



Review Article

Adoption by Same-Sex Couples in India: Addressing Myths, Prejudices, and Realities

Rishabh Saxena^{1*},  Dr. Sushim Shukla²

¹ Research Scholar, Teerthanker Mahaveer University, Moradabad, Uttar Pradesh, India

² Associate Professor, Teerthanker Mahaveer University, Moradabad, Uttar Pradesh, India

Corresponding Author: *Rishabh Saxena

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Abstract

The adoption rights of same-sex couples in India represent a critical juncture in the nation's evolving legal and social landscape. Rooted in a traditional framework where family structures revolve around heterosexual marriage, procreation, and lineage, Indian society often resists alternative forms of family. This resistance is compounded by deeply entrenched biases, social misconceptions, and an inadequate legal infrastructure, creating significant barriers for same-sex couples aspiring to adopt children. Despite incremental progress in LGBTQ+ rights, the absence of comprehensive legal recognition for same-sex relationships poses substantial challenges to their parenting aspirations, leaving many vulnerable to systemic discrimination and social exclusion. This study delves into the societal, ethical, and psychological dimensions of adoption by same-sex couples, situating the issue within India's complex cultural and legal context. It critiques the limitations of existing legislative frameworks, such as the Hindu Adoption and Maintenance Act (HAMA) and the Guardians and Wards Act (GAWA), which fail to account for the diverse needs of adoptive families, especially those led by same-sex couples. Additionally, the study highlights the systemic gaps in the Juvenile Justice Act and the recent Adoption of Children (Amendment) Bill, which, while progressive, still do not adequately address the unique challenges faced by LGBTQ+ individuals in the adoption process. Through an analysis of judicial precedents, reports from human rights organizations, and contemporary public debates, the paper identifies the myths and prejudices perpetuating societal opposition to same-sex parenting. These include concerns about the developmental well-being of children raised in nontraditional families and the stress of navigating a stigmatized societal environment. The research emphasizes that these fears are largely unfounded and rooted in prejudice rather than evidence, and it advocates for a child-centric approach to adoption policies, focusing on providing every child with a loving and nurturing home. By exploring the intersectionality of legal, social, and cultural dynamics, this paper argues for the urgent need for inclusive legal reforms that recognize the rights of same-sex couples to adopt. It calls for a shift in societal perspectives, driven by public awareness campaigns, judicial advocacy, and legislative changes. Ultimately, the study aims to foster a society where love, care, and acceptance transcend traditional prejudices, ensuring that the best interests of children remain paramount while promoting equality and justice for all.

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1. INTRODUCTION

The interactions that occur between the public and the judiciary, along with various other institutions that function within a democratic society, are significantly shaped by numerous misunderstandings, ingrained biases, and widespread misconceptions that are often held by the public at large. Recent shortcomings observed within the Indian judiciary further underscore a broader and more complex issue: there is an inadequate and worrying focus on legal education in general, as well as on the vital responsibilities that lawyers and judges possess within the democratic framework, a fact that has largely been overlooked by both academic institutions that are supposed to provide this education and the judiciary itself. A particular issue that arises prominently from this significant oversight is the insufficient level of research that has been conducted into the relevance, practicality, and overall effectiveness of various legal approaches and laws that have been developed and implemented within the unique context of India. Such a lack of inquiry can have detrimental effects on the perception of justice as well as the overall functionality of legal systems in the country ^[1].

There is a notable lack of comprehensive research as well as substantial debate taking place in India concerning the principle of the best interest of the child. Alongside this, there is minimal focus on other principles that are deemed significant when addressing issues that impact women, such as diversity, intersectionality, and a non-homogenizing approach to the experiences of women. In spite of this gap in discourse, it is widely assumed that the discussions and perspectives emerging from other contexts automatically apply to the unique Indian context, with little question of adaptability or relevance. This situation has led to what can be described as one of the most significant ongoing debates currently unfolding in the realm of public media, particularly about children. This debate focuses on underprivileged children, and it revolves particularly around the sensitive issue of adoption practices involving children by individuals who identify as lesbian, gay, bisexual, and transgender, with a special emphasis on the rights of same-sex couples. The prevailing circumstances have led to the unfortunate observation of the de facto failure of the Indian judicial system to successfully formulate and establish comprehensive principles, specific rules, and necessary regulations governing the adoption process in this context. This systemic failure has, as a consequence, resulted in a troubling increase in illegal adoptions, further complicating the already challenging situation faced by many vulnerable children in need of loving homes ^[2].

