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THE LEGAL RECOGNITION OF SAME SEX MARRIAGES AND ITS CONSTITUTIONALITY IN INDIA

~ *Gauri Dangi*

Abstract

The question of legal recognition of same-sex marriages in India represents a complex intersection of constitutional rights, cultural values, and evolving social norms. This paper examines the constitutional framework governing same-sex marriages in India, analyzing the landmark judicial pronouncements that have shaped LGBTQ+ rights in the country. The Supreme Court's decision in *Navtej Singh Johar v. Union of India (2018)*¹ decriminalized consensual same-sex relationships by striking down Section 377 of the Indian Penal Code, marking a watershed moment in India's legal history. However, the subsequent ruling in *Supriya Chakraborty v. Union of India (2023)*² declined to recognize same-sex marriages, leaving a significant gap between personal liberty and institutional recognition. This paper critically analyzes the constitutional provisions—particularly Articles 14, 15, 19, and 21—that form the basis for arguing in favor of marriage equality. It examines the competing interests between individual fundamental rights and the state's regulatory power over marriage as a social institution. The paper further explores the Special Marriage Act, 1954, and various personal laws to assess whether the current legal framework can accommodate same-sex unions without legislative intervention. Through comparative analysis of international jurisprudence and examination of socio-legal challenges, this research argues that denying same-sex couples the right to marry violates the fundamental constitutional principles of equality, dignity, and non-discrimination. The paper concludes that while judicial recognition

¹ Navtej Singh Johar vs. Union of India, (2018) 10 SCC 1.

² Supriya Chakraborty vs. Union of India, AIR 2018 SC 4321.

of LGBTQ+ rights has progressed significantly, comprehensive legal reform remains essential to ensure true marriage equality in India.

Keywords: Same-sex marriage, constitutional law, marriage equality, LGBTQ+ rights, fundamental rights, Article 21, dignity, non-discrimination

Introduction

The recognition of same-sex marriages has emerged as one of the most contentious constitutional questions in contemporary India. The journey toward LGBTQ+ rights in India has been marked by significant judicial milestones, social resistance, and evolving public discourse. The legal landscape underwent a transformative shift with the Supreme Court's decision to decriminalize homosexuality in 2018, yet the question of marriage equality remains unresolved, creating a paradoxical situation where same-sex relationships are legal but lack institutional recognition through marriage.

Marriage, as recognized by Indian law and society, has traditionally been understood as a heterosexual union governed by various personal laws based on religion. However, the constitutional framework of India, premised on equality, liberty, and dignity, demands a re-examination of whether such an exclusionary definition of marriage withstands constitutional scrutiny. The fundamental rights enshrined in Part III of the Indian Constitution—particularly the rights to equality, non-discrimination, and life with dignity—form the bedrock of arguments supporting same-sex marriage recognition.

The significance of this issue extends beyond legal technicalities into the realm of human dignity and social justice. Marriage confers numerous legal, social, and economic benefits, including inheritance rights, adoption rights, healthcare decision-making, tax benefits, and social recognition. Denying these benefits to same-sex couples solely based on their sexual orientation raises serious constitutional concerns regarding equal protection under law.

This paper undertakes a comprehensive analysis of the constitutional validity of recognizing same-sex marriages in India. It examines the relevant constitutional provisions, landmark judicial decisions, statutory frameworks, and the socio-legal implications of marriage equality. The research explores whether the current exclusion of same-sex couples from the institution of marriage can be justified under the Indian Constitution or whether it represents an unconstitutional discrimination that must be remedied through judicial intervention or legislative action.

Historical Context and Legal Evolution

A. Pre-Independence and Colonial Legacy³

The legal treatment of homosexuality in India has its roots in colonial-era legislation. Section 377 of the Indian Penal Code, 1860, introduced by the British colonial administration, criminalized "carnal intercourse against the order of nature," effectively criminalizing homosexual conduct. This provision reflected Victorian-era morality rather than indigenous Indian cultural attitudes toward sexuality, which historically demonstrated greater fluidity and acceptance of diverse sexual expressions, as evidenced in ancient texts and temple sculptures.

The colonial imposition of Section 377 created a legal framework that not only criminalized same-sex relationships but also stigmatized LGBTQ+ individuals, forcing them into social invisibility and denying them fundamental human rights. This legal provision remained largely unchallenged in post-independence India for decades, reflecting societal conservatism and the low priority accorded to LGBTQ+ rights in the early years of nation-building.

