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Same Sex Marriage: A Taboo in Indian Society

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ABSTRACT

Same coitus marriage in Indian society “homosexuality has an ancient history in India. Ancient textbooks like Rigveda which dates back around 1500 BC, and puppets and vestiges depict sexual acts between women as exposures to a womanlike world where fornication was grounded on pleasure and fertility. Homosexuals are just like the rest of us. According to certain studies, roughly 5- 10 of the population is gay. You may calculate and check what India's figure is.

Why is it that our society is still unintentional to admit the reality of homosexuality, despite its long roots? What are the reasons behind the fall of LGBTQ people in Indian society?

Although our Hon’ble Supreme Court has given some judgement in support of LGBTQ, On September 6, 2018, a five-judge indigenous bench of the Supreme Court of India struck down vittles of a 162- time-old social enactment(Section 377 of the Indian Penal Code, 1860) that criminalised private and consensual same- coitus exertion between grown-ups in Navtej Singh Joharvs. Union of India, one of the judges, remarked, “Sexual exposure of a person is an essential trait of sequestration. I am reminded of a story about a washerman and his jackass while talking about legitimizing same-coitus marriage. With a hefty weight of garments on his reverse, the jackass refused to go from his house to the pond. A carrot was nailed to a stick tied in front of the beast's mouth by the washer man. The jackass kept going to catch the precious vegetable- the burro continues, and the carrot remains unobtainable. In the world of law, this demonstrates how some laws, like the proverbial burro, relentlessly seek the carrot of the moral ideal.

I. INTRODUCTION

“Same coitus marriage in Indian society” homosexuality has an ancient history in India. Ancient textbooks like Rigveda which dates back around 1500 BC and puppets and vestiges depict sexual acts between woman as exposures to a womanlike world where fornication was grounded on pleasure and fertility. Homosexuals are just like the rest of us. According to certain studies, roughly 5- 10 of the population is gay. You may calculate and check what India's figure

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Why is it that our society is still unintentional to admit the reality of homosexuality, despite its long roots? What are the reasons behind the fall of LGBTQ people in Indian society? In this papere, we'll look at the data and compare them to several crucial judgments and case laws.

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II. BACKGROUNDS

The Centre opposes same-sex marriage and argues that marriage should only occur between biological men and women. However, stories of same-sex marriages abound in mythology and ancient writings. Not to mention the temples of Khajuraho. The Centre opposes same-sex marriage and argues that marriage should only occur between biological men and women. However, stories of same-sex marriages abound in mythology and ancient writings. Not to mention the temples of Khajuraho. The Centre opposes same-sex marriage and argues that marriage should only occur between biological men and women. However, stories of same-sex marriages abound in mythology and ancient writings. Not to mention the temples of Khajuraho. The Centre advocated against same-sex marriage, claiming that marriage.

India has a vast and rich history that dates back to ancient civilizations such as Harappa and Mohenjo-Daro. Although little is known about these civilizations' early perspectives on homosexuality and the LGBTQ+ community, the Vedic age brought old Hindu texts containing references to homosexuality and the "third gender."

The concept of a third gender, known in Hindu philosophy as "Tritiya Prakriti," is a novel one. Gender and sexuality are not binary concepts for members of this community. Indeed, there are numerous examples of Hindu gods identifying with this community, such as the myth of

Aravan, in which Krishna (a Hindu deity defined as the punisher of human sins) transforms into his lady form, Mohini, in order to marry the hero Aravan before his death.

The Kamasutra, an ancient literature that discusses same-sex intercourse in detail, is another example of Indian culture's examination of homosexuality. There's also Khajuraho, a 12th-century shrine with a diverse collection of sculptures that explore sexual flexibility. There are also a number of additional texts that discuss homosexuality and Tiritiya Prakriti. Some contain opposing viewpoints, but when taken together, they imply that Ancient India regarded gender and sexuality on a continuum, just like we do now.³VEDIC ERA

Gender fluidity, transgender persons, and homosexual relationships and intercourse are all depicted in religious stories:-

The tale of **Mohini** begins with the story of Samudra Manthan, or the gods and demons churning the seas. When the gods' nectar of immortality falls into the hands of the demons, they resort to Lord Vishnu for assistance. He disguises himself as Mohini, a stunning woman who distracts the demons and steals their nectar. This is an example of gender fluidity. Shiva's great desire to Mohini is mentioned in the Bhagvata Purana's account of this narrative (as shown in Vanita Ruth's Same-Sex Love in India).

