do not meet social norms based on gender stereotypes.*

The Canadian Supreme Court ruled in 1998 that sexual orientation is considered a part of sex under Section 15(1)52 of the Charter of Rights and Freedoms. Sexual orientation is deemed exceedingly personal and irreversible by the court, which further states that it can only be changed at an excruciating personal cost.¹⁷

X. IMPORTANCE OF ARTICLE 375 ON SECTION 377

The Criminal Law Amendment Act of 2013 included a suggestion by the J.S. Verma Committee to broaden the definition of rape beyond penovaginal penetration. This expansion is mentioned in Section 375. There is no longer a need for section 377 since section 375 now criminalizes certain bodily actions that were formerly covered by it, indicating that they are no longer contrary to nature.

It is possible to lawfully engage in some sexual actions between heterosexuals who agree since they are specifically excepted from Section 377. The commission of a crime may result from an adult's voluntary participation in sexual relations.

This would lead to irrational social bias and a breach of Article 14. What constitutes "natural sexuality" is influenced by societal and cultural norms. Norms for sexual closeness are established by human communities. An Old Code: The 1860 Indian Penal Code

"Queer Politics in India" is going to be my subject here. Section 377 (order of nature)¹⁹ deals with issues of nonprocreative sex and socially unacceptable intimacy.

¹⁶ OBERGEFELL ET AL. v. HODGES, DIRECTOR, OHIO DEPARTMENT OF HEALTH, ET AL., 2015.”

¹⁷ “Hively v. Ivy Tech Community College, 853 F.3d 339, 2017

XI. CRITICAL ANALYSIS

The erudite Supreme Court of India considered every facet of Indian culture and law before reaching this comprehensive verdict. The same-sex criminalization verdict was reversed by this corpus of law because its reasoning was questioned.

The court's landmark decision included consented same-sex intercourse in its definition of an unnatural breach. Although the ruling removed the criminal status of homosexuality, it criminalized and criminalized abusive same-sex relationships. Since the Supreme Court's ruling that sexual orientation is a component of individual autonomy, equality, liberty, dignity, privacy, and individual autonomy, Section 377 and LGBTQ narratives cannot be sustained. People should be able to freely pick a life partner without facing prejudice or misunderstanding. Free will is constrained by the colonial era's instability and the state-sanctioned racism that flourished during that time.

Legal precedent supporting same-sex marriage has shown that the state does not have a legitimate interest in and should not control marriage. A person's right to life includes the right to get married. A rights discourse defending constitutional principles that legitimize same-sex couples and enable their full social participation is one of the policy repercussions of this case. No one has the right to legally treat same-sex couples differently. A firm demand for equal protection is also necessary. Version 2018. A proper legal interpretation was reached after all relevant circumstances were carefully considered in the ruling. Fundamental rights interpretation took into account both transformative constitutionalism and constitutional morality.

Articles 14, 15, and 21 were expanded with the aim of creating a society that is more inclusive and varied. Due to the Puttaswamy case, sexual orientation is now included in the definition of "sex" in Article 15, and the privacy requirements in Article 21 are also relevant. The need to eradicate prejudiced notions about social exclusion and to honor the worth and dignity of every person was a crucial aspect of the constitutional argument in this case. In our opinion, the Supreme Court disregarded

Can one be accused of adultery if they are bisexual and have sexual encounters with someone other than their spouse? Lawmakers may be more receptive to LGBTQ+ issues if they were more informed.¹⁸

Little is known about underprivileged communities based on research. Domestic violence and other forms of very aggressive conduct have had a significant impact on many residents of the area. Regarding sexual orientation, our society has not yet dismantled its obstacles. Educated

individuals are making derogatory remarks, asserts Subramanian Swamy. A cure is required as homosexuality is seen as anti-Hindutva. No one should be able to use Section 377 of the Indian Penal Code, which dates back to the colonial period, as an excuse to punish someone for coming out as bisexual or gay.¹⁹

XII. FACTS

An essential issue in this case was the constitutionality of Section 377 of the Indian Penal Code, 1860, which dealt with the innocent, voluntary engagement in sexual relations between adults of the same gender. Under Section 377, "Unnatural Offences," a person may face severe penalties, including a life sentence or a maximum of 10 years in prison, if they were aware that their sexual relations with another person or animal did not conform to the usual pattern.

The Delhi High Court ruled in 2009 that Section 377 does not apply to same-sex individuals who engage in consensual sexual relations (*Naz Foundation v. Govt. of N.C.T. of Delhi*). The Supreme Court reversed this decision and restored Section 377 in the 2014 case of *Suresh Kumar Koushal v. Naz Foundation*, decided by a two-judge bench. To review a petition against the 2014 decision, a three-judge Supreme Court bench decided in 2016 to establish a more broad court. After then, the case was reviewed by a panel of five judges. One of the petitioners that went to the Supreme Court in 2016 was Navtej Singh Johar, a dancer who came out as LGBT. An integral aspect of the safeguards afforded to Indian individuals by Article 21 was his struggle for sexuality, sexual autonomy, and partner choice. Furthermore, he aimed to have the unconstitutionality of Section 377 declared. Petitioner claimed Section 377 infringed Article 14's right to equality as the term "carnal intercourse against the order of nature" was not defined.

(i) Section 377 violated Article 15 (Protection from Discrimination) since it treated people differently depending on their sexual partners' sex. (ii) Since Section 377 made it more difficult for people to be sexually authentic and to choose their romantic relationships, it infringed Article 19 (Freedom of Expression). (iii) Because of their lifestyle choices, LGBT individuals were subjected to ongoing humiliation and rejection under Part 377, which violated their right to privacy.

