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Equality – A Tale Challenging Constitution

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People in the twenty-first century, where globalization and socialization coexist, where modernization has exploded and deep-rooted traditional systems no longer prove effective, are prejudiced and stereotyped. There have been modifications in our ways of perceiving the world around us; however, there has been significant evidence of the application of our social learning in our daily lives. When it comes to the various stages of a person's life, marriage is a crucial and transitional stage in that person's life, even though the government has not given complete authorization for the choice of marriage. Social stigmas regarding the choice of the "sex" of the marital partner are under the government's control in Indian society. Heterosexual marriage is known to be "by nature" and "by law," but same-sex marriages are illegal in the Indian Constitution, despite the Supreme Court's decriminalization of Section 377 of IPC¹ (the section of Same-Sex Sexual Relationship) in 2017.² In many parts of society, there are taboos and skepticism about same-sex concepts and homosexuality. Being a secular state, this particular scenario is not well received by any of the religious ideals.

Keywords: *lgbtq, gay couple, same-sex marriage, civil union, marriage, domestic partnership, human rights.*

¹ Indian Penal Code 1860, s 377

² Navtej singh johar v Union of India WP (Cri) No 76/2016

INTRODUCTION

India, a state that is multilingual, multicultural, and multicas, has been an ever-rich nation since ancient times. It is a land of rich and varied culture and heritage, a land of celebration of various customs and traditions, and a land of a diverse human race. Because this nation is renowned for the significance of its mythology, it has always observed the divine aspects of its mythology through a variety of celebrations and rites.

Even though it is the largest democracy in the world, the State must still fulfill the requirements of the term "successful democracy" to reach its objective. The democratically elected government of India plays a significant part in the process of drafting laws and, later, putting those laws into effect. The highest level of India's judicial system is known as the Supreme Court of India. Based on the judgment of the Supreme Court, every significant and insignificant matter involving the state is investigated and, ultimately, resolved. The Supreme Court of India investigates every case that comes before it, examining everything from cultural to family-related matters.

Now, if we talk about and bring attention to the social problems that are present in India, in addition to issues of domestic violence, human rights, women's empowerment, and substance abuse, marriage, and relationship problems are the touchy subject that needs to be addressed. One of these is the recognition of marriages between people of the same gender. The argument in favor of same-sex marriage has been presented to the Supreme Court on multiple occasions, even though it has been controversial and subject to criticism. In the past, the Supreme Court eventually issued a ruling in 2018 that decriminalized homosexuality. In this ruling, the court overturned a law that had been enacted during the time of the colonial era and made homosexual sex a crime punishable by up to ten years in prison. Even though the decriminalization act has encouraged members of the LGBTQ community to come out in the open, accept who they are, and embrace who they are as they are, homosexual marriage and acceptance are still against the law in India.

Recently, on Friday, January 6, the Supreme Court issued an order³ to all other courts across the country, instructing them to transfer any legal petitions seeking recognition of same-sex marriage. The matter was listed before a bench comprising Chief Justice DY Chandrachud, Justice PS Narasimha, and Justice JB Pardiwala. In doing so, the Court effectively took collective ownership of all cases related to this issue. On Friday, because the Supreme Court was hearing the petitions, members of a religious group with right-wing leanings called the United Hindu Front staged demonstrations outside the Court. In their speeches, they denounced homosexuality as being against Indian culture and insisted that the Court shouldn't hear the petitions.

Members of the LGBTQIA community in India have been subjected to discrimination and violence for a significant amount of time at multiple levels from multiple sources, including their families, state institutions, and law enforcement agencies. This has occurred at multiple levels from multiple sources. Borah told CBS News that her organization is dealing with cases in which families are attempting to "correct" the sexual orientation of LGBTQ members through violence, medication, and even rape and that these incidents can occur daily in some cases.

