

PERSPECTIVES ON SAME-SEX COUPLES, CUSTODY, SUPPORT, AND ADOPTION RIGHTS IN INDIA

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ABSTRACT

Recently, same-sex adoption and parental rights have become significant legal and societal concerns. This abstract tells you about the complexities surrounding same-sex adoption and explores the legal framework, societal attitudes, and implementation of children raised by same-sex parents. It revolves around discrimination, child welfare, psychological impact, societal acceptance, parental skills, and the future outlook. Same-sex adoption varies across jurisdictions, with some countries embracing equality in adoption laws while others do not. Discrimination against couples seeking to persist in certain regions hinders parental rights and inequalities in the adoption process. Research indicates that children raised by same-sex parents fare equally well in terms of overall well-being, breaking myths about adverse psychological effects. Society's acceptance of same-sex adoption has evolved, yet a pocket of resistance remains. Looking forward to a future outlook for same-sex adoption, it appears promising with increased legal recognition and societal acceptance. Challenges include the need for continued education and support for parents of the same sex and their children. The journey toward full equality in adoption rights for same-sex couples is an ongoing process marked by progress, setbacks, and the relentless pursuit of justice. Keywords: same-sex adoption, parental rights, discrimination, child welfare, legal battles, parenting skills, family structure.

INTRODUCTION

Parental rights are central to society as they play an important role in the welfare and development of children. These rights give parents different responsibilities, rights, and freedoms for children. What matters is how can they care for, protect, and guide their children to become responsible, independent, and important members of society. They play an important role in shaping future generations. These rights give parents the right to make decisions for their children in areas such as education, health care and religion, etc. Parents understand their

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children's needs, values, and circumstances. Parents must work for the welfare of children, providing the care, support, and guidance necessary for their physical, mental, and emotional well-being, which plays an important role in protecting family units. Families are the building blocks of society and parental authority is essential for preserving the integrity and stability of institutions. Parents are free to raise their children based on their beliefs and values and society supports the diversity and abundance of family structures. These rights are crucial for caring for the environment and supporting the children. They play an important role in shaping children's character, morals, and important life skills. The parent-child relationship protects security and self-esteem. Opportunities extend to education, allowing parents to choose their children's education and training, homeschooling, religious schooling, and extracurricular activities. Help provides general furnishings by exercising parental rights and association rights. Same-sex adoption refers to the process by which a person or same-sex couple can legally become the adoptive parents of a child. This process of adoption allows LGBTQ+ people to form families and provide consistent care and support for children in need. For many reasons, it is important to focus on principles such as equality and children's welfare. Therefore, it is important to promote equality and non-discrimination. It denies LGBTQ+ individuals the right to adopt based solely on their sexual orientation and undermines their fundamental rights as citizens. This gives same-sex couples equal rights to procreation by allowing them to affirm their equal status in society. These adoptions contribute to the well-being and stability of the children in need. Research shows that sexual orientation does not affect children's parenting behavior or outcomes. A child raised in these ways is emotionally, educationally, and socially similar to the children raised by same-sex couples. The opening of foster care reduces the number of foster children. This not only benefits LGBTQ+ individuals but also society as a whole by promoting the acceptance, tolerance, and understanding of family structures in society. Many such adoptions help combat stereotypes and stigmas surrounding the LGBTQ+ community. Through the love, commitment, and skills of these types of parents, adoptees challenge harmful stereotypes and misconceptions of these individuals as inadequate or inappropriate parents. As more people begin to adopt and raise children, the social perceptions of LGBTQ+ families will evolve, and different families will gain more recognition and support. Legal same-sex adoption promotes social justice and human rights by ensuring that LGBTQ+ individuals have equal parental rights and responsibility. It is important to promote equality, improve child welfare, and recognize families; it also changes stereotypes and upholds human rights. These adoptions have undergone dramatic transformations in recent years. As a community, these people have recognized and defended the adoption rights of

same-sex couples. Historically, these couples have faced many obstacles when trying to adopt them. Discriminatory laws and social prejudices denied the right to become a legal parent.

Many couples face legal hurdles and endure discrimination when starting a family through adoption. Legal Battles: The Battles fought for this have varied. In the United States, HODGES has played a pivotal role in challenging discriminatory laws and establishing marriage equality, thus making it an avenue for same-sex couples to adopt children together. The Due Process Clause of the Fourteenth Amendment guarantees and analyzes the right to marry, as it applies to same-sex couples. It protects children and families by providing legal recognition for housing and childcare and has historically been recognized as a cornerstone of the social system.