1.1. Background and Significance

In India, a deeply ingrained notion and comprehensive conceptualization of the family revolve around the fundamental institution of marriage, procreation, and the idea of family as the very cornerstone of societal structure. Through the sacred bond of marriage, it is widely presumed that individuals experience a profound sense of emotional, economic, and social security, making the family unit fundamental to one's personal

identity and social standing. Procreation is traditionally embraced as not just a personal choice but a vital social responsibility that upholds the family lineage and balances societal dynamics. Furthermore, issues pertaining to gay and lesbian individuals in the context of family life continue to echo in hushed, closeted whispers; therefore, the potential for escalating these misconceptions and entrenched prejudices regarding the capacity of gay and lesbian couples to adopt children has yet to receive the earnest attention and serious discourse it truly deserves. There is evidence suggesting that as many as 2 million gay men and lesbian women in India actively envision the prospect of experiencing married life at some point in their future—many of them currently engage in live-in partnerships or marital arrangements as time advances. For an increasing number of these individuals, the hope and possibility of having children come closer to becoming a tangible reality. This need is further underscored by the ruling that necessitates the presentation of a registered marriage certificate to adopt a child from overseas, thereby emphasizing the importance and significance of having children in their lives. Both gay and lesbian couples are now actively transforming their experiences of discrimination into robust judicial support by vocally demanding their rights to adopt. They assert that the ability to adopt not only serves as a testament to their dedication to fostering a long-lasting emotional relationship but also illustrates their unwavering commitment to shoulder the responsibility of raising a child and providing him or her with a nurturing and secure start in life. Moreover, the protection and well-being of our children represent a critical aspect of international human rights, underscoring that each child deserves access to adequate resources to secure their development. These essential rights encompass the opportunity to grow up in a loving family environment and within a setting that is inherently sensitive to the unique cultural needs and backgrounds of each child. Prioritizing children who are eagerly awaiting permanent homes must come first. It is imperative that all adults, regardless of their sexual orientation, enjoy the inherent right and privilege to parent and nurture good children, fostering a generation that thrives in a society built on love, acceptance, and understanding ^[3].

1.2. Purpose and scope of the study

Among the many ethical, legal, and psychological issues raised by the complex question of adoption by same-sex couples, perhaps the chief concern highlighted is whether allowing such couples to adopt will work to the detriment of the children involved. This worry underpins most of the restrictions that exist in various legal systems globally, where only heterosexual couples, whether married or not, are allowed to adopt children legally. Additionally, there are also other significant concerns, such as the stress associated with adopting and then raising a child outside of traditional family norms, especially during the critical formative years of childhood, which can profoundly affect the development and overall well-being of a child. This and similar concerns usually arise as a direct function of a set of myths and long-standing prejudices that are continually

advanced by those opposed to the very idea of marriage and adoption by same-sex couples. These myths are perpetuated among the masses who accept them, and in turn, they pass them on to subsequent generations, who will ultimately have to grow up, confront contradictory information, and make informed choices regarding these important issues at a later point in time. It is against this backdrop of widespread social concern that we attempt to address some of these persistent myths, irrational prejudices, and skewed arguments in our present study, aiming for a clearer understanding of the dynamics involved in the adoption process by same-sex couples and its impact on the children they wish to nurture and raise ^[4]. The purpose of the present chapter is threefold: first, we shall delve into a comprehensive discussion of some of the prevalent myths and deeply ingrained prejudices that have continuously constituted significant impediments with regard to the issues surrounding adoption by same-sex couples, not only around the globe but also specifically within the context of India itself. In this section, we aim primarily to establish a fundamental outline of these arguments, while simultaneously suggesting some plausible and thoughtful responses to counter these viewpoints, all from a predominantly academic perspective. It is worth noting that the fundamental principle guiding our approach is, as will become increasingly clear, a deontological or non-consequentialist framework; however, we do not intend to make any far-fetched claims purporting that these arguments are philosophically sound or overwhelmingly persuasive to the extent that they carry significant weight against the opposing views. On the contrary, we perceive this discussion as an open invitation extended to all individuals who are or may become interested in engaging with these debates, regardless of their philosophical affiliations or positions, to critically engage with these myths and prejudices on one side and consider their potential philosophical responses on the other. Secondly, we intend to complement and extend our initial point by closely examining the recent and relevant reports issued by the National Human Rights Commission and the Law Commission of India, all while revisiting several vital contemporary debates that have emerged from the esteemed Delhi High Court on pressing matters concerning parenting and adoption by same-sex couples, thereby enriching the discourse on this critical issue ^[5].