Notice was sent to the Indian Union. A large number of non-governmental organizations (NGOs), religious groups, and others were among the plaintiffs and defendants in the action. It is up to the Court to rule on Section 377, which pertains to consenting individuals of the same sex, as stated by the Union of India. Others who were against the petitioner's move brought up issues like

¹⁸ "Constituent Assembly Debates, Vol. 7 (4th November 1948).

¹⁹ The role of human dignity in the gay right adjudication and legislation: A comparative perspective, Michael Finck, *International Journal of Constitutional Law*, 2016"

whether or not the right to privacy is sufficient, how it could affect the "constitutional concept of dignity," whether or not the number of people living with HIV/AIDS would rise, and what damage could come from making Section 377 unconstitutional, which would go against Article 25 of the Constitution and damage marriage.

XIII. LOVE IN LEGAL REASONING: THE RIGHT TO LOVE AS AN ASPECT OF INDIVIDUAL AUTONOMY

The Indian Supreme Court was asked to interpret section 377 of the Indian Penal Code, 1860 in the case of *Navtej Singh Johar v. Union of India* (2018). Reading this decision has given me confidence to use the word "love" in a court of law. It preserved the right to choose one's sexual partner, which is a crucial aspect. But I argue that the individual autonomy-centric paradigm can't defend LGBTQ+ rights since it defines autonomy in terms of freedom and privacy and not much else. According to my view, the second, more fundamental definition of love recognizes love's ability to transform, to triumph over repressive systems, and to provide a basis for one's own identity.²⁰

Executing couples who wed outside of their community or without permission was a practice that the Court strongly denounced. In a society where the right to free speech is severely restricted, the concept of dignity becomes inconceivable. Those who freely exchanged vows got to choose the ceremony. They are vulnerable because of their connection. If they choose, they may pursue their aim. They have constitutional rights that are violated whenever their rights are infringed.

XIV. SOCIAL IMPACT

The LGBTQ+ community rejoiced since same-sex partnerships are now officially legal. Because of the acceptance and openness shown by these cultures, the LGBTQ+ community faces less prejudice and violence. This exposition strengthened society's conceptual framework while simultaneously bolstering the LGBTQ community by legitimizing and safeguarding them. It is useful to look at some of the tough problems that can develop in the LGBTQ sector so that we can encourage inclusion and assistance in these groups.

XV. POLITICAL IMPACT

As far as Indian politics is concerned, the verdict marked a turning point in the country's human rights record and showed that things were looking up. In the aftermath of

the verdict, lawmakers were forced to reconcile their legislation with the values of equality and liberty. It recognized the need for more extensive conversations on changing laws and policies and reiterated the role of the court in safeguarding civil rights. There has been a collision of views on sexual orientation and gender roles due to long-standing cultural and taboo norms. Two influential factors in molding public opinion, the media arts and public perception, have contributed to a more inclusive society for those identifying with different genders and sexual orientations. As a result of this judgment bias, we might learn to embrace diversity by overcoming our preconceived notions about other individuals.

XVI. PSYCHOLOGICAL EFFECT

Since the ruling ensured that the LGBTQ+ community would be shielded from criminal punishment, it had a profound psychological impact on them. The feeling was crucial to the individual's psychological and emotional well-being. Some LGBTQ+ respondents have found that having a healthy sense of self-worth and confidence helps them cope with the internalized prejudice and stigma they face. Impacted by the historic human rights ruling were people everywhere. According to research, one way the *Navtej Singh Johar v. Union of India* case affected LGBTQ+ rights in India was by decriminalizing consensual same-sex relationships. Judgmental action of this sort brought Indian law up to date with international human rights standards, paving the way for further legislative changes and more societal acceptance of gender identity and sexual orientation.

By ruling that Section 377 is null and void, the Court has brought Indian law into line with international human rights norms. The ruling was a watershed moment in the fight for the recognition and protection of LGBTQ+ rights; it affected issues of privacy, equality, and personal liberty. Maybe people's views of LGBTQ+ people have changed since same-sex partnerships are now socially acceptable.

XVII. CONCLUSION

In the historic case of *Navtej Singh Johar v. Union of India*, the LGBTQ+ minority in India finally achieved their rights after 150 years of striving for equality in court. In this judgment, the Supreme Court differentiated between social morality and constitutional law, suggesting that societal prejudices should not determine the fate of individual rights. The verdict expanded the anti-discrimination prohibition under Article 15 to include sexual orientation.

In its discussion on face neutrality, the Court stressed the requirement of constitutional interpretation being flexible enough to accommodate evolving societal ideals and realities. By reversing its decision in *Suresh Kumar Koushal v. Naz Foundation*, the Supreme Court made it

²⁰ *Shakti Vahini v. Union of India*, (2018) 7 SCC 192"

quite apparent that it had erred. While reviewing the constitutional problems, Justice D.Y. Chandrachud relied on basic rights theory and previous decisions.

This case's background and present legal structure illustrate how the rule of law evolves to accommodate a pluralistic and ever-changing society. To bring statute law in line with constitutional standards set by the court and to attain constitutional equality, Parliament, however, must repeal Section 377 of the IPC.

REFERENCES

- Navtej Singh Johar v. Union of India, (2018) 10 SCC 1
- The **Constitution of India**, with emphasis on Articles **14, 15, 19, and 21**
- Prior judicial decisions, including Naz Foundation v. Government of NCT of Delhi and Suresh Kumar Koushal v. Naz Foundation
- Reports from the **Law Commission of India** and other relevant legislative or governmental documents