



## ARE SAME-SEX MARRIAGE LAWS AN ATTACK ON THE FAMILY SYSTEM?: AN ANALYSIS

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### Introduction

In modern times, there is the ideology of liberation has increased due to this consequence people have been respecting others' liberty and freedom. This liberty and freedom also include sexual orientation, so the demand for same-sex marriages also increasing. Some countries already having in the existence of same-sex marriage Laws. I.e America, Australia, Germany, Finland, Canada etc.<sup>1</sup>

Recently many petitions regarding the enactment of same-sex marriage laws have been filed in the Supreme Court of India. But the opposition parties deny the legalisation of same-sex marriage on the basis of the fact that same-sex marriage is an attack on the family system. According to a statement given by a Muslim body Jamiat Ulama-i-Hind, an opposition party, filed a petition against those seeking validation of same-sex marriage, on the basis of "*it violates all personal laws and is a direct attack on the family system.*"<sup>2</sup>

On the other hand, Some proponents think that being gay is a trait that is acquired rather

than chosen. Advocates assert that when it comes to getting married, cohabiting, and having children, same-sex couples are just as capable as heterosexual ones.

However, it is a controversial topic not only for India but also for many countries, in this article we will cover this issue, and how it is an attack on the family system and violates personal laws. Along with the consequences of same-sex marriages.

### A brief history of Same-sex Marriage Laws

We can separate the history of same-sex marriage into three parts for better understanding. Our first and second parts reveal that same-sex marriage used to grow in that period but our third part tells about its suppression. However modern period come to dominate the world.

1. Pre-Western culture
2. Non-western Culture
3. Modern West culture

#### 1. Pre-Western culture

Clearly the early Egyptian and Mesopotamian social orders, which are essential antecedents of Western culture, allowed same-sex connections as well as recollected in their synthesis, legends, and culture. Regardless, there is exceptionally delicate wandering proof of same-sex marriage in these old associations. For a gigantic piece of the Christian Past times, one could find somewhat genuinely persuading

<sup>1</sup> Countries Where Gay Marriage Is Legal 2023, (last visited at, 8 april,2023), available at,<https://worldpopulationreview.com/country-rankings/countries-where-gay-marriage-is-legal>

<sup>2</sup>Dainik Tribune, Same-sex marriages attack on family system, contravene all personal laws: Jamiat Ulama-i

Hind,(last visited at, 8 April 2023), available at, <https://www.tribuneindia.com/news/nation/same-sex-marriages-attack-on-family-system-contravene-all-personal-laws-jamiat-ulama-i-hind-493271>.



and direct proof of same-sex associations in Greek and early Roman culture, distinguished Rome, and Western Europe.

- Little records give light on the locale's confidential propensities, and no solid lawful texts have made due. This makes proof of marriage customs, whether for same-sex or hetero connections, very scant in Egypt. Regardless, a couple of trinkets show same-sex associates in eminent positions, possibly showing that Egyptian culture at specific spots in its arrangement of encounters persevered through such associations. For Example, an entombment chamber for two male subjects of the Fifth Practice (around 2600 B.C.)<sup>3</sup>
- Maybe the earliest coordinated exposition regarding the matter is Socrates' exchange in "The Recognition of Adoration," The Conference.<sup>4</sup>
- In 342 A.D., the late Roman Realm, which, previously, had been more open-minded toward gay marriage than either the Republic or the previous Domain, passed a regulation that purportedly — yet maybe playfully — guaranteed that individuals who got hitched to individuals of a similar orientation would get "choice discipline."<sup>5</sup>

## 2. Non-western Culture

The presence of same-sex connections as of now, including lawfully perceived relationships, is unequivocally upheld by proof from Local American, African, and Asian societies. This verification is particularly clear before Western Europe

managed those countries. Like before, my sources incorporate the typical verifiable archives, like first-individual declarations, antiques, fantasies, and legends. Crafted by friendly anthropologists and ethnographers, who have had the option to recreate a huge lump of these developments' pre-Western customs and establishments through their hands-on work in non-Western societies, commonly gives the best proof to this case. One of these customs that are most often rehearsed is same-sex marriage.