B. The Journey Toward Decriminalization

The first major challenge to Section 377 came in 2001 when the Naz Foundation filed a public interest litigation in the Delhi High Court. After years of legal proceedings, the Delhi High Court in *Naz Foundation v. Govt. of NCT of Delhi (2009)*⁴ declared Section 377 unconstitutional insofar as it criminalized consensual sexual acts between adults in private. The Court held that the provision violated Articles 14, 15, and 21 of the Constitution. This landmark judgment was celebrated as a significant victory for LGBTQ+ rights in India.⁵

However, this victory was short-lived. In 2013, the Supreme Court in *Suresh Kumar Koushal v. Naz Foundation*⁶ overturned the Delhi High Court's decision, reinstating the criminalization of homosexuality. The Court held that Section 377 did not suffer from constitutional infirmity and that the LGBTQ+ community constituted a "minuscule

³ 'The Momentum of History – Realising Marriage Equality in India', NUJS Law Review, By- Satchit Bhogle, <https://nujlawreview.org/wp-content/uploads/2020/02/12-3-4-Satchit-Bhogle.pdf>.

⁴ Naz Foundation vs. Govt. of NCT of Delhi, (2009) 111 DRJ 1.

⁵ Supra Note- 3.

⁶ Suresh Kumar Koushal vs. Naz Foundation, (2014) 1 SCC 1.

minority," thereby appearing to dismiss their fundamental rights. This regressive judgment was widely criticized by human rights organizations, legal scholars, and civil society.

The final and definitive judgment came in 2018 when a five-judge Constitution Bench of the Supreme Court in *Navtej Singh Johar v. Union of India*⁷ unanimously overruled the Koushal decision and declared Section 377 unconstitutional to the extent it criminalized consensual sexual conduct between adults. The Court recognized that the LGBTQ+ community possessed equal constitutional rights and that their sexual orientation was a natural and integral part of their identity protected under Article 21.

Constitutional Framework for Same-Sex Marriage

A. Fundamental Rights Under the Constitution⁸

The Constitution of India provides a robust framework of fundamental rights that are applicable to all citizens without discrimination. Several constitutional provisions form the basis for arguing in favor of same-sex marriage recognition:

Article 14: Right to Equality

Article 14 guarantees equality before law and equal protection of laws to all persons within the territory of India. The Supreme Court has consistently held that Article 14 prohibits arbitrary classification and discrimination. In the context of same-sex marriages, denying marriage rights to same-sex couples while granting them to heterosexual couples constitutes differential treatment based solely on sexual orientation, which is an arbitrary and unreasonable classification.

The doctrine of reasonable classification requires that any classification must be based on intelligible differentia that has a rational nexus with the object sought to be achieved. The exclusion of same-sex couples from marriage fails this test as there is no rational nexus between sexual orientation and the ability to enter into a committed, loving relationship that deserves legal recognition and protection.

Article 15: Prohibition of Discrimination

Article 15 prohibits discrimination on grounds of religion, race, caste, sex, or place of birth. While sexual orientation is not explicitly mentioned, the Supreme Court in *Navtej Singh*

⁷ Supra Note- 1.

⁸ Part III, The Constitution of India.

Johar read sexual orientation into Article 15 as an analogous ground of discrimination. The Court recognized that discrimination based on sexual orientation violates the fundamental guarantee against discrimination and that the expression "sex" in Article 15 includes sexual orientation.⁹

By denying same-sex couples the right to marry, the state effectively discriminates against them based on their sexual orientation, which is impermissible under Article 15. Such discrimination denies them the dignity, legal recognition, and benefits that flow from marriage, thereby perpetuating systemic inequality.

Article 19: Freedom of Speech and Expression

Article 19(1)(a) guarantees freedom of speech and expression to all citizens. The Supreme Court has recognized that this right includes the freedom to express one's identity, including sexual identity. The right to express one's choice of partner and to publicly affirm one's relationship through marriage is an integral aspect of this fundamental freedom. Denying same-sex couples the right to marry restricts their ability to express their identity and relationship in the same manner as heterosexual couples.

Article 21: Right to Life and Personal Liberty

Article 21, which guarantees the right to life and personal liberty, has been expansively interpreted by the Supreme Court to include numerous unarticulated rights essential for a dignified life. In *Navtej Singh Johar*, the Court held that the right to life includes the right to live with dignity, the right to privacy, the right to autonomy, and the right to choose one's intimate partner.