HISTORY

Immediately following the Supreme Court's landmark decision against Section 377, a prominent member of parliament said, "We do not endorse the institution of matrimony between men and men or women and women, who are sexually attracted to each other because it is contrary to nature. It is not only Western culture that has historically frowned upon such relationships; in India, it is a deeply ingrained cultural norm." Other right-wing activists chimed in as usual, insisting that homosexuality goes against nature.

But can we say that with certainty? Can we say without a doubt that it was never recognized in Hindu tradition? The most practiced religion in India, Hinduism, has a complicated history with homosexuality, with its teachings ranging from acceptance to condemnation. Even though the religious texts at its foundation explicitly forbid homosexuality, this is what has happened. A

³ *Supriyo a.k.a Supriya Chakraborty & Abhay Dang v Union of India* (2023)

large section of Vatsyayana's ancient Indian classic Kamasutra is devoted to homosexual gratification.

Hindu Mythology: Amara Das Wilhelm⁴ presents the findings of years of in-depth research into Sanskrit texts from medieval and ancient India in her book 'Tritiya-Prakriti: People of the Third Sex'. These findings demonstrate that homosexuals and the "third gender" were not only present in Indian society at the time, but they were also widely accepted. The Kama Sutra is an ancient Indian Hindu classic that dates back to the second century and refers to lesbians as 'Swarinis'. The book quotes from the chapter Purushayita of the Kama Sutra that these women frequently had children with other women after marrying them. In addition to this, the group of people who identify as the third gender were readily accepted by society at large.

The statues at the Khajuraho temple in Madhya Pradesh are one of the most overt and obvious 'proofs' of homosexuality in ancient India, which are famous for their overt gay themes. According to the most widely held beliefs, the construction of the temple took place sometime during the 12th century. It would appear that the sculptures that were carved inside of the Khajuraho temple show fluid intercourse between men and men as well as women and women. Orgies involving only women have been known to take place. The sculptures represent close relationships between those of the same sex and those of the opposite sex, whether they be romantic or platonic. In the ancient Indian text known as the Rig Veda, the famous "same-sex pair" Varuna and Mitra are depicted in multiple scenes riding sharks or crocodiles or sitting side-by-side in a golden chariot. According to the Shatapatha Brahmana, which is a literary work that describes Vedic ceremonies, history, and mythology, they depict the two half-moons.

An intriguing story about Shikhandini, a warrior of the time who was a female and was in charge of killing Bhishma, is told in the Mahabharata. The story focuses on her role in the death of Bhishma. Shikhandini, the daughter of King Drupada, was disguised as a boy and raised as a prince to exact vengeance on the Kurus kings who ruled Hastinapur. Drupada even arranged a marriage for Shikhandini to another woman. When she found out the truth, her spouse's

⁴ Amara Das Wilhelm, *Tritiya-Prakriti: People of the Third Sex: Understanding Homosexuality, Transgender Identity and Intersex Conditions Through Hinduism* (Xlibris US 2004)

reaction was one of sheer horror. Shikhandini was granted his manhood by divine intervention, which allowed him to survive the night and save the day. After that, Shikhandini began acting more like a hermaphrodite in her daily life.

Pre-Colonial History: According to *Tarikh-i firuz shahi* by Ziauddin Barani, Alauddin Khilji, one of the rulers of the Khilji ⁵dynasty, was known to have a soft spot for young men even during his reign. During his conquest of Gujarat, he was captivated by Malik Kafur's beauty and fell in love with him. Eventually, he decided to purchase the slave for 1,000 Dinars to be with him forever. As a result of Khilji's affection and love for Kafur, Kafur was promoted to the position of Malik Naib (deputy ruler). This brought Kafur a lot of benefits. Hasan, a slave of Qutbuddin Mubarak Shah's, was the object of Qutbuddin Mubarak Shah's affection. Qutbuddin Mubarak Shah was the only son of Khilji to survive. The Mughal Empire's founder himself did not lack attraction to the same sex. In his autobiography, *Baburnama*, Babur talks about how he became enamored with a young man named Baburi who lived in Kabul. The poem was written by Babur, and he acknowledged its author in his autobiography.