- As per Francisco Lopez de Gomara's Set of Experiences of the Indies (1552), for example, "The guys wed different men who are feeble or emasculated and stroll about behaving like ladies, performing their responsibilities and being utilized thusly, and who can't convey or utilize the bow," there are various records from this time of same-sex marriage.<sup>6</sup>
- Indeed, even there was a custom. As per Juan de Torquemada's portrayal of the training in the Monarchia Indiana (1615), Guardians gave their young child a kid "to have him for a lady and to involve him as a lady; from that likewise started the law that assuming anybody moved toward the kid, they were requested to pay for it, rebuffing them with similar punishments as those breaking the state of a marriage."<sup>7</sup>
- An especially fascinating scope of same-sex associations can be tracked down in African social orders, such were transsexual organizations equivalent to the Local American Berdache custom and

<sup>3</sup> David F. Greenberg, *The Construction of Homosexuality*, 130 (1988).

<sup>4</sup> Benjamin Jowett trans., with selected retranslation, notes, and introduction by Eugene O'Connor, 110, (1991).

<sup>5</sup> *Supra* 3 at, 229 (1988).

<sup>6</sup> Francisco Guerra, *The Pre-Columbian Mind* (1971).

<sup>7</sup> Juan de Torquemada, *Monarchia Indiana*, 422 (1615).



transgenerational associations (frequently man-kid pairings).

- The bonds fostered between men were the main focus of early scholarly publications on transgenerational marriage.
- There is also evidence of transgender marriage in various African tribes.<sup>8</sup>
- An exclusively African tradition of same-sex relationships is the custom of "women husbands" or "woman marriage."
- Occurrences of controlled same-sex affiliations that by and large existed all through Asian social orders in no less than one of the ways referred to consolidate the berdache custom of transgender same-sex marriage (like that practised in Neighborhood American culture), companionate same-sex marriage (like that envisioned in Plato's Gathering), and the transgenerational custom of youngster mates (moreover found in Plato and comprehensively used in outdated Greece). Every one of the three of these equivalent sex relationship types has been predominant in various civilizations, including Chinese society.<sup>9</sup>
- As opposed to Chinese society which permitted a weaker exceptionally practised by eunuchs, similar solid berdache customs existed in Vietnam, India, Burma, Korea, Nepal, the Austral Islands, New Zealand, and the Cook Islands (disfigured folks blamed for supervising illustrious gatherings of courtesans).
- Similar to transgender unions, companionate same-sex weddings were widespread in Asia, with Chinese society providing the greatest evidence of their prevalence.<sup>10</sup>Ten of China's Han Emperors, who ruled from 206 B.C. to

220 A.D., are said to have had male lovers and engaged in open same-sex relationships, just like their Roman contemporaries.

- Transgenerational same-sex associations have existed in the past in various Asian nations, as well as in Melanesia and Australia. In middle age Japan, transgenerational homosexuality was directed, particularly among the Samurai, a strategic class.<sup>11</sup>

### 3. Modern West Culture

Present-day Western culture, the one about which we know the most, is generally uncommon in that it communicates free-for-all-over gay closeness and effectively attempts to forestall gay associations. The Western world's steady structure of reversal, homosexuality, and homosexuality matches the account of that concealment. Since they were created simultaneously as Western Europe's mastery of the world, the characteristics of the West have impacted mankind's set of experiences. This has had huge cultural repercussions for non-Western countries like those analyzed in the past Segment. In this segment, we can additionally isolate into subparts-

#### ● The West's Suppression of Homosexual Unions

- The thirteenth century is when opinions towards same-sex relationships or marriages in the West began to change.<sup>12</sup>
- Numerous common state-run administrations passed their most memorable enemy of

<sup>8</sup> Supra 3 at, 25-77 (1988).

<sup>9</sup> Bret Hinsch, *Passions of the Cut Sleeve: The Male Homosexual Tradition in China*, 11-13 (1990).

<sup>10</sup> Id.

<sup>11</sup> Supra 3 at, 25-77 (1988).