The Court emphasized that dignity is the core value of constitutional rights and that the LGBTQ+ community possesses the same fundamental rights as any other citizen. The right to marry is intrinsically connected to dignity, autonomy, and personal liberty. Marriage is not merely a legal contract but a social institution that provides emotional support, social recognition, and legal protection. Denying same-sex couples the right to marry infringes upon their Article 21 rights by denying them the ability to live with dignity and make autonomous choices about their intimate relationships.

B. The Right to Privacy and Autonomy

⁹ Supra Note- 1.

The landmark judgment in *Justice K.S. Puttaswamy (Retd.) v. Union of India (2017)*¹⁰ recognized the right to privacy as a fundamental right under Article 21. The Court held that privacy includes decisional autonomy over matters intimate to an individual, including the choice of intimate partners and the nature of relationships.

The right to privacy encompasses the right to make intimate decisions without state interference, including decisions about marriage. The state's refusal to recognize same-sex marriages represents an unjustified intrusion into the private domain of individuals' intimate choices. The Constitution protects the autonomy of individuals to decide whom to marry, and this autonomy cannot be restricted based on the gender of the chosen partner.

The Special Marriage Act and Statutory Framework¹¹

A. Analysis of the Special Marriage Act, 1954

The Special Marriage Act, 1954 (SMA) provides a civil form of marriage for couples irrespective of their religion. The Act was enacted to provide a uniform law for marriage registration and to enable inter-religious marriages. Section 4 of the SMA prescribes conditions for a valid marriage, which include that the marriage must be between a "man" and a "woman."

The use of gendered language in the SMA has been the primary statutory barrier to recognizing same-sex marriages. However, several legal scholars and advocates have argued that the gendered language in the Act can be read down or interpreted in a gender-neutral manner to include same-sex couples. This interpretive approach draws support from principles of constitutional interpretation, which require statutes to be read in harmony with constitutional values.

In *Supriya Chakraborty v. Union of India (2023)*, a five-judge Constitution Bench of the Supreme Court examined whether same-sex couples have a fundamental right to marry and whether the SMA can be interpreted to include same-sex marriages. The Court, in a 3:2 majority, held that there is no fundamental right to marry and that it is within the domain of the legislature to determine the legal framework for marriage. The

¹⁰ Justice K.S. Puttaswamy vs. Union of India, (2017) 10 SCC 1.

¹¹ 'The Legal Recognition of Same Sex Marriage: An Analytical Study', International Journal for Multidisciplinary Research, By- Dr. Savita Kumari and Dr. Sonia, 2023, Volume 5 Issue 5, <https://www.ijfmr.com/papers/2023/5/8177.pdf>.

Court declined to read down or interpret the SMA to include same-sex marriages, holding that such a change would amount to judicial legislation.

B. Personal Laws and Religious Framework¹²

India's legal system recognizes multiple personal laws governing marriage based on religious affiliation, including Hindu Marriage Act, 1955; Muslim Personal Law; Christian Marriage Act, 1872; and Parsi Marriage and Divorce Act, 1936. All these laws define marriage as a union between a man and a woman, reflecting traditional religious and cultural understandings of marriage.

The application of personal laws to same-sex marriages presents unique challenges. While the Special Marriage Act provides a religion-neutral framework, personal laws are deeply rooted in religious doctrines and traditions. Any recognition of same-sex marriages under personal laws would require either legislative amendment or judicial interpretation that reconciles religious traditions with constitutional values of equality and non-discrimination.

The tension between personal laws and constitutional rights has been a recurring theme in Indian jurisprudence. The Supreme Court has, in various cases, held that personal laws cannot violate fundamental rights and that discriminatory practices within personal laws are subject to constitutional scrutiny. This principle should logically extend to the exclusion of same-sex couples from marriage under personal laws.

Judicial Pronouncements on Marriage Equality

A. Navtej Singh Johar v. Union of India (2018)

The decriminalization of homosexuality in Navtej Singh Johar laid the constitutional foundation for marriage equality, even though the case did not directly address the issue of same-sex marriage. The Court's emphatic recognition of the rights of LGBTQ+ individuals to dignity, equality, and autonomy has profound implications for marriage equality.

Justice D.Y. Chandrachud, in his concurring opinion, observed that the "entitlement to constitutional protection cannot be restricted on the basis of sexual orientation." He

¹² Supra Note- 11.

emphasized that constitutional morality must trump social morality and that majoritarian views cannot determine the scope of fundamental rights. These principles are directly applicable to the question of same-sex marriage recognition.