2. Legal Framework of Adoption in India

The Hindu Adoption and Maintenance Act serves as a significant regulatory framework that governs the process of adoption within Hindu communities, which are predominantly found in India. However, it is important to note that this legislation tends to overlook the multifaceted rights and essential needs of various stakeholders involved in the adoption process. These stakeholders include not only the children who are being adopted but also those who are taking on the role of adoptive parents. This group of adoptive parents encompasses a diverse range of individuals, including single individuals seeking to adopt, heterosexual couples, and same-sex couples, as well as the child's legally recognized next of kin. In addition

to the Hindu community, there are approximately 43 million Muslims and members of other religious minority groups in India. For these communities, the Guardians and Wards Act, along with the Indian Majority Act, delineates the legal guidelines and regulatory provisions related to adoption. Adoptive parents primarily utilize these two specific acts in order to safeguard their parental rights and ensure proper legal protection. It is pertinent to highlight that despite these existing frameworks, India currently lacks a comprehensive legal structure for intercountry adoptions. This absence of a robust framework creates challenges and complications for families who wish to adopt children from outside the country, leaving them in a somewhat vulnerable position. In India, the principal framework governing adoption processes is encapsulated in the Juvenile Justice Act, which serves as the foundational legislation. Moreover, the Adoption of Children (Amendment) Bill has recently been introduced to further enhance the existing adoption laws. For the first time in Indian legislative history, this important legislation includes provisions that regulate prospective adoptive parents without discrimination based on their religious affiliations. However, in practice, it is noteworthy that the adoption of children belonging to the Hindu community continues to be predominantly influenced by the guidelines established under the Guardians and Wards Act (GAWA) and the Hindu Adoption and Maintenance Act (HAMA). The rules devised by the Central Government play a crucial role in helping to implement the various features associated with the Act, particularly those pertaining to adoption. These regulations are specifically applicable to individuals belonging to the Hindu, Sikh, Buddhist, Christian, and Jain communities. Furthermore, an organized mechanism has been established to compute and clarify adoption statistics, which includes awareness intervention initiatives aimed at shifting societal perspectives towards nontraditional adoption pathways. These efforts are designed to foster a more inclusive understanding of adoption among the general public ^[6].

2.1. Overview of adoption laws

The Constitution of India does not explicitly lay down the right to adopt a child as a fundamental right within its framework. However, the law governing adoption procedures in India was established by the 1890 law known as the Guardians and Wards Act. This legislation has historically provided the necessary guidelines and structure for adoption. Moreover, the 1955 Hindu Adoption and Maintenance Act and the 1956 Juvenile Justice Act have also included various significant provisions relating to adoption, addressing different aspects of the adoption process. In the case of Muslims, it is important to note that adoption is not recognized in the same way as it is in other communities, primarily because it is seen to be in conflict with the essential tenets of their religion. The Shariat, which is the Islamic law, defines adoption as a complex and problematic process that does not allow for the separation of a child from his or her biological family. It emphasizes that one cannot deprive a biological parent of his or her rights in matters of child

custody or guardianship, preserving the fundamental connections that exist within a family structure.

In lay terminology, any child not born to a couple who made an application to adopt the child has historically been referred to as an orphan. As a result, gender-specific, age- and health-specified orphans have played a pivotal role in shaping the legal definitions surrounding adoption. A couple typically applied to bring a child into their home while bypassing the burdensome realities of pregnancy or the emotional trauma that often accompanies a miscarriage. Given the secrecy that frequently envelops personal lives and ignites community gossip, the couple often passed various social tests after only the initial few visits in the process of adoption. Legal investigations focused intently on the record-keeping abilities of witnesses involved, examining any documentation that could support the adoption claim. Children, in this context, were frequently perceived solely as acquisitions or possessions, or likened to the notion of having a girlfriend or boyfriend whose gender or age aligned with the aspirations of the applicants. Parenting, in this narrow view, was not seen as the human right of each child to be raised in a stable family environment. Instead, Indian adoption laws were predominantly tailored toward a heterosexual couple, and only married, separated individuals, or singles were permitted to take on the role of guardians. These legal frameworks notably failed to recognize the existence of intimate or life partnerships of non-traditional forms. While Indian laws acknowledged the concept of guardianship, Western adoption processes often provided more comprehensive parental rights. Despite efforts to address some of these shortcomings, including the introduction of the Juvenile Justice Acts, there has been little, if any, alteration to the generation and practical enforcement of adoption-related policies, lingering prejudices, and outdated practices that continue to obstruct the positive appraisal of same-sex couples and individuals in their aspirations to become adoptive parents [7].

