# Wider Concerns of Sec 377

## What is the issue?

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- On a petition relating to the LGBTQI community, the Supreme Court’s stance seems to be narrow.
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- It calls for expanding the SC’s considerations to acknowledge the wider concerns of Sec 377.
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## What is the recent development?

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- The Supreme Court is hearing a curative petition against one of its 2013 judgment.
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- The 2013 SC judgment reversed a 2009 judgment of the Delhi High Court.
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- The Delhi HC judgement made Sec 377 of the Indian Penal Code invalid.
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- Section 377 criminalises sexual activities “against the order of nature”, including homosexual activities.
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- This significantly affects India’s LGBTQI community.
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## What is SC’s stance?

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- The 2013 SC judgement was one of the lowest moments for human rights in India.
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- Supreme Court has now been supportive to the LGBTQI rights in its initial observations.
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- However, it has said that it would concern itself only with the question of the validity of Sec 377.
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- It would also examine the correctness of the Supreme Court's 2013 judgment.
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## What are the concerns?

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- The Supreme Court's approach appears to be a limited one.
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- As, it tries to interpret a broader human rights and justice issue as a matter of pure constitutional validity.
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- The law is not abstract, and it is important to consider if the law impacts the lived experiences of human beings.
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- It thus calls for SC to also concern itself with the impact of Sec 377 on the lives of the LGBTQI community.
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## What is the need?

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- Failure to use a rights-based approach has serious social repercussions.
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- Evidently, suicide rates are higher among sexual minorities.
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- Lack of rights and protections promotes a homophobic culture.
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- It overemphasises and empowers patriarchy and masculinity.
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- Widespread homophobia leads gay men and women to create sub-cultures of self-hate, internalised homophobia, and oppression.
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- Lack of social acceptance and legal rights leads to abuse, violence, isolation,

and mental illness.
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- Importantly, a rights-based framework is essential to India’s quest for social and economic development.
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## What should be done?

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- SC should take precedence from its own 2014 judgment that recognises transgender community as a third gender category.
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- It has also recently acknowledged “sexual orientation” an essential attribute of “identity” and “privacy”.
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- It should thus consider the issue of broader rights for sexual minorities.
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- This should include issues such as right to form partnerships, inheritance, employment equality, and so on.
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- India’s sexual minorities need not only decriminalisation but rights and protections from gender-identity-based discrimination.
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- Clearly, the Court has to expand its ambit to positively affect the lives of millions of Indians.
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**Source: Indian Express**

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