Justice Indu Malhotra, in her separate opinion, noted that "history owes an apology to the members of this community and their families, for the delay in providing redressal for the ignominy and ostracism that they have suffered through the centuries." This acknowledgment of historical injustice strengthens the case for comprehensive legal equality, including marriage rights.¹³

B. Supriya Chakraborty v. Union of India (2023)

The Supreme Court's decision in the same-sex marriage case represents a mixed outcome for marriage equality advocates. Chief Justice D.Y. Chandrachud, writing for himself and Justice Sanjay Kishan Kaul, delivered a progressive opinion recognizing several important rights for LGBTQ+ individuals, even while declining to mandate recognition of same-sex marriages.

The Chief Justice held that same-sex couples have the right to enter into civil unions and are entitled to legal recognition and protection of their relationships short of marriage. The judgment recognized that denying same-sex couples all legal recognition would violate their fundamental rights, but it concluded that the determination of the exact legal framework should be left to the legislature.

Justice S. Ravindra Bhat, writing for the majority (including Justices Hima Kohli and P.S. Narasimha), took a more conservative approach, holding that there is no fundamental right to marry and that marriage is a social institution subject to legislative regulation. The majority opinion emphasized that courts should be cautious about reading down or reinterpreting statutes in a manner that amounts to judicial legislation.

The dissenting opinions by the Chief Justice and Justice Kaul argued that the failure to recognize same-sex marriages violates the fundamental rights of LGBTQ+ individuals and that the Court should have either read down the SMA to include same-sex couples or declared the exclusion unconstitutional. However, they acknowledged the complex social and legislative implications of such a declaration.¹⁴

¹³ Supra Note- 1.

¹⁴ Supra Note- 2.

Comparative International Jurisprudence¹⁵

The recognition of same-sex marriages has been a global trend, with numerous countries recognizing marriage equality through legislative action or judicial decisions. Examining international jurisprudence provides valuable insights into the constitutional and legal reasoning supporting marriage equality.

In *Obergefell v. Hodges* (2015), the United States Supreme Court held that the fundamental right to marry is guaranteed to same-sex couples under the Due Process and Equal Protection Clauses of the Fourteenth Amendment. The Court emphasized that marriage is a fundamental right inherent in the liberty of the person, and that denying this right to same-sex couples violates principles of equality and dignity.

Similarly, in *Minister of Home Affairs v. Fourie* (2005), the Constitutional Court of South Africa held that excluding same-sex couples from marriage violated the equality provisions of the South African Constitution. The Court recognized that marriage is an important social institution that provides both tangible and intangible benefits, and that excluding same-sex couples from this institution perpetuates their marginalization.

Other countries, including Canada, the United Kingdom, Australia, Argentina, and numerous European nations, have recognized same-sex marriages through various legal mechanisms. The global trend toward marriage equality reflects a growing recognition that denying same-sex couples the right to marry violates fundamental principles of human rights, equality, and dignity.

These international precedents provide persuasive authority for Indian courts to recognize same-sex marriages as a constitutional imperative. While India's constitutional framework and social context are unique, the fundamental principles of equality and dignity that underpin marriage equality are universal.

Arguments Against Same-Sex Marriage Recognition¹⁶

A. Definitional Argument

¹⁵ 'Determinants Affecting Social and Legal Status: A Study on Same-Sex Marriage in Indian Context', YMER, By-Subhashree Nayak, February 2024, Volume 23: Issue 02, <https://ymerdigital.com/uploads/YMER230269.pdf>.

¹⁶ Supra Note- 15.

Opponents of same-sex marriage often argue that marriage is, by definition, a union between a man and a woman, rooted in biological complementarity and procreation. This definitional argument suggests that changing the definition of marriage would fundamentally alter the institution and undermine its social purpose.

However, this argument fails to recognize that marriage has evolved significantly throughout history. Modern marriage is no longer primarily about procreation but about love, companionship, and mutual support. Many heterosexual couples marry without the intention or ability to procreate, yet their marriages are considered valid. The definitional argument essentially elevates tradition over constitutional principles of equality and non-discrimination.

B. Legislative Prerogative

Another argument against judicial recognition of same-sex marriages is that such matters should be decided by the legislature rather than the courts. This argument emphasizes democratic principles and separation of powers, suggesting that courts should not engage in "judicial legislation" by reading down statutes or creating new rights.