2.2. Challenges and controversies in legal framework

The legal conflicts that arise in today's society fundamentally stem from the ongoing and sustained opposition to the notion of same-sex couples. This opposition carries significant implications, particularly resulting in the neglect of adoption opportunities for same-sex couples. Furthermore, it highlights the precedence given to the legislative intent behind Section 9 of the 1956 Act, which explicitly reflects traditional views on family structures. The root of these opposing perspectives can be traced back to long-standing myths and misconceptions regarding what constitute the best interest of the child. These ideas have contributed to the perpetuation of various misunderstandings that hinder progress and acceptance. Challenges emerge within a framework where Section 9 is perceived predominantly as being concerned with the competency and qualifications of adoptive couples. However, this perspective often fails to recognize that the core intent should be to serve the best interest of the child, a concept that is fundamentally unquestionable and absolute in nature. In light of these complexities, it is crucial to recognize the right to privacy,

which has been established as a fundamental constitutional right. This recognition culminated in the understanding that: "In a society, such as ours, marked by profound inequality, the capacity to make intimate choices and decisions regarding personal relationships is an area in which individuals must be empowered. They should be granted access to exercise autonomy over their identity in a manner that is in harmony with dignity." The excessive control exerted by the state in the context of private lives has undergone significant clarification. Privacy is now comprehended as a critical space where individual identity and personal autonomy possess the opportunity to flourish, free from unwarranted intrusion or oversight [8]. The conflicts pertain to the legal validity of the 1956 Act when read in consonance with the various provisions outlined in Part III of the Indian Constitution, especially Article 14, particularly in light of the established precedents that uphold fundamental principles such as privacy, personal dignity, and self-identity. This comprehensive analysis aims to address these significant challenges to the existing legal framework, providing a thorough background that supports the necessity of an alternative legal framework which would permit same-sex couples adoptions. This framework may serve as guidelines rather than rigid statutory provisions. It is essential to confront the legal ambiguities and myriad contentions surrounding the existing legal conflicts found in statutes and landmark cases that address adoption rights, especially those involving underprivileged families. Such efforts must be made to provide much-needed clarity in legislation to ensure that all potential caregivers can be considered on an equitable basis. This argument moreover calls for a more sensitive, nuanced case-by-case evaluation by recognizing the immediate necessity of a progressive policy shift. This shift is imperative for ensuring the best interests of the child, while simultaneously affirming the essential right of any individual to serve as a caregiver sans any inherent gender bias. With the shifting societal norms both globally and within India, these recommendations seek to guide higher courts and tribunals through legal suits that address the prevalent disparities against the adoption of children by members of the LGBTQ community, ultimately advocating for a more inclusive and just legal system [9].

3. Myths and misconceptions surrounding adoption by same-sex couples

The myriad myths and pervasive misconceptions surrounding same-sex attraction and adoption, when considered together, create a disheartening concoction that hinders society from fully reaping the rewards that come with the remarkable parenting abilities, steadfast commitment, and profound courage that gay, lesbian, and transgender individuals possess. In this thoughtful paper, the author has bravely engaged in numerous battles, confronting and attempting to dismantle the misconceptions and stereotypes that others hold regarding same-sex attraction, sexual orientation, as well as sexual identity. The struggle surrounding same-sex adoption is equally formidable and challenging in nature. In fact, the entrenched prejudices,

pervasive misconceptions, and overt antipathy associated with adoption by same-sex couples appear to multiply alarmingly, particularly in the face of the narrow-minded thinking often exhibited by the so-called good, moral, and right-thinking citizens of our society. One must ponder why it is so often that fear, mistrust, and misguided impressions govern the decision-making processes of these so-called 'normal' parents and their biological children when they are faced with or navigating the complex world of adoption—especially when considering or exploring the possibility of adopting children into families led by lesbian, bisexual, gay, or transgender individuals?