Bhagiratha: In terms of depicting homosexuality, King Bhagirathi's story is actually the story of his two moms, King Dilipa's unidentified wives. King Dilipa died without an heir, according to the Krittivasa Ramayana, the most prominent Bengali version of the Ramayana. Lord Shiva was dispatched by the gods to assist. He told Dilipa's queens that if they had intercourse with each other, one of them would be bestowed with a kid. The queens followed Shiva's instructions and conceived the child who is credited with bringing the Ganges river from heaven to earth. The plot revolves around a lesbian friendship and sex.

Shikhandini: Perhaps the most well-known case legend, Shikhandini is notable for the idea of rebirth in the context of sex-change. The story goes like this: Princess Amba sought vengeance on Bhishma for putting her in a vulnerable position and humiliating her. She pleaded to Lord Shiva for the gift of manhood so she might assassinate Bhishma. He assured her that she would become a man in her next life and that she would recall the circumstances of her birth. Amba is then reborn as Shikhandini, King Drupada's daughter. She was brought up as a son. He has a son and even marries a woman. She goes to the forest after certain occurrences and switches her sex with a Yaksha (nature-spirit) to become Shikhandi, a man. Shikhandi goes to the

³GROUND REPORT, <https://groundreport.in/history-of-lgbtqia-community-in-india/> (last visited May 20,2022)

battlefield to kill Bhishma, who is aware of his gender and hence declines to attack.

We have access to a wealth of information about homosexual love in the late mediaeval period. This is owed in large part to the volume of literature produced by court historians, travellers, poets, and others. These documents, on the other hand, are almost entirely about men.

Mughal Era

Sultan Alauddin Khalji's intense affection for his eunuch slave, Malik Kafur, is discussed by Ziauddin Barani, a noted mediaeval historian. Khalji entrusted government and servant responsibilities to Kafur in his latter years. Qutubuddin, Alauddin's successor, became the next monarch, and "slaves and boys" resurfaced in city life under his reign, according to Barani. The emperor also had feelings for a young man named Hasan, whom he honoured with high honours and the title of Khusro Khan. Qutubuddin adored Khusro Khan more than Alauddin adored Malik Kafur, according to Barani. Khan publicly offered his body to the Sultan, he said.

Babur: Excerpts from Babur's poetry and memoirs "Tuzuk-i Baburi" suggest that he was head over heels in love with a camp-bazaar boy named Baburi. He wrote couplets on his lovesickness and talked about his shyness.

Siraj Aurangabadi was a Persian and Urdu-speaking Sufi poet. His poetry "Bustan-i Khayal" describes his agony as a result of his lover's abandonment. He recounts the son of a Sardar the story of his lovely but faithless beloved, a Hindu kid.⁴

Dargah Quli Khan: In his journal, he narrates life in Delhi, which was ultimately published as "Muraqqa I Delhi." He wrote about Delhi becoming a city populated by carnal pleasure seekers. Crowds of attractive adolescent men are mentioned as attracting other men on the streets. He also emphasises how nobility and even monarchs favoured numerous of these handsome men, whether entertainers or eunuchs.

Many great Muslim leaders displayed desire to other men throughout India's next major era, the Delhi Sultanate, as evidenced by numerous reports and memoirs. Despite the fact that Sharia Law made sodomy unlawful, great kings such as Alauddin Khilji acknowledged feelings for men. Following Mughal rulers held the same views on homosexuality. Babur, the first Mughal emperor, admitted to having an obsession with a man.

If we go by today's textbook definition of marriage, it's impossible to comprehend this intriguing event. Apart from homosexuality and gender fluidity in Hinduism, Muslim monarchs such as Mughal emperor Babur and Khilji's son Mubarak were known to have open

⁴ THE CBS POST, <https://newsletter.sscbs.du.ac.in/a-brief-history-of-lgbtq-in-india/> (Last visited 20 May,2022)

same-sex love affairs, implying that such partnerships were not as taboo in our history. According to some historians, vilifying and ostracising LGBT people was a new concept in India until recently, which makes the Centre's claim that same-sex marriage violates tradition and societal values all the more arbitrary.