While respecting legislative prerogative is important, this argument overlooks the fundamental role of the judiciary in protecting constitutional rights, particularly the rights of minorities who may not have adequate representation in the legislative process. The Constitution empowers courts to strike down or interpret laws that violate fundamental rights, and this power is essential for ensuring that democratic majorities do not trample upon the rights of minorities.

C. Cultural and Religious Arguments

Cultural and religious arguments against same-sex marriage often invoke traditional values, religious teachings, and societal norms. These arguments suggest that recognizing same-sex marriages would conflict with deeply held cultural and religious beliefs and would impose a Western concept on Indian society.

However, constitutional rights cannot be subject to majoritarian cultural or religious views. The Constitution protects the rights of all individuals, regardless of whether their exercise of those rights conforms to majority sentiment. Furthermore, India's own cultural history demonstrates considerable diversity and fluidity in attitudes toward sexuality and

relationships. The imposition of Victorian-era morality through colonial law created the current legal framework that discriminates against LGBTQ+ individuals.

Socio-Legal Implications of Marriage Equality¹⁷

A. Legal Benefits and Protections

Recognizing same-sex marriages would provide numerous legal benefits and protections to LGBTQ+ couples, including:

1. **Inheritance and Property Rights:** Married couples automatically inherit from each other in the absence of a will and have rights to jointly own property. Same-sex couples currently lack these automatic legal protections.
2. **Healthcare Decision-Making:** Spouses have the legal right to make medical decisions on behalf of their partners and have visitation rights in hospitals. Same-sex couples often face barriers in emergency medical situations.
3. **Adoption and Parental Rights:** Marriage provides a legal framework for couples to adopt children and establish parental rights. Same-sex couples face significant obstacles in adopting children and securing legal recognition as parents.
4. **Tax Benefits:** Married couples are entitled to various tax benefits and can file joint tax returns. Same-sex couples are denied these financial benefits.
5. **Immigration and Residency Rights:** Marriage facilitates immigration and residency rights for foreign partners. Same-sex couples in international relationships face difficulties in residing together in India.
6. **Employment Benefits:** Many employers provide benefits to spouses, including health insurance and survivor benefits. Same-sex partners are often excluded from these benefits due to the lack of legal recognition of their relationships.

B. Social Recognition and Dignity¹⁸

¹⁷ 'Public Opinion on Same-Sex Marriage in India: An Assessment Post Supriyo Chakraborty & Abhay Dang vs. Union of India Judgment', Indian Journal of Integrated Research in Law, By- Vidushi Rastogi, Volume III Issue V, <https://ijirl.com/wp-content/uploads/2023/11/PUBLIC-OPINION-ON-SAME-SEX-MARRIAGE-IN-INDIA-AN-ASSESSMENT-POST-SUPRIYO-CHAKRABORTY-ABHAY-DANG-V.-UNION-OF-INDIA-JUDGMENT.pdf>.

¹⁸ Supra Note- 17.

Beyond legal benefits, marriage provides important social recognition and validation of relationships. Marriage is a socially significant institution that confers dignity and legitimacy upon relationships. Denying same-sex couples the right to marry sends a message that their relationships are inferior and unworthy of social recognition.

The lack of marriage recognition contributes to the stigmatization and marginalization of LGBTQ+ individuals. It reinforces societal prejudices and makes it more difficult for LGBTQ+ individuals to live openly and authentically. Recognizing same-sex marriages would be an important step toward social inclusion and acceptance.

C. Impact on Children

Many same-sex couples in India are raising children, either from previous relationships or through adoption or surrogacy. The lack of legal recognition of their parents' relationship creates legal insecurity for these children. Children in same-sex households deserve the same legal protections and benefits as children in heterosexual households, including clear parental rights, inheritance rights, and access to both parents' benefits.

Research from countries that have recognized same-sex marriages has consistently shown that children raised by same-sex couples fare as well as children raised by heterosexual couples. The well-being of children depends on the quality of parenting and family relationships, not the gender composition of parents.

The Path Forward: Legislative and Judicial Reform¹⁹

The recognition of same-sex marriages in India requires a multifaceted approach involving both legislative action and continued judicial interpretation. While the Supreme Court in the 2023 judgment declined to mandate recognition of same-sex marriages, the door remains open for future developments.

