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# Married in Love, Unrecognised by Law: The Invisible Legal Inequalities Faced by Same-Sex Couples in India

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Love, companionship and the wish to build a life together are parts of being human. For people marriage gives emotional safety, legal acknowledgement, social acceptance and a feeling of belonging.. For same-sex couples in India the situation is still difficult. Same-sex couples share a home support each other with money care for each other when sick and spend years planning a future.. Same-sex couples do not receive the same legal recognition as a straight marriage.

The issue of same-sex marriage is often talked about as a choice or about acceptance.. The problem is much deeper. It is about how rights match the life situations that people face every day. When the law does not recognise a relationship the effects can reach inheritance, medical choices, adoption, insurance, family pensions and other places where marital status matters.

The title 'Married in Love Unrecognised by Law' shows this contradiction. A relationship can be real, devoted and important to the people in it. It can still stay unrecognised by law as a marriage. This makes a type of inequality where discrimination shows not by a clear ban on same-sex couples but by rules and government systems that rely on marital status.

Understanding Same-Sex Relationships and Legal Recognition A same-sex relationship is a bond between two people who're of the same sex. These relationships can include commitment, shared duties, money sharing and long-term plans. Like couples same-sex partners may want to set up a home buy property raise children and look after each other all their lives.

However legal recognition is not the same as the relationship itself. Same-sex couples may see themselves as partners. The law may not treat same-sex couples as spouses. This difference matters because marriage is not a religious ceremony; under Indian law marriage is a legal status that brings many rights, duties and benefits.

It is also important to separate the freedom to pick a partner from the right to have that partnership recognised as a marriage. A person can have freedom for choice and the right to choose a partner but that does not give all the legal status that comes with marriage. This difference is at the centre of the debate about same-sex marriage.

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Constitutional Foundations: Equality, Dignity and Personal Liberty The Constitution of India provides the basis for examining the rights of same-sex couples. Even though the Constitution does not say directly about same-sex marriage many basic rights are important for this topic.
Article 14: Equality Before the Law Article 14 guarantees that everyone is equal, before the law. It ensures protection of the laws. It tells the state to justify any differences in a way that follows principles.

The question is whether a legal framework that gives recognition to opposite-sex couples creates an unfair disadvantage for same-sex couples. While the state may use arguments about the structure of marriage, parenthood or legislative policy those arguments must be weighed against the promise of equality.

Equality does not always mean treating everyone the same. Equality may also require looking at whether a rule that looks disadvantages a particular group.

**Article 15: Protection Against Discrimination**

Article 15 prohibits discrimination on grounds such as sex. Article 15's application to discrimination based on orientation has been examined in constitutional law especially in *Navtej Singh Johar v. Union of India (2018)*.

The case recognized that constitutional protections cannot be read through stereotypes about how men and women should behave. This reasoning matters when we look at laws that assume every family must have a husband and a wife.

Nevertheless the exact way Article 15 applies to the non-recognition of same-sex marriage still needs analysis.

**Article 21: Life, Liberty and Dignity**

Article 21 protects life and personal liberty. Through court decisions Article 21 now covers aspects of dignity, privacy and personal autonomy.

*In Justice K.S. Puttaswamy (Retd.) v. Union of India (2017)* the Supreme Court recognized privacy as a right. Discussed how important autonomy is in personal and intimate choices.
Likewise in *Navtej Singh Johar v. Union of India (2018)* the Supreme Court decriminalized same-sex conduct between adults by reducing Section 377 of the Indian Penal Code.
These decisions are developments. These decisions show that sexual orientation and intimate choices cannot be dismissed as unworthy of protection.

However protection from state interference does not automatically answer whether the state must give access to marriage. The hard legal question is how liberty and dignity become claims for recognition and related benefits.

**The Supreme Courts Decision in Supriyo v. Union of India**


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The important recent decision about same-sex marriage in India is Supriya Chakraborty v. Union of India decided by the Supreme Court on 17 October 2023.

The petitioners challenged the exclusion of same-sex couples from the framework that governs marriage the Special Marriage Act, 1954. The petitioners argued that not being able to marry took away rights and benefits and broke the guarantees of equality, dignity and personal liberty.

The Constitution Bench did not recognize a right to marry that would force the state to give marriage to same-sex couples. The Constitution Bench also chose not to rewrite the Special Marriage Act to allow same-sex marriage.

The judgment matters because it separates the protection of queer people's relationships from a right to marital status. The judges also shared views on what queer unions mean how much the state must do and how the institutions should respond.

The decision did not make same-sex relationships illegal. Did it undo the protections recognized in earlier cases about privacy, dignity and personal liberty.