British Era

Despite religious books such as the Manusmriti and the Quran prohibiting homosexuality, it is apparent that the practise existed in Indian society. While Hindu tales depict some Gods and renowned kings as queer, chronicles from the Sultanate and Mughal periods demonstrate that the LGBTQIA+ community (particularly the men among them) had widespread public visibility and acceptance among famous rulers and Sufi saints at some point. This Indian heritage may still be apparent in literature and temple carvings like those at Khajuraho.

However, when the British gained governmental power and influence, so did their belief system and norms, which rendered homosexuality illegal. These beliefs were enforced on the residents without concern for how sexual activity was seen in the community.

When Britain invaded India, the criminalization of homosexuality began. Section 377, enacted by the new authorities, defined sexual interactions between two consenting individuals of the same gender as "unnatural." The British Raj also passed laws to imprison and exterminate the "Kinnar" community, which is comprised of intersex, eunuch, and transgender people.

Section 377 was just recently declared unlawful in court, and India began to acknowledge the Kinnar group as a "third gender," effectively providing them with fundamental rights and protections. In terms of destigmatizing homosexuality and being a part of the LGBTQ+ community, India clearly has a long way to go, both culturally and legislatively.⁵

The British position on the queer community became the prevailing cultural viewpoint as their political and administrative power grew. The British Raj's regulations and punishments strengthened it, and it was passed down from generation to generation for 200 years. Of course, this was a watershed moment in the history of India's LGBTQIA+ community.

III. CONFLICT IN THE SOCIETY {MENTAL ILLNESS OR NATURAL FEELINGS}

Until 1974, homosexuality was classified as a mental disease by the American Psychiatric Association. In his writings, Freud made several references to homosexuality and believed that paranoia and homosexuality were inextricably linked. Other psychiatrists wrote extensively on

⁵ THE GUARDIAN, The secret history of same-sex marriage, <https://www.theguardian.com/books/2015/jan/23/sp-secret-history-same-sex-marriage>, (Last visited May 24, 2022)

the issue, and homosexuality was widely "treated." Within the psychiatric establishment, there was little or no suggestion that homosexuality could be thought of as anything other than a mental condition that needed to be treated. Of course, homosexuality was included in the DSM-II as a mental disease. (The DSM, or Diagnostic and Statistical Manual, is the American Psychological Association's (APA) official classification of their so-called mental disorders, and it is used by many mental health professionals in the United States and other countries.) Throughout the nineteenth century, many societies considered homosexual behaviour to be a felony that may result in imprisonment or death.

Some therapists used aversion therapy like that shown in *A Clockwork Orange* to "cure" male homosexuality in the 1950s and 1960s. Patients were generally shown photographs of naked men while receiving electric shocks or medications to make them vomit, and when they couldn't take it anymore, they were shown pictures of naked women or sent out on a "date" with a young nurse. Needless to say, these heinous and disgusting approaches failed miserably.

Homosexuality, according to Sigmund Freud, the creator of psychoanalysis, is caused by family and developmental factors. He evolved to a more accepting perspective of homosexuality, saying that it was "nothing to be ashamed of, no vice, no degradation," and that it "cannot be classed as a sickness, but rather a variant of sexual function." [2] However, because of his legacy of seeing homosexuality as the source of abnormal feelings, psychoanalysts now regard it as a mental disorder. Homosexuality is recognised as a mental disease in the Diagnostic and Statistical Manual of Mental Disorders (DSM), also known as the "bible of psychology." It classified the word as a "sociopathic personality disturbance" in its first edition, published in 1952, and again in its second edition, published in 1963.