<sup>12</sup> Jhon Boswell, *Christianity, Social Tolerance, and Homosexuality*, 26, (1980).



homosexuality regulation during this time, and the all-around existing standards began to be completely sanctioned. Like this, the Congregation began to go against same-sex connections all the more emphatically, and persuasive scholars from the academic period like Thomas Aquinas and Albertus Magnus coordinated religious reasons against it. A French sentiment from the primary portion of the thirteenth hundred years, Huon of Bordeaux, fills in for instance.<sup>13</sup>

- The West high level of arrangement system in the nineteenth hundred years. As another kind of clinical "sexologist," the rearrange transformed into a gay.<sup>14</sup> Another flood of agitation and abuse in the West around the centre of the twentieth hundred years, which was especially extreme in the US, was to a great extent powered by the clinical calling. This was achieved by ordering homosexuality as a sickness.
- As opposed to social orders in the Americas, Asia, Africa, and Australia, the state-of-the-art West has not been enduring same-sex associations. Regardless, the West's antagonistic mindset towards them and its state-approved camouflage of them impacted how various social orders saw same-sex associations. In Africa, same-sex families and family structures were demolished by slave sellers and pioneer specialists, who moreover periodically furious monetary examples that gave women the power and position to drive female connections. To compel an unquestionably unbending, official Christian perception of sexuality and marriage upon "changed over" social classes

in Africa, China, Japan, Melanesia, and various developments, ministers conflicted with and irregularly persecuted standard practices, including same-sex affiliations.<sup>15</sup>

- **The Survivalship of Homosexual Unions in the West**

- Lesbian associations in the cutting-edge period were not treated similarly to men's until hundred years. In the sixteenth 100 years, the Seigneur de Brantome talked about the female sex with a resilience he could never have displayed for male homosexuality.<sup>16</sup>
- Inside and out kinships between ladies that looked like marriage have been indisputably factual by antiquarian Lillian Faderman. These equivalent sex organizations were normal from the Renaissance through the 20th 100 years.<sup>17</sup>
- *"Sisters in love, a love allowed to climb Ev'n on this earth, above the reach of time."*<sup>18</sup>
- While Faderman has found proof of other passionate female connections happening during the late eighteenth 100 years, the women's association is the one that has the most data about them.
- To be sure, even now, certain female couples consistently go into truly limiting connections. This was typically accomplished through the demonstration of "passing," in which women would dress in men's clothing and subsequently in various settings would pass as men. Elena de Cespedes (1545-88).<sup>19</sup>

<sup>13</sup> John Bouchier & Lord Berners trans., Huon of Bordeaux, 1895.

<sup>14</sup> Jeffrey Weeks, Sex, Politics, and Society: The Regulation of Sexuality since 1800, (1889).

<sup>15</sup> Supra 9.

<sup>16</sup> Seigneur de Brantôme, Lives of Fair & Gallant Ladies 131-34,(1933).

<sup>17</sup> Lillian Faderman, Surpassing the Love of Men: Romantic Friendship and Love Between Women from Renaissance to the Present (1981).

<sup>18</sup> Id.,

<sup>19</sup> Vern L. Bullough & Bonnie Bullough, Cross Dressing, Sex, and Gender 45-73 (1993).





## ● Gay Rights and Same-Sex Marriage

- Since lesbians, gay men, and bisexuals have become more open about our sexuality and as our own subculture has emerged, the amount of long stretch same-sex associations have extended more than at another point in humankind's arrangement of encounters.<sup>20</sup>
- Like the June 1969 mobs that were ignited by a police strike on the Stall Bar in Greenwich Town, the lunch counter demonstrations for the African-American social liberties development affected gay and lesbian freedom development. They gave saints, exhibited open protection from harsh social practices, and laid out a point of convergence for future battles. Notwithstanding the way that gay and lesbian privileges development began during the 1950s in the US, critical advancements didn't happen until after 1969.

### Same-sex marriage laws in other countries (Current Status)

The US is one of the 33 countries that have perceived same-sex marriage; a few different countries likewise perceive same-sex common associations. Regardless, same-sex associations are as yet unlawful in numerous countries, and LGBTQ+ freedoms have been unevenly expanded around the world. Global bodies, like the Unified Countries, have passed goals for LGBTQ+ freedoms,<sup>21</sup> in any case, common freedoms advocates guarantee

that these bodies miss the mark on power to complete them.<sup>22</sup>

### ● United States

In *Obergefell v. Hodges*<sup>23</sup>, the U.S. High Court wrapped up in 2015 that comparable-sex couples have the legitimate right to marry. The 5-4 decision widened same-sex marriage into the U.S. district as well as the thirteen states where it was at this point unlawful. The Respect for Marriage Act, which perceives same-sex relationships at the public authority level, was upheld by Congress in 2022 and supported into guidelines by President Joe Biden after stressing that the High Court would decide to allow states to excuse the authenticity of such affiliations. The degree of Americans who maintained same-sex marriage rose from 27% in 1996 to 71% in that year.