Nevertheless the judgment left the issue of marriage equality unresolved in favor of the petitioners. Same-sex couples still face no framework that gives them the status of spouses under Indian marriage law. This sparks a debate. If the law protects a person's freedom to choose a partner should that freedom also let a person access the institution that gives couples rights and responsibilities? Should the creation of such an institution mainly be the job of the legislature?

The question shows the difference between giving autonomy and making sure substantive equality works in practice.

**The Invisible Inequality Behind the Absence of Marriage Recognition**

The significant consequences of non-recognition may arise not as a legal prohibition. Rather they arise in terms of laws and administrative systems which use marriage as the basis for determining eligibility.

This is the idea of inequality. A rule may appear neutral because it applies to everyone who is legally married. However when a particular group cannot access that status the rule can produce outcomes.

For example a benefit available to a recognised spouse may be inaccessible to a same-sex partner even when the couple has shared a home and responsibilities for years. The exclusion may arise from the definition of a spouse than an express provision targeting same-sex couples.

This problem becomes more complex because legal systems operate through rules. The absence of recognition in one area can affect other areas of life.

**Property and Inheritance**


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Property is one of the areas in which legal recognition matters. When one partner dies without leaving a will the surviving partner may not inherit in the way as a legally recognised spouse under the applicable succession law.

A surviving partner may have contributed financially to a shared home. A surviving partner may have spent years providing care and support. The absence of status may create difficulties, in establishing inheritance rights. Private arrangements, such as wills and joint ownership can offer some protection. However these arrangements do not always cover every consequence of marriage. Their effectiveness depends on the law that governs the documents and the circumstances of each case. As a result same-sex couples often need to take financial precautions to protect interests that married couples can secure through statutory rules.

**Healthcare and Medical Emergencies**

Healthcare gives another example of the consequences of non-recognition. During an emergency a same-sex partner may be the person familiar with the patient's medical history wishes and daily needs. Nevertheless hospitals and institutions may rely on defined relationships or specific documentary requirements when deciding whom to contact or recognise.

The absence of status does not automatically remove every right of a same-sex partner to participate in decisions. The rules that apply depend on the nature of the decision the patient's capacity, valid authorisations and the relevant law. However uncertainty about a same-sex partner's position can create difficulties when decisions must be made quickly.

The issue is therefore not simply whether a same-sex partner is emotionally close to the patient but whether the law and the administrative system have a method of recognising that same-sex partner relationship for the purpose in question.

**Parenthood**

The issue of parenthood also deserves attention. Some same-sex couples wish to raise children while other same-sex couples may already be parenting children within their households.

Indian adoption law contains eligibility requirements that may depend on status and other factors. The Juvenile Justice (Care and Protection of Children) Act, 2015 and the Adoption Regulations must therefore be examined when assessing the position of adoptive parents. The difficulty is not identical for every queer individual or same-sex couple. Eligibility can differ depending on whether a same-sex couple applies to the applicable adoption rules and on the legal status of the same-sex partner relationship.

Nevertheless the absence of marriage recognition can affect the ability of a same-sex couple to obtain recognition as parents and to secure stable legal arrangements for a child.

The child's interests must remain central to this discussion. A serious legal framework should consider the child's safety, stability, caregiving relationships and legal security than rely on assumptions about the gender composition of a household.


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**Insurance, Pensions and Employment Benefits**

Many employment policies and financial arrangements distinguish between spouses, dependent family members and nominated beneficiaries. When a benefit is expressly restricted to a recognised spouse a same-sex partner may be unable to qualify under the existing rules. In some situations, nomination or dependency provisions may provide an alternative. The distinctions must be examined individually. A nomination is not necessarily equivalent to inheritance as a heir and an employment policy may define family members differently from a statute.

The broader concern is that same-sex couples may have to navigate systems, each with its own definition of family. The absence of a recognised status can therefore create uncertainty and additional administrative burdens.

**Social Acceptance and Legal Recognition Are Not the Same**

One of the aspects of this debate is the difference between social acceptance and legal equality. A same-sex couple can be welcomed by friends, coworkers or even some relatives. Personal acceptance does not automatically give inheritance rights, spousal benefits or legal protection when a family dispute arises.

Similarly a court might recognise a same-sex partner relationship for a purpose while the same-sex couple does not receive the legal status of marriage.

In *Deepika Singh v. Central Administrative Tribunal (2022)* the Supreme Court said that families can take forms beyond the household, such as blended families and relationships that do not fit traditional assumptions.

This judgment matters because it challenges the belief that every real family must follow one model. It did not create a right to same-sex marriage. Its importance lies in the recognition that the idea of family can be more complex, than a husband-wife household.

This difference shows why social acceptance alone is not enough to solve the problem. Legal systems must decide who qualifies for rights how relationships are proven and what protections come from recognition.