Homosexuality was viewed as a sickness that could be healed as medicine and psychology advanced in the twentieth century. Homosexuality is viewed as a flaw with negative moral and societal consequences in pathology theories. In fact, several theorists suggested that homosexuality may be explained by genetic and hormonal factors.⁶

Then, in 1970, LGBT activists in San Francisco staged a protest against the APA meeting. These incidents were repeated in 1971, and the APA directorate became increasingly

⁶ EACH MIND, Homosexuality was Considered a Mental Illness, July 19, 2021, <https://eachmind.org/blog/homosexuality-mental-illness/> (Last visited 24 May, 2022), Homosexuality was Considered a Mental Illness - Each Mind, (Last visited 25 May, 2022)

TIA GOSH, Being Gay Not a Choice: Science Contradicts Ben Carson, LIVE SCIENCE March 6 2015, <https://www.livescience.com/50058-being-gay-not-a-choice.html> (Last visited 25 may 2022)

5. SONAM JOSHI, Law says their marriage isn't valid. these gay couples did it anyway, TIMES OF INDIA, <https://timesofindia.indiatimes.com/india/law-says-their-marriage-isnt-valid-these-gay-couples-did-it-anyway/articleshow/88667669.cms> Jan 3, 2022, (Last visited 23 May 2022)

uncomfortable with their posture as individuals emerged out of the "closet" and felt empowered politically and socially. The American Psychological Association's nomenclature task force suggested that homosexuality be considered normal in 1973. The trustees were not willing to go that far, but they did vote 13 to 0 with two abstentions to remove homosexuality from the list of mental diseases. The APA membership voted to confirm this decision, and homosexuality was removed from the seventh edition of the DSM-II, which was published in 1974.

The findings, according to Andrea Ganna, principal author and group leader of the European Molecular Biology Laboratory at the Institute of Molecular Medicine in Finland, "reinforces the concept that same-sex sexual activity is simply a normal aspect of our diversity as a species."

The importance of the word "natural" for LGBTQ activists cannot be overstated. Being gay is "natural," which means it is not a choice. But it's this comment that will excite opponents of LGBTQ rights, who believe that by praying the gay away, they may "convert" gay individuals to choose to be straight.

People who claim that homosexuality is a mental condition should explain why they are still attracted to the same sex after undergoing extensive treatment.

People who want to alter their orientation should be able to do so if being gay is truly a choice. However, most gay people describe it as a deeply established attraction that cannot be turned off or deflected.

There are research to back this up. According to multiple studies, gay conversion therapy is useless, and the American Psychological Association now considers it dangerous and can exacerbate sentiments of self-hatred. According to studies, by the time a man enters adolescence, his orientation is set. Women have higher degrees of "erotic plasticity," which means their levels of attraction are influenced more by society, experience, and love than men. According to a 2012 study published in the journal *Archives of Sexual Behavior*, even women who move from gay to straight lifestyles retain their attraction to women. These findings imply that, while people can alter their conduct, they cannot alter their core sexual desire. So after all the discussion we can conclude that homosexuality is not a mental illness rather than that it is a natural phenomena.

IV. LEGAL PERSPECTIVE AND PRESENT SCENERIO

(A) Right to marry

Despite the fact that the Constitution does not expressly mention the right to marry the person of one's choice, the Indian judiciary has recognised and affirmed this right in a number of cases. The Supreme Court's decision in *Lata Singh vs. State of Uttar Pradesh* is one such example (2006). The woman in that case had married a man from a different caste than herself. The Supreme Court ruled that because the woman was a major (above the age of 18), she had the right to marry anyone she wished.⁷

In *Shakti Vahini vs. Union of India* (2018), the Supreme Court stated unequivocally that a couple's decision to marry is an example of their exercising their rights.

The stigma surrounding homosexuality in India began during the British colonial period. Many varieties of eroticism, including homoeroticism, were prevalent in early Sanskrit writings, architecture, and art. Same-sex sculptures can be found in the famed Khajuraho temples in Madhya Pradesh, which are known for its sexual sculptures. Homosexuality is mentioned in Hindu mythology as well, with Mahabharat's Shikhandini being a notable example. Shikhandini, who was born as a woman but identified as a man, was expelled from the kingdom. He later transformed into a guy named Shikhandi and married a woman. Same-sex relationships were illegal in the Mughal Empire, and those found guilty were punished severely. The British Raj, as well as European firms founded on its technology,

An NGO called Naz Foundation submitted the first-ever plea in the Delhi High Court in 2001, calling for Section 377 to be declared unconstitutional, but the HC dismissed it in 2003. In a major decision in 2009, the Delhi High Court decriminalised homosexuality, which was found to be in violation of Articles 14, 15, and 21 of the Constitution. Following many petitions, the Supreme Court overturned the Delhi HC verdict in 2012, noting it as "legally unsustainable" and claiming that "just a miniscule fraction of the country's population constitutes LGBT" and "hardly 200 persons have been jailed under Sec 377 in 150 years." It further suggested that the Parliament address the issues. Shashi Tharoor, a Congressman, introduced a bill in 2015. The House voted against a private member measure that proposed decriminalising homosexuality. S Johar, journalist Sunil Mehra, chef Ritu Dalmia, hotelier Aman Nath, and business executive

6. NAZ foundation v. govt. NCT of Delhi, IN THE HIGH COURT OF DELHI AT NEW DELHI, WP(C) No.7455/2001, Date of decision : 2nd July, 2009.