The court concluded in 2020 that separation in light of sexual direction or orientation personality is moreover restricted by a social liberties regulation from 1964 that precluded sex segregation in the working environment. The greater part of the states, where there were no earlier regulative privileges for LGBTQ+ labourers, presently have assurances against being terminated.

The SC's 2022 decision to overturn *Roe v. Wade*, in any case, raised a few worries that it would switch its 2015 choice to marriage balance.<sup>24</sup> A case that invoked the fourteenth amendment to safeguard the right to an abortion. Equity Clarence Thomas expressed as he would see it on the 2022 judgment that

<sup>20</sup> Mary Mendola, The Mendola Report: A New Look at Gay Couples 48-53 (1980)

<sup>21</sup> Human right watch, LGBT Rights, (last visited 7 April, 2023), Available at, <https://www.hrw.org/topic/lgbt-rights>.

<sup>22</sup> CFR.org Editors, Marriage Equality: Global Comparisons, (2022), Available at, <https://www.cfr.org/backgrounder/marriage-equality-global-comparisons>.

<sup>23</sup> Obergefell v. Hodges, 576 U.S. 644 (2015)

<sup>24</sup> Roe v. Wade, 410 U.S. 113 (1973).



*Obergefell v. Hodges* was "certifiably wrong" and that the court had an obligation to invert this and past decisions.

Canada was the primary country in the Western Half of the globe to sanction same-sex associations in 2005. In 2010, it was trailed by Argentina, Brazil, and Uruguay, then Mexico in 2015, Colombia in 2016, Ecuador in 2019, Costa Rica in 2020, and Chile in 2021. Just Costa Rica perceives same-sex connections, regardless of different nations in the locale having hostile to separation assurances.

- **Europe**

Western Europe is home to the greater part of the countries that authorized gay marriage. Denmark, France, the Unified Realm, the Netherlands (2001), Belgium (2003), Spain (2005), Norway (2009), Sweden (2009), Portugal (2010), Iceland (2010), Luxembourg (2015), Ireland (2015), Finland (2017), Malta (2017), Germany (2017), Austria (2019), and Switzerland have all legitimized same-sex associations (2021). Be that as it may, same-sex marriage isn't allowed in Italy, where the parliament sanctioned common associations for same-sex couples in 2016. In 2022,<sup>25</sup> lawmakers in Andorra decided to legalise same-sex marriage by converting all same-sex civil unions into civil marriages. Early in 2023, the adjustments will become effective. Slovenia, meanwhile, made history in 2022 when it became the first nation in the former Yugoslavia to permit same-sex unions and adoptions.

<sup>25</sup> Supra note, 22.

- **Asian Pacific**

The only nations in the Pacific Rim that permit same-sex marriage are Australia and New Zealand. In Taiwan, same-sex unions are now permitted after the legislature put a judgement from the top court into effect in 2019. In 2021, 43% of Chinese citizens favoured allowing gay-lesbian unions.

The first gay-lesbian unions in Japan were formally recognised in a Tokyo district in 2015. In 2022, the city approved an ordinance giving same-sex couples the same privileges as married couples. In a 2022 poll, the majority of respondents supported same-sex unions (around 65%).<sup>26</sup>

Guys and females are restricted from taking part in the sexual movement in a few areas of Indonesia, Malaysia, and Burma. Freedoms bunches have noticed an expansion in dangers and fierce violations against LGBTQ+ individuals in Indonesia beginning around 2016, including biased remarks made by various public characters. The decriminalization of the gay way of behaving was a promise made by Singaporean Top state leader Lee Hsien Loong in 2022, despite the fact that he likewise expressed that marriage would keep on being perceived as lawful. Gay intercourse is culpable in Brunei by being battered to the point of death, however, the public authority chose not to execute the regulation in light of the global ruckus.

- **Central and South Asia**

Same-sex organizations are denied in a huge piece of South and Focal Asia, including

<sup>26</sup> Supra note 22.