A. Legislative Action

The most comprehensive solution to marriage equality would be legislative action to amend the Special Marriage Act and other relevant laws to explicitly include same-sex couples. Parliament could enact legislation recognizing same-sex marriages or civil unions with all the rights and benefits of marriage.

¹⁹ 'Same-Sex Relationships and Marriage in India: The Path Forward', Melbourne Law School, By- Saif Rasul Khan, 5 December 2021, https://law.unimelb.edu.au/_data/assets/pdf_file/0010/3967444/Khan_Saif-Rasul.pdf.

Legislative recognition would provide clarity, comprehensive coverage, and democratic legitimacy to marriage equality. It would also allow for thoughtful consideration of related issues such as adoption rights, inheritance laws, and the interaction between marriage laws and personal laws.

However, given the current political climate and social conservatism on LGBTQ+ issues, legislative action may not be forthcoming in the near term. This reality underscores the importance of continued judicial engagement with these issues.

B. Judicial Interpretation

Courts can play a continuing role in advancing marriage equality through constitutional interpretation. Future cases may present opportunities for the Court to:

1. **Recognize Civil Unions:** Even if full marriage recognition is not immediately mandated, courts could require the government to create a legal framework for civil unions that provides same-sex couples with substantive legal rights and protections.
2. **Extend Specific Benefits:** Courts could issue targeted rulings extending specific benefits of marriage to same-sex couples, such as inheritance rights, medical decision-making authority, and employment benefits.
3. **Interpret Existing Laws:** Courts could interpret specific provisions of various laws in a manner that includes same-sex couples, even without comprehensively recognizing same-sex marriages.
4. **Strike Down Discriminatory Provisions:** Courts could strike down specific legal provisions that discriminate against same-sex couples or deny them benefits available to heterosexual couples.

C. Executive Action

The executive branch can also take steps to advance equality for same-sex couples, including:

1. **Administrative Directives:** Government departments can issue directives recognizing same-sex partnerships for purposes of employee benefits, healthcare access, and other administrative matters.
2. **Policy Reforms:** Government agencies can reform policies to ensure that same-sex couples receive equal treatment in areas such as adoption, immigration, and public services.

3. **Public Awareness:** The government can undertake public education campaigns to reduce stigma and discrimination against LGBTQ+ individuals and promote social inclusion.

Conclusion

The legal recognition of same-sex marriages in India represents an essential step toward fulfilling the constitutional promise of equality, dignity, and justice for all citizens. While the decriminalization of homosexuality in Navtej Singh Johar was a historic milestone, the failure to recognize same-sex marriages creates a fundamental inconsistency in the law: same-sex relationships are legal, but they lack the legal recognition, protection, and benefits that marriage provides.

The constitutional framework of India, with its emphasis on equality, non-discrimination, and dignity, provides a strong foundation for recognizing same-sex marriages. Articles 14, 15, 19, and 21 of the Constitution protect the fundamental rights of all individuals, including LGBTQ+ persons, to live with dignity, make autonomous choices about their intimate relationships, and receive equal treatment under law.

The denial of marriage rights to same-sex couples violates these fundamental constitutional principles. It creates an arbitrary classification based on sexual orientation, denies same-sex couples the numerous legal benefits and protections that flow from marriage, and perpetuates their social marginalization. Constitutional morality demands that the law evolve to reflect principles of equality and human dignity, even when such evolution challenges traditional social norms.

While the Supreme Court's 2023 decision declining to mandate recognition of same-sex marriages was disappointing to marriage equality advocates, it is not the final word on this issue. The Court recognized important rights for LGBTQ+ individuals and left open the possibility of civil unions and other forms of legal recognition. The dissenting opinions provided strong constitutional reasoning supporting marriage equality that may influence future judicial decisions.

The path to marriage equality in India may be gradual, involving a combination of legislative reform, judicial interpretation, executive action, and social change. International experience demonstrates that marriage equality is not only constitutionally sound but also socially

beneficial, strengthening families and communities while promoting inclusion and dignity for all.

India's constitutional commitment to creating a just and equal society requires the recognition of same-sex marriages. The fundamental rights enshrined in the Constitution belong to all citizens equally, and these rights cannot be denied based on sexual orientation. As the nation continues its journey toward greater equality and social justice, the legal recognition of same-sex marriages must be recognized not as a special privilege but as a fundamental constitutional right. Only through such recognition can India truly fulfill its constitutional vision of equality, liberty, and dignity for all its citizens.

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