Suresh Kumar Kosha v. Naz Foundation, CIVIL APPEAL NO. 10972 OF 2013, 11 DECEMBER 2013..

National Legal Service Authority (NALSA) v. Union of India, AIR 2014 SC 1863, 15th APRIL, 2014

Justice K.S. Pettaway v. Union of India 2013, (2017) 10 SCC 1.

Naveta Singh Jahar v. Union of India, AIR 2018 SC 4321, 06-09-2018.

Ayesha Kapur filed five petitions in 2016. The petition stated that Section 377 violated their "rights to sexuality, sexual autonomy, sexual partner choice, life, privacy, dignity, and equality, as well as the other fundamental rights granted under Part-III of the Constitution." In 2018, a five-judge bench led by Chief Justice of India Dipak Misra and including Justices R F Nariman, A M Khanwilkar, D Y Chandrachud, and Indu Malhotra commenced hearing the petitions.

The Delhi High Court is currently hearing the case of *Abhijeet Iyer Mitra vs. Union of India*, which involves the validity of homosexual weddings.

The Centre has maintained that under the Special Marriage Act of 1954, marriage is only permitted between biological men and women. It also claimed that there is a "legitimate State interest" in limiting marriage recognition to people of the opposite sex because the concept of marriage, according to the Centre, is not simply confined to an individual's private. If the right to marry homosexuals is denied, it will have a wide range of consequences for their fundamental rights. This is a theological rather than a political dispute. Many individuals, particularly in India, are opposed to it, claiming that it is unnatural, vulgar, and immoral. When asked what he thought of Canada's homosexual marriage law, Prime Minister Manmohan Singh answered that it was not appreciated. Those who are against it base their arguments on religious and natural law beliefs. They are not considered natural by some because they do not produce children. Is it sacred to allow homosexual marriage? God created Adam and Eve, but there are no references to Adam and Steve in Genesis. Why should God's law be broken by permitting gay marriage? There would be no such thing as same-sex persons living together if nature desired it.

The High Court, dismissing the respondents' claim, recognised the National Legal Services Authority's right to gender self-determination. The Court went on to say that the definition of "bride" under Section 5 of the Hindu Marriage Act couldn't be interpreted in a way that didn't make sense or couldn't be amended. The Court mostly relied on the Self-Determination of Gender Identity Model to support its decision. It was decided that the term "bride" would cover not just cis-gendered women, but also transgender women and intersex people who identify as "women."

Supriya Sule of the NCP introduces a bill to legalise same-sex marriage on April 2, 2022.

The bill proposes inserting "notwithstanding anything stated in this Act or any other legislation for the time being in force, a marriage between any two persons of the same sex may be solemnised under this Act" after Section 4 of the Special Marriage Act, 1954.

Supriya Sule, the leader of the National Congress Party, filed a private member's bill on Friday

that wants to offer the LGBT community equal marriage rights. The bill proposes inserting "notwithstanding anything stated in this Act or any other legislation for the time being in force, a marriage between any two persons" after Section 4 of the Special Marriage Act, 1954. "A marriage between any two persons of the same sex may be solemnised under this Act, despite anything contained in this Act or any other law for the time being in force."