**The Burden of Proving a Relationship**

Think of two same-sex couples who have lived together for fifteen years. Both share living costs give care when sick and make decisions together. One same-sex couple is legally married while the other cannot obtain the status under the current rules.

When an institution asks for proof of a spouse's status the married same-sex couple can normally show a marriage certificate. The other same-sex couple may have to explain their relationship provide documents or find out whether the institution recognises any alternative.This difference can create uncertainty even before a decision is reached.


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It can also become a burden. Couples may have to prepare documents about property, medical arrangements, nominations and other matters. Each document might solve one problem. Other legal issues may still be unresolved. This does not mean that private legal arrangements are useless. Wills, valid nominations, joint ownership and proper authorisations can offer protection. The problem is that these arrangements do not always give the legal status as marriage.

As a result the lack of recognition can make protecting a stable relationship more complicated, expensive and dependent on advance planning.

## The Role of Courts and the Legislature

The question of same-sex marriage also raises an issue about the separation of powers. Courts have a duty to protect rights and to check the validity of state action. A comprehensive marriage law could affect areas, such as succession, adoption, maintenance, divorce, taxes and social security.

In *Supriyo v. Union of India* the Supreme Court refused to create same-sex marriage recognition by rewriting the framework. The decision shows the court's concern that changing the marriage institution may need choices that go beyond the dispute.

However the difficulty of creating a legal status does not mean that every existing inequality must stay unexamined. Courts can still look at whether specific state actions violate protections whether current laws allow an inclusive interpretation and whether adults need protection from coercion or unlawful interference.Meanwhile the legislature can look at reforms. Set clear rules about the rights and duties of same-sex couples.

A balanced approach should recognise both limits and the importance of equality. Constitutional rights must stay meaningful while a full legal reform needs thought about its effects.

## Possible Legal and Policy Reforms

A constructive answer to the difficulties faced by same-sex couples should go beyond spotting discrimination. It should also look at steps that could reduce uncertainty.

First, the government should review laws, schemes and employment policies that make some benefits depend on status. Where a benefit can be achieved with a definition of dependency or caregiving reform may be possible without changing every part of marriage law.

Second, institutions should give rules about documents and relationship authorisations whenever the law allows them. This will help cut uncertainty and stop decisions from depending on attitudes of officials.

Third, access to justice and personal safety must be improved. Adults should be able to seek remedies against unlawful confinement, coercion, threats or interference with their freedom. Authorities should handle cases according to the law. Not rely on stereotypes about same-sex relationships.


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Fourth, legal knowledge should be better. Same-sex couples should be able to obtain information about wills, property ownership, nominations, medical authorisations and other arrangements that can lawfully protect their interests.

Finally, Parliament must consider whether a complete system for relationship recognition is needed. This would involve examining marriage equality, civil unions and other legal models. The proposal must be evaluated based on the rights it actually provides and includes, such as succession, maintenance, parenthood, separation, financial protection and remedies.

A separate registration system must not be assumed to guarantee equality only because it formally recognises a relationship. The system would be effective if it grants rights and avoids creating a category of families that're under legal pressure.

The long-term goal should be a system that protects dignity, freedom and legal security with rules.

The struggle to recognise same-sex couples in India is not a debate about marriage as an institution. It is a question of the relationship between law and the realities of life.

Two people may share happiness, responsibilities, financial commitments. Deepest vulnerabilities arise when they do not receive the legal recognition as a married couple. The consequences of this difference can be seen during an emergency, a property dispute, the death of a partner or an attempt to establish a family.

The Supreme Court's decision in Supriyo v. Union of India made clear that constitutional protection of relationships does not necessarily result in an enforceable right, to same-sex marriage. However the constitutional principles developed in Puttaswamy, Navtej Singh Johar and other decisions are important to understand dignity, autonomy and equal treatment.

The real challenge is to turn these principles into protection. Equality must be examined not by asking whether a law explicitly discriminates but by investigating who can access its benefits what proof is needed and what happens when a person's closest relationship is not recognised by the relevant institution.

**Marriage equality and the broader scope of family protection must be seen as goals.**

Recognising same-sex marriage would remove a barrier that keeps people from access to marriage. Broader legal changes are also needed to ensure that essential protections reach people whose families do not fit the model.

Ultimately the question is not whether everyone must marry or whether every family has a structure but whether the law can fairly protect people when they form real relationships and take responsibility for one another.

A constitutional democracy must keep checking whether its legal institutions echo the principles of equality, liberty and human dignity. For same-sex couples in India the gap between being free to love and being legally recognized is a matter of justice.

Bridging that gap needs legal analysis real legislative work and a promise that the protection of human relationships will not depend solely on whether human relationships fit a traditional definition of family.


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