

## **LGBTQ+ Rights: Western Decriminalization, India's Section 377 Saga, and Stonewall's Enduring Fire**

The global fight for LGBTQ+ rights is a chronicle of resilience against colonial legacies, judicial battles, and street-level defiance. In the West, decriminalization unfolded through legislative reforms and court rulings, gradually affirming privacy and equality. In post-colonial India, Section 377 loomed as a Victorian relic, its repeal a hard-fought victory amid cultural tensions—yet one that has not fully erased violence or mental health burdens. The 1969 Stonewall Riots catalysed a shift from quiet advocacy to bold liberation, sparking a wave of global decriminalisations.

### **Legal Milestones: Decriminalizing Same-Sex Relationships in the West**

Western decriminalization traces a path from Enlightenment-era omissions to 21st-century constitutional safeguards, with 78 countries worldwide having decriminalized same-sex relations since the 1969 Stonewall Riots—a figure underscoring the riots' ripple effect on global norms. As of 2024, at least 67 countries still criminalize such acts, predominantly in Africa (33 nations), Asia, and the Middle East, leaving an estimate<sup>1</sup>d 126 nations with legal protections.

France's 1791 Penal Code marked an inadvertent pioneer by excluding sodomy from offenses, influencing Napoleonic expansions—part of 18 countries decriminalizing in the 19th century alone. The United Kingdom partially decriminalized private consensual acts between adult men in England and Wales through the Sexual Offences Act 1967, following the Wolfenden Report. (2) The European Court of Human Rights accelerated uniformity in *Dudgeon v. United Kingdom*, holding that Northern Ireland's criminalization violated Article 8 of the European Convention on Human Rights. <sup>2</sup>(3)

In the United States, *Bowers v. Hardwick* initially upheld Georgia's sodomy law in 1986, (4) but the Supreme Court overruled it seventeen years later in *Lawrence v. Texas*, striking down all remaining sodomy laws as violations of substantive due process and personal dignity—aligning with a post-2000 surge where over 25 countries decriminalized in the subsequent two decades. By 2024, every Western European country and every U.S. state had eliminated consensual same-sex criminal prohibitions.<sup>3</sup>

The chart below illustrates recent momentum in decriminalisations (2018–2023), reflecting Stonewall's long-term legacy in accelerating reforms, particularly in the Global South.

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<sup>1</sup> Sexual Offences Act 1967, 1967 c. 60 (Eng. & Wales).

<sup>2</sup> *Dudgeon v. United Kingdom*, App. No. 7525/76, 4 Eur. H.R. Rep. 149 (1981).

<sup>3</sup> *Bowers v. Hardwick*, 478 U.S. 186 (1986).

## Post-Colonial Struggles: LGBTQ+ Rights in India and the Section 377 Battle

Section 377 of the Indian Penal Code 1860, introduced by the British, criminalized “carnal intercourse against the order of nature” with punishment up to life imprisonment, leading to widespread abuse. (47) Post-independence India retained the provision, using it to harass sexual and gender minorities; in 2015 alone, 1,491 individuals—including 207 minors—were arrested nationwide under the law, often on fabricated charges.

The Delhi High Court in *Naz Foundation v. Govt. of NCT of Delhi* read down Section 377 insofar as it criminalized consensual adult same-sex acts, finding violations of Articles 14, 15, and 21 of the Constitution of India. (9)<sup>5</sup> The Supreme Court reversed this in *Suresh Kumar Koushal v. Naz Foundation*, upholding the colonial provision. (10)<sup>6</sup>

A five-judge Constitution Bench finally overruled Koushal in *Navtej Singh Johar v. Union of India*, declaring the application of Section 377 to consensual same-sex acts unconstitutional and recognizing sexual orientation as an inherent aspect of privacy, dignity, and equality. The judgment explicitly acknowledged the colonial origin of the law and prioritized “constitutional morality” over majoritarian views.

Post-2018 empirical studies confirm reduced police harassment, but societal stigma endures: among 300 men who have sex with men (MSM) surveyed across six cities, 61.3% reported any violence due to their sexuality, with breakdowns shown in the chart below—highlighting ongoing risks despite legal progress. Mental health outcomes show mixed results; while internalized homophobia significantly decreased post-repeal (from 2015 to 2023 surveys of gay men), rates of depression and suicidal behaviours remained unchanged, with internalized homophobia still correlating strongly with both ( $p < 0.05$ ). LGBTQ+ health lags the general population, with elevated risks of marginalization and exclusion.

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<sup>4</sup> Indian Penal Code § 377 (1860) (India).

<sup>5</sup> *Naz Found. v. Gov't of NCT of Delhi*, (2009) 160 DLT 277 (Del HC).

<sup>6</sup> *Suresh Kumar Koushal v. Naz Found.*, (2014) 1 SCC 1 (India).

## **Stonewall Riots: Igniting Gay Liberation**

On 28 June 1969, patrons of the Stonewall Inn in New York City resisted a police raid, sparking six days of protests that became a global symbol of LGBTQ+ resistance—directly inspiring 78 subsequent decriminalisations worldwide.(14)<sup>7</sup> Led largely by trans women of color including Marsha P. Johnson and Sylvia Rivera, the uprising shifted organizing from assimilationist “homophile” groups to militant gay liberation fronts.(15)<sup>8</sup> The first Pride marches in 1970 directly commemorated Stonewall, and the United Nations and UNESCO now recognize its historic significance, crediting it with fuelling reforms like those charted above.(16)<sup>9</sup>

## **Toward Inclusive Horizons**

From Dudgeon and Lawrence in the West to Navtej Singh Johar in India, and from the ashes of Stonewall to global Pride, the evidence—from 78 decriminalizations since 1969 to persistent 61% violence rates among Indian MSM—is clear: criminalization is a colonial and authoritarian relic incompatible with human dignity. As of November 2025, sustained advocacy remains essential for full legal and social equality, addressing mental health disparities where depression and suicidality endure despite legal wins.

**Yuvaraj A K**

**Sumanan Maity**

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<sup>7</sup> David Carter, *Stonewall: The Riots That Sparked the Gay Revolution* (2010); Martin Duberman, *Stonewall* (1993).

<sup>8</sup> Elizabeth A. Armstrong & Suzanna M. Cragg, *Movements and Memory: The Making of the Stonewall Myth*, 71 *Am. Soc. Rev.* 724 (2006) (Sage Journals).

<sup>9</sup> U.N. High Commissioner for Human Rights, *Born Free and Equal: Sexual Orientation and Gender Identity in International Human Rights Law* (2d ed. 2019), HR/PUB/12/09/Rev.1.