The Equal Protection Clause of the Fourteenth Amendment guarantees same-sex couples the right to equal protection under the law. The Constitution protects the fundamental rights of same-sex couples to marry. The Court also notes that the First Amendment protects the right of religious organizations to practice their principles but does not allow states to deny same-sex couples the right to marry under the same circumstances as heterosexual couples. Many countries have amended their adoption laws to clarify gender adoption and reflect changes in social norms and values. International human rights have increasingly emphasized the importance of protecting the rights of LGBTQ+ families and individuals, including the rights of children to adoption and custody. The law needs to be updated to prevent discrimination based on sexual orientation during the adoption process. Public awareness campaigns and cultural initiatives are necessary to gain the acceptance of family plans. The Supreme Court refused to legalize same-sex marriage under the Special Marriage Act, saying that the law change was within the purview of Parliament. CENTER was asked to set up a committee chaired by the Cabinet Secretary to explore what administrative steps could be taken to address the real human concerns of same-sex couples without resorting to legalizing their marriages. All states must recognize the right of same-sex couples to marry; if they have chosen to marry and have children outside of marriage, the state courts will deem each parent entitled to visitation and custody. Adoption is the legal process by which a permanent parent-child relationship is established between persons who are biologically related. Perhaps children who are not raised by orphaned parents may be part of a loving and stable family. Indeed, this is a serious need for orphaned children in India who have lost their parents, live with their parents, or are poor. Challenges may arise for several reasons. Adoption provides opportunities for

children who want love, care, and permanent homes. It ensures the need for care and protection, and provides them with a safe home, emotional support, and opportunities to develop them as much as possible.

The legal framework for adoption in India is governed by the Juvenile Justice (Care and Protection of Children) Act, 2015 and the Adoption Guidelines, 2015, aimed at ensuring that adoptions are fair, transparent, and efficient. The welfare of a child is important in adoption cases. The Court emphasized that the best interests of the child should guide the adoption process; it should not be used to fulfill the wishes of adoptive parents. The current system in India allows homosexuals to adopt it. Illuminating the debate on the eligibility of same-sex couples as adoptive parents.

The Adoption Guidelines, (2015) state that the suitability of prospective parents for adoption is determined based on capacity, suitability, etc. Sexual orientation was not mentioned as an indicator of the suitability of adoptive parents. There are no laws, rules, or regulations that allow or prohibit same-sex couples from being adopted. Gay couples are not allowed to be adopted in India. Adoption laws in India recognize same-sex couples as eligible for adoption. The Juvenile Justice (Care and Protection of Children) Act, 2015, defines a couple as a same-sex couple who have lived together for at least two years. In a landmark decision in 2018, the court ruled that the right to freedom of expression is the right to privacy and dignity guaranteed by the Constitution of India which is a key part of the promise. In 2009, the Delhi High Court issued a landmark decision that allowed same-sex couples to be adopted in India. However, the decision was overturned by the Supreme Court, which upheld Section 377 of the Indian Penal Code which criminalizes homosexuality. In 2017, the Ministry of Women and Child Development issued adoption guidelines but did not allow same-sex couples to adopt. Despite the number of challenges faced by gay couples, there have been many cases in India where they have been able to adopt a child. Example: In 2019, a Spanish gay couple was allowed to adopt a child from India after a two-year legal battle. There are homosexual laws that recognize the rights of same-sex couples under Indian law. Homosexuality is not illegal in India; these laws defeat the idea of making homosexuality enough by limiting the civil responsibilities of same-sex couples' boundaries. Same-sex couples are guaranteed the right to live with dignity under Article 21 of the Constitution.

It covers a variety of issues, including personal choices, freedom, and self-determination. Marriage is not unfair or discriminatory against any individual or group of spouses and is based

on the person's choice and law. Sexual acts among same-sex couples are harmless. Not only should the state allow same-sex couples, but it should also change the law to recognize same-sex couples. Children who have been abused will benefit greatly if the government recognizes same-sex marriages and parental rights. Families do not accept discrimination in the workplace, social surveillance, worries about where to live, travelling to feel safe, experience, or fear of rejection. If a gay couple and their children choose to marry outside of marriage, state courts will find that each parent retains visitation rights to any child born in the marriage. Some jurisdictions may still impose legal challenges on same-sex couples who seek parental rights. Advocacy and legal actions may be necessary to recognize and protect these rights. The decision did not directly address adoption rights. More progress is required to achieve equality and full protection under this law. While there have been many positive developments in recognizing the rights of the LGBTQ+ community, including decriminalizing consensual same-sex acts, there are still challenges regarding the legality of same-sex marriage, recognition of women's relationships, and parental rights. The principles of equality and non-discrimination enshrined in the Constitution should be used to support the recognition of parental rights in same-sex couples.