According to the story of Sarmad Kashani, which was written by the people who take care of his shrine, he had a crush on a young Hindu boy named Abhai Chand, and in the end, Abhai Chand's father gave his blessing to the two of them to be together. The Dutch explorer Johan Stavorinus had this to say about the prevalence of male homosexuality among the Mughals who lived in Bengal. Not only is the practice of the sin of Sodom common among them, but it also extends to a bestial contact with brutes, and in particular, sheep. Women are so willing to break the law that they will even commit crimes against nature.

During the British period: The British colonial mission, which stifled civic and moral principles in the banner of reformation, placed Section 377 of the Indian Penal Code (IPC) on Indians. Each nation that the British Empire subjugated has laws prohibiting homosexuality that are similar to one another. Native civilizations were seen by colonizers as being sexually deprived. Colonial lawmakers felt that their rules and policies could instill European morals in the controlled

⁵ Ziauddin Barani et al., *Tarikh-i firuz Shahi* (Sang-e-Meel Publications 2006)

populations. Indians began to feel that homosexuality is against Indian values and culture as a result of the British idea of resistance to homosexuality becoming so ingrained in Indian mentality. Sadly, despite Section 377's decriminalization, we still retain colonial knowledge and have forgotten our history.

According to renowned historian Harbans Mukhia,⁶ in one of his speeches in JNU said that understanding why the British outlawed homosexual sex requires knowledge of Indian history. He continues, The British imported their laws to India, especially Section 377, which prohibited and made homosexuality a crime. They implemented this regulation, but it didn't reflect India's views on homosexuality. More specifically, it had to do with their Christian viewpoints.

SAME-SEX MARRIAGE AROUND THE WORLD

Thirty-three countries, including the United States, have legalized marriage between people of the same gender, and several more countries recognize same-sex civil unions. However, in many countries, such as India, same-sex marriage is still against the law, and the spread of rights for LGBTQ+ people around the world has been uneven. Human rights organizations assert that the resolutions that international organizations such as the United Nations have passed in support of LGBTQ+ rights cannot be implemented, even though international organizations such as the United Nations have passed such resolutions. Even though there has been some progress in the form of legal recognition and more generally accepted cultural norms, discrimination still exists even though the fight for marriage between people of the same gender is a major issue of our time.

Civil Unions: A civil union is an official recognition by the state of a committed, marriage-like partnership between two people. Legal rewards, such as inheritance rights, hospital visitation, health care, differential taxation, adoption and fertility treatments, and employee benefits for

⁶ Akanksha Shivhare, 'The undermine status of same sex marriage In India' (*S Bhambri & Associates*, 7 June 2021) <<https://www.sbhambriadvocates.com/post/the-undetermined-status-of-same-sex-marriage-in-india>> accessed 01 March 2023

partners and dependents, are typically provided to the couple by the paper records of their commitment, which are similar to or equivalent to those of marriage.

It's possible that only same-sex couples, both same-sex and heterosexual couples equally, or just same-sex and some heterosexual couples are eligible for this status relying on the jurisdiction. (For example, in some US states, one partner must be over a certain age before a heterosexual domestic partnership is recognized.) However, some jurisdictions distinguish between different degrees of commitment. For example, before Sweden legalized same-sex marriage, heterosexual marriage, and same-sex registered partnerships carried similar rights and responsibilities. However, a third status under Swedish law, domestic partnership, allowed same-sex and heterosexual couples to commit to fewer rights and responsibilities toward each other. Terms like "domestic partnership," "registered partnership," and "civil union" are frequently used interchangeably, but they can have very different meanings depending on the jurisdiction in question. Even though some heterosexual couples do choose to enter into these types of registered nonmarital partnerships, the vast majority of couples do so because marriage is not an option under current law.