Bangladesh and Pakistan. Bhutan made a move to decriminalize gay sex in 2020, while India lifted a provincial time prohibition on it in 2018. Albeit same-sex marriage is presently unlawful, the High Court of India consented to extend the meaning of a family in 2022 to incorporate "abnormal" families like same-sex couples.

In Nepal, various enemies of separation regulations have been passed, and in 2015, an administration-selected board recommended that legislators sanction same-sex associations. In true reports, third-orientation enlistment is permitted in Pakistan, Bangladesh, India, Nepal, and different nations.

As per ILGA, in 2016 35% of Indians and 30% of Pakistanis said same-sex marriage ought to be permitted. In Kazakhstan, 12% of individuals were in favour.

- **Middle East and North Africa**

Same-sex organizations are disallowed in numerous countries in the locale, and doing so is a capital offence in Iran, Saudi Arabia, and Yemen. Same-sex conduct is authoritatively precluded by the laws of Algeria, Morocco, Oman, Syria, Tunisia, and Gaza. On account of its enemy of LGBTQ+ regulations, Qatar, which facilitated the 2022 FIFA World Cup, experienced harsh criticism. Basic Freedoms Watch asserts that the security workforce has hurt transsexual ladies and other LGBTQ+ individuals.<sup>27</sup>

The 2016 ILGA survey found that<sup>28</sup> 49% of Israelis agree that gay associations ought to

be legitimate, contrasted with 19% in the Unified Middle Easterner Emirates, 16% in Egypt, and 14% in both Jordan and Morocco. Along these lines, Israel is not quite the same as its neighbours.

- **Sub-Saharan Africa**

Only in South Africa are same-sex marriages permitted in sub-Saharan Africa. Less than ten years after the constitutional court overturned restrictions prohibiting men and women from having sex, the parliament approved same-sex marriage in 2006. The post-apartheid constitution was the first in the world to provide protection for individuals based on their sexual orientation, despite the fact that only 40% of South Africans supported legalising homosexual marriage in a 2016 ILGA poll,<sup>29</sup> and that the rights of transgender males and homosexuals are frequently not upheld by security forces.

Regardless, there have been ongoing changes: the Afrobarometer survey found that, notwithstanding South Africa, dominant parts in three different nations embrace homosexuality. These nations are Namibia, Mauritius, and Cape Verde. In Mozambique (2015), Seychelles (2016), Angola and Botswana (2019) and Gabon (2020), same-sex connections were made legitimate. In addition, courts in Kenya, Uganda, and Zambia late decided on associations that help LGBTQ+ freedoms.

### **Whether is it legal in India or not?**

On this matter, The Center's main contention is that Indian traditions, ethos, culture, and

(May 2016), available at, <https://ilga.org/ilga-riwi-global-attitudes-survey-2016>.

<sup>29</sup> Id.,

<sup>27</sup> Supra 21.

<sup>28</sup> ILGA world, The Ilga-Riwi 2016 Global Attitudes Survey On Lgbt People In Partnership With Logo



the societal understanding of marriage as an institution do not recognise same-sex marriage. According to some, marriage is a sacrament that unites a biological male and female in a holy union in order to bear offspring. In light of this, it is asserted that Parliament, and not the Court, is the proper body to discuss and decide whether same-sex marriages should be legalised.<sup>30</sup>

The Center's position has drawn criticism from campaigners, academics, and other members of civil society. Because In *Supriyo v. Union of India*<sup>31</sup>, the Supreme Court asked a Constitution Bench to look at the legalisation of same-sex unions. In contrast to the Section 377 decriminalisation issue, which the Central government had deferred to the Court's judgement, the affidavit it provided in this instance is opposed to such legalisation. Thus the question is still unanswered.

#### A controversy on same-sex marriage

A group of former high court justices had already written an open letter on Wednesday, March 29, 2023, warning that the legalisation of same-sex unions in India will have a disastrous effect on society as a whole.

***"We are a group of former judges who are conscientious and concerned citizens of India. We are writing to you to request your kind attention to one such issue: the legalisation of same-sex marriage because we are exasperated and agonised by the ongoing assault by special interest groups***

<sup>30</sup> G.S. Bajpai And Ankit Kaushik, Same-sex marriages: A matter for Parliament, TOI, ( 3 Apr. 2023). Available at, <https://www.thehindu.com/opinion/op-ed/same-sex-marriages-a-matter-for-parliament/article66692014.ece>.