The Bill's only stipulation is that male partners must be at least 20 years old, while female partners must be at least 18 years old. The bill also proposes to replace all references to "husband and wife" in the Special Marriage Act with the term "spouse." In 2018, the Supreme Court threw down Section 377 of the Indian Penal Code, which was antiquated and harsh. Homosexuality was effectively decriminalised as a result of this important decision, Navtej Singh Johar v Union of India. While this was a much-needed and forward-thinking step, Individuals still experience discrimination and social stigma in society," Sule remarked after introducing the Bill in a series of tweets. ⁸

"As a result, amending the Special Marriage Act of 1954 to legalise same-sex marriage and grant legal recognition to married LGBTQIA couples is critical." This will ensure that Articles 14 and 21 of the Constitution are honoured, as well as that #LGBTQIA+ couples have the equal rights to which they are entitled," she added. "While the determination of one's sexual orientation has been realised," the Bill's statement of Objects and Reasons states, "LGBTQIA individuals are still unable to marry and build their own families." Furthermore, LGBTQIA couples do not have access to the same rights as heterosexual couples, succession, upkeep, and pensions, to name a few. As a result, amending the Special Marriage Act of 1954 to legalise same-sex marriage and offer legal recognition to married LGBTQIA couples is critical."

Determining the meaning of a few phrases in the Hindu Marriage Act 1955

The Hindu Marriage Act specifies the following requirements for a lawful marriage:

- **Spirits Union-** The Act does not employ particular terminology like male/female or man/woman. As a result, gays may easily fit into it.
- **Between any two Hindus-** "A Marriage may be solemnised between any two Hindus..." says the Act.
- **There is no clear prohibition in the Act that marriage can only be solemnised between two people of the same gender.** Section 2 of the Act specifies who is eligible to marry under it.

7. National Legal Service Authority (NALSA) v. Union of India, AIR 2014 SC 1863, 15th APRIL, 2014
Justice K.S. Pettaway v. Union of India 2013, (2017) 10 SCC 1.
Naveta Singh Jahar v. Union of India, AIR 2018 SC 4321, 06-09-2018.

- Customary rites and ceremonies- Section 7 states that a marriage can be solemnised using either party's customary procedures. If the ceremonies are not completed correctly, the marriage is nullified. Under the Act, these rituals must be proven in order to be considered a valid marriage.

Only sections 5(ii) and 7(2) utilise the terms bride and bridegroom.

The terms bride and bridegroom can be seen as roles that people in a relationship may want. As a result, the Act is gender-neutral save in these two parts, where bride and bridegroom are used. As a result, we may properly argue that if one person performs the part of bride and the other plays the role of bridegroom, the same sex can solemnise their marriage.

The Special Marriage Act of 1954 provides for a special sort of marriage between people who do not want to be bound by their own laws, regardless of their faith or religion. Making changes to the Special Marriage Act to allow same-sex weddings is an option that should not inspire religious hostility. Unlike weddings under the Hindu Marriage Act, this Act does not require religious ceremonies and customs to be conducted for a legitimate marriage. The current version of the Act only applies to heterosexual couples since it uses terms like "man" and "female" to express the age criterion. An change to section 4 (c) is necessary to include homosexual weddings under the Act, or it may introduce a separate provision to specifically authorise homosexual marriages.

V. STANCE OF MUSLIM PERSONAL LAW

(A) Personal Law in Islam

Homosexual acts are prohibited in traditional Islamic law and can result in a variety of punishments, including the death penalty. Homosexuality is considered a sin in traditional Islamic law and is therefore prohibited. The procedure for marriage outlined in the Quran is heteronormative in nature. Marriage is a contract, according to Muslim Personal Law, and the objective of marriage is to formalise the connection between a man and a woman. The phrases man and woman are also used in the divorce and Nikah procedures. However, there is no explicit prohibition of homosexuality in Muslim personal law.

Challenges Faced By The LGBTQ Couples

- On paper, however, they could just as easily be pals. Same-sex couples are unable to register their marriage, depriving gay Indians of spousal rights that heterosexual couples take for granted.

- I can't make him a nomination for any of my properties, and he can't make me a nominee for any of his.
- "If one of them is in the hospital today, he will only be a guest for me because he is unable to sign anything."
- The government has vehemently resisted such a reform, claiming last year that it would "completely destabilise the delicate balance of personal legislation in the country" if same-sex weddings were recognised.
- According to Ruth Vanita of the University of Montana, same-sex social marriages are not a new phenomena. Professor Vanita Gupta wrote "Love's Rite: Same-Sex Marriages in Modern India" in her book. Since the 1980s, a number of lesbian couples have married in informal religious ceremonies across India. These were mostly working-class couples who spoke no English and had no knowledge of the LGBTQ rights movement in the West.