International Court Ruling: In *Schalk and Kopf v Austria*⁷ the European Court of Human Rights (ECHR) issued a ruling in favor of a same-sex couple who had been denied the right to marry in Austria. As a result of a 4–3 vote, the court ruled that no violations of their human rights had occurred. The court added that while art. 12 of ECHR⁸ protects only the right to marry for heterosexual couples, same-sex unions are protected under arts. 8⁹ and 14¹⁰. In addition, same-sex marriage is not mandated by the European Convention on Human Rights.

According to Article 12¹¹ of the European Convention on Human Rights, “Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right,” indicating that marriage is not restricted to those in a

⁷ *Schalk and Kopf v Austria* (2010) Appl No 30141/04

⁸ European Convention on Human Rights 1953, art 12

⁹ European Convention on Human Rights 1953, art 8

¹⁰ European Convention on Human Rights 1953, art 14

¹¹ European Convention on Human Rights 1953, art 12

heterosexual relationship. However, the European Court of Human Rights ruled in *Schalk and Kopf v Austria* that the provision's use of 'men and women' rather than 'everyone' was intended to restrict marriage to heterosexual unions. The Inter-American Court of Human Rights (IACHR) ruled on 8 January 2018¹² that same-sex marriage must be legally recognized by the American Convention on Human Rights. This precedent-setting decision was legally binding in all of the contracting states, including Costa Rica.

All the rights that are derived from a family bond between people of the same sex, the Court ruled, must be recognized and guaranteed by all governments. They also argued that a distinct legal clause (such as civil unions) should not be formed in place of same-sex marriage because it is discriminatory and unacceptable. That governments guarantee access to all existing forms of domestic legal systems, including the right to marriage, to ensure the protection of all the rights of families formed by same-sex couples without discrimination, was a requirement set forth by the Court.

SAME-SEX MARRIAGE IN INDIA

There is no basis in Indian law for the institution of marriage between individuals who have the same gender identity as one another. However, legal challenges to the ban on marriages between people of the same sexual orientation are currently being considered in courts across the country. The explanation for this is that India is a federal republic. During this period, there have been several instances of gay couples taking part in commitment ceremonies. Many people have brought up the fundamental question of whether or not the legal validity of marriage should be granted in this union ever since the Supreme Court decriminalized gay sex in 2018 and granted LGBTQ people the right to a union. This is because the court granted LGBTQ people the right to a union. Because the response to this question is so blatantly obvious, someone thought it necessary to ask it. Those who have filed petitions in India have asserted that they have a right to equality and that it is a violation of that right to be prevented from getting married. In addition, they say that this right should not be infringed upon. These petitioners

¹² Inter-American Court of Human Rights 2018

have submitted their arguments to India's highest court, the Supreme Court. They argued in front of the court that the right to marry has repercussions for matters relating to personal liberty, adoption, and financial concerns. According to statements made by the government of India, it is believed that relationships between people who share the same sexual orientation are 'against' both our culture and the numerous different religions that co-exist in India. This belief stems from the fact that the government of India has stated that these types of relationships are 'against' both of these things.

THE LEGALITY OF SAME-SEX MARRIAGES IN INDIA

In India, marriage is governed by different laws that are adapted to the country's various religious groups. Contrary to Article 16 of the Universal Declaration of Human Rights, the Indian Constitution does not expressly recognize the right to marry as either a fundamental or constitutional right. Rather, the right to marry is merely recognized implicitly. The recognition of marriage as a fundamental right in India has only developed as a result of judicial decisions made by the country's Supreme Court. This is even though marriage is regulated by a variety of statutory enactments. Article 141 of the Constitution of India¹³ stipulates that such a declaration of law must be followed by all courts across the country. However, all of these laws restrict marriage to only taking place between a man and a woman. However, LGBTQ people in India have seen an expansion of their legal rights over the past decade, with almost all of the initiatives coming from the Supreme Court.