<sup>31</sup> *Supriyo v. Union of India*, 1011 (SC 2022).

***against the fundamental principles of Bharatiya marriage traditions and family system.***<sup>32</sup>

There are many issues regarding same-sex marriage in various countries which is why it is being a controversial topic for a long time. Here we shall discuss an Indian perspective of controversy and focus on these two questions-

#### 1. Does Same-sex marriage laws an attack on the family system?

Jamait Ulama-I-Hind has submitted an interventional application in the Supreme Court case requesting recognition of same-sex marriage, arguing that such recognition should be based on long-standing and enduring social norms and should not be subject to constant change based on newly developed value systems emerging from alternative paradigms.

The idea of same-sex marriage, according to the testimony given in court, attacks the family system rather than creating a family.

Many individuals are against it because they see it as immoral, unnatural, and crude, especially in India. Those who oppose it make their cases by citing their respect for both natural law and religion. Some people do not consider them to be natural because they do not produce children. Is homosexual marriage sacred if it is legal? Adam and Steve are not mentioned in the book of Genesis;

<sup>32</sup> India Tv, 'Attack on family system', says Jamiat Ulama-I-Hind on 'same-sex marriage' in India, (Last visited on 8 April 2023), available at, <https://www.indiatvnews.com/news/india/same-sex-marriage-india-jamiat-ulama-i-hind-attack-on-family-system-muslim-body-moves-supreme-court-seeking-legal-intervention-latest-updates-2023-04-01-859622>





rather, God created Adam and Eve. Why support gay marriage when it violates God's law? If nature favoured that same-sex persons coexist, there would only be one sex and not two. Our society is built on the rejection of sex marriage.

Remember that the law has certain requirements for this. It was developed to preserve the social fabric. That violates the country's laws, which have been in place for many years and were constructed using the commandments as a guide.

All religions have a family system and their own beliefs and tradition, in which homosexuality is not considerable, if these types of laws will come then it affects the whole society.

## 2. Does it violate personal Laws?

India is a secular-democratic country where every religion people live. On the relationship between religion and personal laws, the argument makes the point that anyone who challenges a religion's well-established norms or calls for the creation of an empty space between those norms and its teachings is actually trying to change those norms.

Similar to the majority of religions, including Christianity and Hinduism, Islam has categorically forbidden homosexuality since its inception. The position of Islam with regard to the proscription of homosexuality is undisputed and established. This is true from the primary religious text, The Holy Quran, to the embargos placed through the teachings of the Prophet Muhammad PBUH, the primary legislator, and to the interpretations available in the vast ocean of work on the

Islamic teachings on gender relations and sexuality.

### Hinduism

Brahmanism of the Vedas and later of British colonialism, the Manusmriti stipulates severe penalties for females engaging in sex with a girl, establishing the existence of such relationships during the menstrual cycle. Both sexual systems coexisted despite changes in relative restriction and freedom up to British Colonialism, when the destruction of representations of homosexual expression and sexual expression, in general, became more systematic and overt.

### Muslims

The Qur'an and Muhammad's Sunnah are both sources of Islamic Shari'ah law. According to this legislation, homosexuality is a crime against God and a sin. The four primary schools of Sunni jurisprudence now have different approaches to homosexuality, but they all concur that it is deserving of harsh punishment.

### Christians

Regarding the view of homosexuality, there has been a heated dispute in the Christian community. In contrast to the other sentence, which suggests homosexuals should be embraced so they can discover a greater calling in God and mend their ways, the first line criticises the idea as a whole. Once modern Western nations started to legalise homosexuality, a rift in thought developed. Yet, Christianity has long condemned homosexuality.