But we can't deny that society is gradually prepared to accept the truth in its purest form. Everything has advantages and disadvantages, and this topic has certain advantages that we have seen in society.

- Axis Bank in India unveiled a charter of LGBTQ-friendly policies for its staff and customers last year, including the ability for same-sex couples to register a joint bank account. According to reports, one of India's most famous matrimony sites is considering expanding its services to the LGBTQ population. Queer relationships are also becoming more prevalent in Bollywood films.

In India, same-sex marriage is illegal, yet queer couples are marrying nonetheless. Their desire to marry despite the lack of legal or financial incentives serves as a reminder that marriage has always been more than just a legal contract.⁹

The following are some of the advantages and grounds for legalising homosexual marriage:

On May 24, 2019, gay and lesbian couples in Taiwan were able to register to marry for the first time. While the new legislation ensuring that right is far from perfect – for example, it does not enable a Taiwanese person to marry a same-sex citizen of another country where same-sex marriage is prohibited – it is the first in Asia to legalise same-sex marriage.

In the Netherlands, which was the first country to allow same-sex marriage, progress was slow.

8. THE MUSLIM PERSONAL LAW {sharit} APPLICATION ACT, 1937, 26 Of 1937.

Many of the same-sex couples' marriage-related benefits were extended to heterosexual couples in 1998. Then, in December 2000, legislation was passed that expanded the definition of marriage to include people of the same sex, despite opposition from the country's Christian Democratic Party. This made it possible for same-sex couples to live together to get married, divorced, and adopt a child. Four same-sex couples married on April 1, 2001, followed by another 382 the following month.

- A drop in divorce rates: Allowing same-sex marriage will, first and foremost, lead to a rise in marriage rates. This is due to the fact that if gays are allowed to marry, the number of divorced couples would decrease. This is owing to the fact that there are less compatibility difficulties.
- It has no negative influence on the heterosexual community: Many people believe that legalising homosexual weddings will have some form of detrimental impact on the heterosexual population. Logic dictates that making homosexual marriage legal in India will have a good influence on the heterosexual society.
- To provide Equal Rights: Interracial marriages were prohibited in the 1950s. Modern civilization, on the other hand, has changed in recent years and does recognise that this was an inequitable law. Making homosexual marriage legal in India, which has a comparable dilemma, will essentially give one the choice to pick his or her mate.
- Accepting society: The first legal homosexual marriage in India would undoubtedly bring about a new revolution in society, as people will be allowed to freely express their desire in same-sex relationships. This will aid in the prevention of social ills such as bullying and will assist in making everyone feel accepted in society.
- An Growth in Adoption Rates: Legalizing gay marriage would also aid in the increase in adoption rates because many adoption organisations discriminate against homosexual people members of the LGBT community. Because of the persecution, it is more difficult for a gay couple to start a family, leaving more children orphaned.
- Marriage is a Personal Choice: The government has no authority over who a person marries. When a government attempts to regulate homosexual marriage, it is essentially deciding who will marry whom. This is fundamentally incorrect, because any couple's sole decision should be to marry. If both parties meet the qualifications for court marriage, a person in a homosexual relationship can apply for a court marriage.

VI. CONCLUSION

The LGTBQ community need an anti-discrimination law that allows them to develop

productive lives and relationships regardless of gender identity or sexual orientation, and places the responsibility for change on the state and society rather than on the individual. The basic right to marry a person of one's own choosing must be bestowed on same-sex couples wanting to marry once members of the LGBTQ community "are entitled to the full spectrum of constitutional rights." Same-sex marriage is now legal in more than a half-dozen nations. Because same-sex couples are not legally recognised, they are victims of a variety of crimes and abuses. The predicament of homosexuals persists even after the legalising of same-sex relationships. It is still not acceptable in our culture. Marriage is more than simply a union of two people; it also brings two families together. The true problem in India is making same-gender marriage legal. It still feels like a faraway memory. Homosexuals are occasionally the victims of assault, abuse, harassment, prejudice, and mocking. It is not enough to make same-sex relationships legal. It is necessary to grant legal recognition to same-sex relationships so that these individuals can enjoy their legal rights as citizens. This is only the beginning. There's still time.

According to Chief Justice Deepak Misra, "We have to bid adieu to prejudices and empower all citizens."