In 2014, the *National Legal Service Authority v Union Of India & Ors*¹⁴ established a precedent by granting legal recognition to non-binary or transgender individuals as a "third gender," thereby laying the groundwork for future legislation. In 2017,¹⁵ it was passed to strengthen an individual's right to privacy, and it also recognized that an individual's sexual orientation is an essential component of their privacy and dignity. In 2018,¹⁶ it overturned a law that dated back

¹³ Constitution of India 1950, art 141

¹⁴ *National Legal Service Authority v Union Of India & Ors* WP (C) No 400/2012

¹⁵ *Justice K. S. Puttaswamy (Retd.) and Anr. v Union Of India And Ors* WP (C) No 494/2012

¹⁶ *Navtej Singh Johar v Union of India* WP (Cri) No 76/2016

to the time of British colonial rule and expanded constitutional rights for LGBTQ people. Additionally, it decriminalized homosexual sex.

In the past year, the court has begun providing protections for families that it refers to as ‘atypical’. It’s a broad category that encompasses a lot of different things, like same-sex couples, single parents, families with multiple generations, or even blended families. According to the ruling of the court, different non-traditional forms of family structure are just as entitled to the benefits that are provided by the various pieces of social welfare legislation.

IMPORTANT JUDGEMENTS

The fight for same-sex couples’ rights to equality and recognition has been going on for a long time and is not yet over. Nevertheless, judicial recognition to approach legal protections and provide solutions is important for the project of achieving equality and dignity. The narrative of rights and recognition for the LGBTQIA community has been significantly shaped by the decisions that have been made in the following cases. These judgments are the source of all the rights that we are familiar with today and that are associated with the community. These judgments are the product of a battle that has been fought for more than twenty years by members of the community, non-governmental organizations (NGOs), lawyers, and representatives of all civil societies.

The Naz Foundation v Government of NCT Delhi, 2009:¹⁷In this landmark judgment, the Delhi High Court for the very first time ruled that Section 377 violates the Constitution of India. An organization known as Naz with its headquarters in Delhi submitted a Public Interest Litigation (PIL) to the Delhi High Court in which it challenged the constitutional validity of Section 377 of the Indian Penal Code. They have been at the forefront of the fight to reduce the criminalization of certain behaviors. In 2009, they were successful in having the courts declare that Section 377 of the Indian Constitution was unconstitutional because it violated Articles 14, 15, and 16 of the Constitution.

¹⁷ *Naz Foundation v Government of NCT Delhi* WP (C) No 7455/2001

National Legal Services Authority v Union of India:¹⁸The case of Suresh Kumar Koushal v Union of India, in which homosexuality was re-criminalized, was decided upon by the Supreme Court of India in 2013, which was a very difficult year for rights in India in general and LGBTQIA rights in particular. The judgment in National Legal Services Authority v Union of India, also known as NALSA, was handed down by the Supreme Court, which quickly put an end to the period of darkness. Transgender people were granted the identity of Third Gender for the very first time in the legal history of this country. All of the Fundamental Rights were extended to them, and they were recognized as citizens of this country for the very first time. This case is still considered to be the most important precedent-setting case regarding transgender rights in this country. The court established a comprehensive set of guidelines that every state is required to follow to include transgender people in public spheres and provide solutions for the marginalization they experience.

K. S. Puttaswamy v Union of India:¹⁹The case of K. S. Puttaswamy v Union of India, or the Puttaswamy judgment as it is more commonly known, is considered an integral judgment because it found that the right to privacy is an integral part of fundamental rights. Article 21 of the Constitution of India, which guarantees our rights to life and liberty, was amended so that it also protects our right to personal privacy. In addition, the right to privacy was extended to every individual, regardless of gender or sexual orientation. Members of the LGBTQIA community are granted autonomy and protection from action taken by the state when it is acknowledged that their right to privacy is an inalienable right. This enables them to exercise their right to choose their partners. As a result, this judgment, along with the judgment regarding NALSA, became the precursor to the reading down of Section 377 in the year 2018.