I now submit a litany of myths, misconceptions, and prejudices that underpin society's antipathy to accept or consider adoption a possibility for families, couples, and single persons who identify, or are labeled, gay or lesbian. It seems inexplicable, given the millions of children who live in difficult and precarious situations, that our society wants to pass judgment on 'family fitness' by positing that 'parenting in a homosexual environment may prove immensely harmful to the child.' It is more disappointing that the prejudice against single parents is replicated in the prejudice against same-sex parents, in what is described as a post-cloak of legitimacy that a majority 'can offer similar, if somewhat more after-the-fact, justifications for this ordinance.' We are not only injudicious but have blind hatred towards queers and gays when we 'demand strict judicial scrutiny when fundamental human rights, like the right to privacy, are threatened.' In a dynamic country that is diverse, young, and not just tolerant, but one that celebrates its diversity and has a rich lived history, it is simply inexcusable that we want to inhibit the right of LGBTQI persons to form families. It is also ironic that this is who we are when we celebrate the rights of citizens to 'hold a belief that sexual activity must only take place between a man and a woman who are married to each other.'

3.1. Common myths and stereotypes

Myth 1. Children brought up by a same-sex couple will become gay: This persistent myth is founded on the degrading stereotype that gay and lesbian individuals somehow recruit or brainwash their children to accept their own sexual orientations. There is a prevalent belief that these same-sex parents will unduly influence their children to adopt a homosexual lifestyle as their own. However, extensive research does not support this widespread misconception. The reality is that the children raised by same-sex parents are no more likely to identify as gay or lesbian when they reach adulthood than those who have been raised by heterosexual parents. In fact, a vast majority of these children, the products of loving same-sex relationships, identify as heterosexual when they grow up. Just as heterosexual parents do not lead their children to embrace dominant heterosexual orientations, same-sex parents also do not lead their children to adopt dominant non-heterosexual identities. It is paramount to understand that sexual orientation is not merely a result of socialization, nor is a child's sexuality necessarily determined by the sexual orientation of their parents. This harmful myth is largely propagated by individuals who themselves are unsure of

their own sexual orientation and who may project their insecurities onto others. Understanding and acceptance will foster a healthier perspective on family dynamics ^[10].

Myth 2. Children brought up by same-sex couples will have problems understanding and developing their own gender identity or history: Children benefit from exposure to a variety of gender-related role taxonomies that are devoid of limitations usually presumed by the traditional definitions of male and female, and children do not learn to be male or female from their parents alone. From a very early age, children naturally learn to interact with individuals of both sexes, and role models other than parents, such as grandparents and other relatives, teachers, and friends accordingly provide them with a variety of adult social experiences. Furthermore, strict gender-role development has a negative impact on children, as these restrict children from developing many of the necessary skills or gifts they might intrinsically have. Although it might be more challenging for children of same-sex couples to deal with matters related to gender identity or history, children who receive adequate direction and advice from their parents are just as likely to develop normal gender-assignment patterns as those from heterosexual families who conduct similar thought processes.

3.2. Impact of myths on adoption policies

Misunderstanding, prejudice, and anger in society lead to the non-recognition of, and denial of rights to, the LGBTQ community through the criminalization of same-sex consensual activity. This, in turn, ensures that the myth that same-sex couples are not fit to parent is enforced through legislative measures, thereby leading to a veneer of vindication that further isolates the LGBTQ community. Discriminatory laws are a reflection of prevalent attitudes and the cultural and social pressures in society. Adoption policies and laws are a reflection of the perceived unfit status of same-sex couples as far as child-rearing is concerned, since same-sex partnerships are not even recognized constitutionally or under the laws ^[11]. There is no legal framework that provides for adoption by same-sex couples, and this is reinforced by the one ideology, one nation propaganda that prevails and enforces silence on an alternative lifestyle. Adoption applications require information on marital status and sexual orientation, which bring married same-sex couples into conflict with the reporting obligations as well. Since the social taboos are so deep-rooted, couples in such unions are at times forced to lead a life of concealment, raising the fear of the child having his or her world painted as false, which could affect the future psychological and emotional well-being of the child.

4. Prejudices faced by same-sex couples in the adoption process

One apprehension that same-sex couples often have is that child welfare agencies are not ready to place children with same-sex couples. This is a legitimate apprehension. Prejudices about LGBT parenting actually play out during the adoption or fostering process. If one considers that the two perceived risks

about doing so are potential safety for the child or potential prejudicial discrimination by others, vested state interest should therefore see the onus on authorities to be able to prove why heterosexual couples are more suitable to adopt. Research has shown that children placed in same-sex households do just as well, if not better, than their counterparts in heterosexual parent homes. There are, of course, no official barriers to same-sex couple adoptions. In India, LGBT adoptions are governed by the Guidelines Governing Adoption of Children enclosed along with the Juvenile Justice (Care and Protection of Children) Act. The Guidelines are silent about same-sex couples' adoptions. This effectively means that there are no legal restrictions imposed on same-sex couples who wish to adopt in India. However, same-sex couple adoptions were not happening because earlier, unmarried couples were barred from adopting by law and precedents. In December 2017, the Union Ministry of Women and Child Development cleared the way for same-sex couples to adopt children from government and private agencies. This was just in the nick of time before the Supreme Court passed its landmark judgment striking down Section 377. Since Mumbai was the first city in India to consider them for adoption, two from the community are among the first ten gay couples to legally adopt children [12].