An example of a Bollywood film is "Adhura," featuring the late actor Irfan Khan. It was the first Hindi gay film released in 1995; however at that time, the concept of homosexuality was considered a curse, and people started opposing the film. Eventually, it is censored. The board banned the film in 1995; it was too soon for people to sincerely embrace this community. At the time, the public was unaware of this fact. Fortunately, over time, people have become more open about homosexuality. Many actors and actresses are campaigning for gay couples to come and vote for their rights. Many events were held to promote the community. Seattle Pride Day was celebrated on January 15, 2023. On this beautiful day, people from this community all over the world show their presence. They came up with their new title and quote to inspire youth who still doubt themselves in this cruel world. Sexual feelings were natural. There is still evidence of homosexuality in the past. There is plenty of evidence of gay iconography indicating the importance of homosexuality in East Indian symbolism. In this day and age, even the courts now somehow recognize same-sex couples in some ways, but they are still not recognized by society. Society condemns their presence, and because of these accusations, young people commit suicide. In some places, parents kill their children in horrific ways, just to mention their names. In rural areas, being gay is considered a curse for the entire family. They were forced to live outside their villages. They were not provided with water, food or

shelter. To avoid this, many people have never managed to do so. Challenges faced in India by same-sex couples in the adoption process: They face several challenges during the adoption process, from a social and legal standpoint. Legal Barriers: Current adoption laws in India are biased towards heterosexual couples, and only those allowed to adopt a child through the Central Adoption Research Authority (CARA). Same-sex couples are not legally recognized as potential adoptive parents, which can create significant barriers. Social Stigma: There are still several prejudices and biases against same-sex couples in India, which can manifest in discriminatory behavior towards them, including the denial of the adoption process. Limited Support: Same-sex couples may face limited support from their family and friends when trying to adopt a child. They find it challenging to find support systems from other gay couples who have gone through them. Lack of Legal Proceedings: If a gay couple is successful in adopting a child, they may face legal challenges such as guardianship, inheritance, and child custody. Adoption agency biases: Some adoption agencies in India may be biased toward gay couples, making it harder for them to adopt a child. Some may refuse to consider them potential adoptive parents.

CONCLUSION

The right to adopt same-sex couples to adopt is an ongoing issue in many parts of the world, including India. Although there has been controversial progress in the recognition of same-sex couples and parental rights, especially in the West, attitudes toward same-sex couples' adoption persist despite unique positive developments such as the Supreme Court upholding the rights of LGBTQ+ individuals in the Navtej Singh Johar case. This landmark decision decriminalized homosexuality and laid the foundation for the greater acceptance and recognition of LGBTQ+ rights, including adoption. Despite this progress, the adoption of same-sex couples in India still faces significant challenges. The lack of specific legislation on this issue for adoption puts many couples in the legal limbo. Lack of clear guidelines often leads to discrimination and reluctance among adoptive parents. Social attitudes and cultural norms continue to create unacceptable barriers among same-sex couples. Deep-rooted prejudices and stereotypes about these people contribute to the stigma and discrimination in the adoption process.

A neutral conclusion can be drawn regarding same-sex couples' adoption rights in India. Undeniable progress has been made in this regard and a comprehensive and publicly accepted legal reform is needed to guarantee equal rights for all couples, regardless of sexual orientation. Efforts to promote awareness and understanding of LGBTQ+ issues in the community are

essential for combating discrimination and creating an inclusive environment for all families. The right to adopt is a complex and growing issue for same-sex couples in India. In conclusion, the legal environment regarding same-sex couples, custody, support, and adoption rights in India has improved significantly in recent years, albeit with challenges that take place there. While there have been notable advances, such as the decriminalization of homosexuality and the recognition of gay rights, there are still many barriers for LGBTQ+ individuals and couples to achieve perfection. In terms of custody, Indian courts have begun to recognize that the welfare of the child is a primary consideration irrespective of the sexual orientation of the parents but there are still no specific rules for custody of custody disputes between same-sex couples, leading to inconsistent decisions and legal uncertainty.

Similarly, while Indian law prohibits same-sex couples from adopting, the legal framework is unclear, and social attitudes often create barriers to adoption by LGBTQ+ individuals and couples. Supportive rights for same-sex couples remain underdeveloped, especially in areas of financial settlement and inheritance. While recent court decisions have recognized the rights of LGBTQ+ individuals to care for themselves and their property, clear legal provisions are needed to effectively protect these rights. In conclusion, while there has been positive progress in recognizing the rights of same-sex couples in India, significant legal and social challenges remain. Comprehensive legal reform, as well as efforts to recognize and eliminate discrimination, is critical to ensuring and protecting full equality.

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