Navtej Singh Johar v Union of India:²⁰The landmark case that ended up leading to the decriminalization of homosexuality in India was called Navtej Singh Johar v Union of India. This decision, which was handed down by the Supreme Court of India, is the culmination of several Public Interest Litigations that were brought forward by various subsets of the LGBTQIA

¹⁸ *National Legal Service Authority v Union Of India & Ors* WP (C) No 400/2012

¹⁹ *Justice K. S. Puttaswamy (Retd.) and Anr. v Union Of India And Ors* WP (C) No 494/2012

²⁰ *Navtej Singh Johar v Union of India* WP (Cri) No 76/2016

community in India. The Bench decided to strike down Section 377 because it criminalized sexual activity that took place between two consenting adults. The provision that makes it illegal to engage in non-consensual conduct with children or animals was upheld by the Court. In addition, the Supreme Court of India decided that Articles 14, 15, 16, and 19 1 (a) of the Constitution of India are violated by Section 377. It acknowledged that every person, regardless of their gender identity and sexual orientation, is entitled to the right to live with dignity and autonomy, and to be free from interference from the state in matters that concern their personal and private lives.

In recent times arguments will be presented before India's Supreme Court on March 13 regarding the question of whether or not to legalize marriage between individuals who share the same sexual orientation. This will be a defining moment not only for the world's LGBTQ rights movement but also for the nation of 1.4 billion people who will be affected by it. In this particular instance, the Constitution would need to be interpreted in a manner that would make it possible for gay couples to get married. On the other hand, younger Indians have a greater tendency to be tolerant, and the decision of the court will become the law of the land if there is no intervention from Parliament.

CHALLENGES FACED

Although there may be a growing number of young people in India who are more open to homosexuality and queer identities than ever before, acceptance of the same-sex couple's sexuality and the freedom to openly express their gender choices is still a constant struggle within the confines of family, home, and school. The situation of same-sex couples in urban India, which increased awareness of LGBTQIA rights has been brought about by initiatives led by corporations and social media platforms. Even though the perspectives of urban LGBTQIA people are heard through a variety of online and offline outlets, they only represent a small portion of the many challenges that the community faces as a whole. Couples of the same sexual orientation are fighting a losing battle to have their rights recognized and accepted. People's preconceived notions lead them to believe that same-sex couples are strange and notably distinct from other types of couples.

Although there may be a greater acceptance of homosexuality, same-sex couples, and queer identities among Indian adolescents than ever before, acceptance within the confines of families, homes, and schools continue to be a challenge for people who identify as LGBTQIA. It has been reported that some individuals are coming out of the closet and informing their families that they are not the person they were brought up to be. Each year, a great number of couples who share the same sexual orientation face significant challenges connected to issues such as violence, unemployment, prejudice, poverty, and access to healthcare. People who hold prejudices have issues with the way that members of the LGBTQIA community live their lives.

THE PATH FORWARD

The LGBTQ+ community requires an anti-discrimination law that encourages them to create fulfilling lives and relationships regardless of their gender expression or sexual orientation and that places responsibility for change on all levels of government, civil society, and the individual. With the elimination of the official "otherness" status of LGBTQ+ people, the introduction of same-sex marriage would aid in reducing these forms of prejudice. Detailed Legal Protections, the fundamental right to marry a person of one's own choice must be granted to same-sex couples intending to marry once it is determined that members of the LGBTQ+ community "are entitled to the full range of constitutional rights." Educating the Public and Empowering LGBTQ+ Young People, need a safe space where they can talk about how they feel without fear of reprisal. Also helpful is the Pride Month and Pride Parade Initiative.

In a country as diverse as India, with so many different practices and norms, enforcing something as radical as same-sex marriage will not be an easy task. Conservative mentalities are so pervasive and deeply ingrained in society that those who dare to think otherwise are shunned, humiliated, and excluded from the group. Along with the Supreme Court, more work needs to be done at the societal level to challenge traditional perspectives on sexuality, gender, women's rights, and the LGBTQIA+ community. It is possible for constitutional rights on freedoms and liberties to be extended to every sphere as people's relationships shift and society as a whole transforms.