## The consequence of making same-sex Marriage Laws



- **An Anti-birth mentality** - Netherlands, Sweden, and Canada have a legal right to marry a same-sex person. The birth rate of these countries is approximately 1.6 children per woman. Which is less than 193 countries. Which increases the anti-birth mentality.
- **Mental weakness - *A new study of young adults conceived through sperm donation*** shows that those children who are born from donated sperm are found as more depressed than natural parents' children and they have more chance to consume intoxicating beverages in future. LGBT individuals smoke more frequently and abuse alcohol and drugs more frequently.<sup>33</sup>
- **High chance of suicide-** Same-sex attracted adolescents attempt suicide more than twice as frequently as their peers.<sup>34</sup>
- **A reality of motherless or fatherless parenting-** The same homosexual marriage is to encourage same-sex parenting. In consequence, it becomes a reality of Motherless or fatherless parenting.
- **Divorce risk-** According to a study there is a significantly higher chance of divorce in marriages between two women than in other kinds of unions. At the conclusion of our research period, we discovered some convergence in the probability of divorce

among marriage types: The risk of divorce in male same-sex relationships is equal to that in opposite-sex unions.<sup>35</sup>

- **Sexually Transmitted Infections-** Gay, bisexual, and other men who engage in sexual activity with other men are more likely to contract viral hepatitis, including hepatitis A, B, and C, which are liver disorders. Gay and bisexual men make up about 10% of new Hepatitis A infections and 20% of new Hepatitis B infections in the US.<sup>36</sup> Lesbians are less likely to get preventive services for cancer, but gay males are more likely to contract HIV and other STDs.<sup>37</sup>

### Suggestions

In my opinion, we should change our thinking towards LGBTQ communities. The social and Old traditions or norms should not be a base for the illegalization of homosexual marriage, This is a modern era, and everybody has been aware of human rights. And article 21 of the Indian constitution also supports, the right of living which covers the necessity of marriage. Every person has a right to marry. It should not be criminalized.

Aren't we living in a time that values people's freedom of choice? I thought India was supposed to be the home of freedom People in our society have labelled homosexuals as

<sup>33</sup> Mayer KH, Bradford JB, et al, Sexual and gender minority health: what we know and what needs to be done, Am J Public Health, 98 ( 6 )(2008).

<sup>34</sup> Russell ST & Joyner K . Adolescent sexual orientation and suicide risk: evidence from a national study . Am J Public Health, (2001).

<sup>35</sup> Martin Kolk & Gunnar Andersson, Two Decades of Same-Sex Marriage in Sweden: A Demographic Account of Developments in Marriage, Childbearing, and Divorce,(2020).

<sup>36</sup> CDC, Gay and Bisexual Men's Health,(Last visited at 8 april,2023), available at, <https://www.cdc.gov/msmhealth/viral-hepatitis.htm>.

<sup>37</sup> HealthyPeople.gov . Lesbian, gay, bisexual, and transgender health [Internet]. Washington (DC) : Office of Disease Prevention and Health Promotion ; [last updated 2017 Apr 28; cited 2017 Apr 28 ]. Available from: <https://www.healthypeople.gov/2020/topics-objectives/topic/lesbian-gay-bisexual-and-transgender-health> Google Scholar



"queer." Yet, homosexuality is neither a recent development nor an offence against Indian culture; it has always existed and has been punished considerably less severely than under Section 377 of the IPC, which is modelled after the British Offences against Persons Act.

However, there is a high risk of health diseases in a homosexual marriage. It should be a topic of discussion. Physical and mental health are affected by this type of marriage. This can be improved if it became a topic of health and hygiene upliftment of homosexual people.

### Conclusion

One method a dominating group maintains its dominance over other groups is through history. The dominating group can persuade the rest of us to accept its dominance by presenting its victory as inevitable, natural, and good. One response of a suppressed group when it realises its unfair subordination is to create its own version of history. From a gay-lesbian perspective, this article is a counterhistory exercise. As we saw pre-modern era, it is no discrimination against homosexual marriage but in the modern era, some norms and traditions are identified and start being suppressed.

The marriage relies upon the family. Marriage controls an individual's sexual life, permitting them to have kids and guaranteeing the endurance of mankind. New friendly ties and proportional freedoms between mates are made through marriage. At the point when youngsters are conceived, their freedoms and position are laid out. Each people group perceives explicit strides for laying out these connections and freedoms.

Society lays out preclusions, inclinations, and solutions with regard to picking a mate.

The act of being homosexual is not wrong; rather, it is a way to fulfil one's sexual desires or the pursuit of pleasure. Except for blind prejudice, there is absolutely no barrier stopping two gay individuals from being married in a civil ceremony, which would grant them the same rights and protections as heterosexual couples.

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