ANALYTICAL VIEW

We learned many important lessons about life and how to conduct ourselves as members of Indian society. Most of us are raised to accept and comply with established social norms and customs. When we're young, we're like blank slates for the rest of the world to write their opinions on. Parents and society both play a role in instilling in us norms for things like dress, demeanor, and appropriateness of speech and action. In time, as we learn more about ourselves and the world, we form our ideas and opinions about how to approach and handle any given concept or set of circumstances.

There has always been sex discrimination and societal norms that favor one gender over the other. Gender discrimination is not an exception in Indian culture but rather the rule. The basic propaganda that circulates in our society is that boys should be rough and tumble and aggressive, while girls should be soft and nurturing. No matter how loudly we proclaim our commitment to living in the twenty-first century, the fact that we refuse to bend our views on certain issues shows that our yelling is pointless.

Since ancient times, our society has been plagued by prejudice, discrimination, and stereotyping based on racial, ethnic, and sexual orientation. Among all stereotypes, those based on gender are the most narrowly defined. According to me boys and girls grow up in different "gendered worlds," with boys more likely to play with trucks and dolls respectively. This exemplifies the normative expectations society sets for us at a formative age.

To get married, two people must come together and pledge to stay together forever. What is the State waiting for if two people of the same sex decide to spend the rest of their lives together and commit to each other? It has been a long uphill battle in India to legalize same-sex marriage. For quite some time now, same-sex marriage has been legal in most of the world, including the USA, Netherlands, and many more. If India is making progress in all areas and challenging other nations, then why is it always falling behind?

Why does our government consistently reject requests for the protection of same-sex marriage?

Looking at modern society as a whole, we see that tolerance for the LGBTQ+ population has grown significantly. A growing number of people are opening their hearts and minds to those who don't conform to the gender binary. Though they still face widespread stigma and bullying, members of the LGBTQIA community can openly establish themselves in today's society. Even though the minimum population has advanced, they still have a long way to go. When it comes to the Queer community and laws enforcing same-sex marriage, we students tend to be on the side of the motion. To what end must this be a matter of contention? Disputes about them occur in other marriages. There's no way!

Many same-sex weddings, often with elaborate ceremonies, have taken place in recent years. A lot of people, including some famous people, think it's cool that you did something risky. I'm glad to see this sentiment gaining traction in our culture, but it's disheartening to read about sex crimes like gang rapes, torture, bribery, forgery, and assaults on members of the community. Does it seem like we still have a ways to go? Is India going to be lacking a movement of Unity in diversity? When will the State finally make a fair and engraved call on the proposal? We, therefore, pose a query!

CONCLUSION

According to the Declaration of Human Rights, no one's right to stand up for his or her basic liberties and constitutional protections can be limited because of someone else's views, practices, or beliefs. No forward-thinking laws have been passed in our country if we accept the justification given to us by cultural views, public policy, and societal values that are used to restrict a person's rights. Even though cultural beliefs are the root of such atrocities as sati, dowry, child marriage, and infanticide, the government has taken action to end these practices. In light of all that has been said about whether or not same-sex marriage should be legalized, here are some conclusions to draw.

To a greater extent than a political one, this is a religious debate. Homosexuality is not a sin, but a means to an end – specifically, the satisfaction of one's sexual needs or desires. The only thing stopping two gay people from getting legally married and enjoying the same protections as married heterosexual couples is their prejudice. Is it, not the case that we now live in a time when people's freedom of choice is respected? Aren't we supposed to think of India as a free country? Homosexuals have been deemed "queer" by the majority of people in our society. However, Section-377 of the IPC, which is based on the British Offences Against the Persons Act, criminalizes homosexuality even though it is neither new nor anti-cultural in India.

The issues surrounding same-sex marriages are extensive and nuanced, making it difficult to pinpoint the best course of action. It is still unclear, however, whether or not such an approach would be desirable and whether or not it would be possible. Existing methods of criminalizing same-sex sexual activity are increasingly seen as harmful to both the homosexual community and society as a whole. If we are to make progress in human rights, we must legalize marriages between people of the same sex.