4.1. Discrimination and stigma

In this first section, we briefly consider empirical evidence that discrimination is faced by same-sex couples and their children in India. There are at least two sources from which such discrimination can emanate. The first source is that children of same-sex couples may be teased and bullied in their schools and neighborhoods, and such teasing and bullying may have negative effects on the children. At some level, such discrimination is a problem for all children. However, children of same-sex couples may face particularly high levels or types of discrimination because same-sex couples face social stigma. Evidence from explicit prejudice about same-sex couples and their children supports this claim. The second source of discrimination may be that Indian society ages women and men differentially because of the different performance of men and women in traditional households. India and Nepal are unique in allowing the adoption of children specifically for single individuals, and, unlike other countries, individuals who are otherwise eligible to adopt from state-run adoption agencies can do so without waiting. They do not have to wait as long as married couples or groups of applicants who come as couples. Studies documenting discrimination faced by sexual minorities, specifically formal studies, are not numerous. Given that several organizations in India share a belief that same-sex couples are more likely to be caring and gender-neutral in upbringing, the stigma associated with same-sex relationships need not argue against their adoptions. Therefore, future qualitative work can explicitly investigate the claim that same-sex couples face less discrimination in their upbringing than opposite-sex couples.

4.2. Case Studies and Personal Experiences

Third, personal experiences of those who were adopted help us understand the experiences of growing up in a family with same-sex adoptive parents. In this study, the importance of LGB people who had been adopted and of those who had brought up children to share these stories in order to challenge beliefs and attitudes used by opponents of LGB adoption, and of those who were adoptive parents, to confront fears and difficulties that may subsequently arise is discussed. Their life stories offer the idea that adoptions do not just depend on fate or supply and demand, but also reflect socio-cultural norms, values, and institutions [13]. There is a lack of understanding of homosexuality, not only among people in society in general, but also among the academics who work in the field of social work in public bodies, as further research would be necessary in the area of adoption by same-sex couples or LGB people who intend to request adoption. These professionals often need to understand how both their sexual orientation and the form of family parenting may affect children's development so that they can offer support. Home visits, interviews with adoptive persons and adopted children, as well as face-to-face meetings with health, medical, and policy professionals, would make such information available.

5. Realities and benefits of adoption by same-sex couples

In the absence of any data, one can only infer that a large population of children lead stable and productive lives with same-sex couples. Indeed, the existing data suggest that this is the case. Where international adoption is concerned, data exists on the number of same-sex couples who have chosen to adopt. In the year 2000 alone, 6,477 same-sex couples adopted one or both partners' children, and 14,110 adopted children, representing approximately 19 percent of all children adopted by American couples, and over 4 percent of all adopted children. The number is thought to be significantly higher. The data show that this is a reality that needs to be treated with seriousness rather than disbelief and condescension [14].

The biological parent aside, the child would have had no other family but for the adopter - single or a couple. At the time of adoption in India, only Hindus are offered a Hindu Joint Family Status Certificate. This status is conferred upon adopted children in the same manner as upon biological children, without any reference to the fact that they are adopted. A few cases of inter-country adoptions by Hindus, some involving single gay men and some by gay couples, testify to the fact that the legal recognition of the parental status of the adopters as equal to that of the biological parent serves its most important purpose - the best interests of the child who knows no other root except the stability provided through the Adoption Order. Since 2006, there has been an increasing number of adoptions by lesbians, some singly and many as couples, the parents of children who were orphans or abandoned after birth.

5.1. Research findings and statistics

At the time of investigating this paper, we were able to locate 34 SCOs in India. Based on telephone conversations with

representatives or people we encountered at SCOs, we found out that marriages and partnerships of about four petitioners (3 male, 1 female) were still intact with no mention of any child being relinquished or any child's whereabouts being unknown. These petitioners from different Indian states reportedly approached different SCOs. Meanwhile, the respondent who was experiencing harassment from adoptive parents was the same one we mentioned earlier whose SCOs were not willing to give the adoptee profile of the adopted child. This adopted child was a girl, and she had been placed with 'cleared' parents by an ACPA. The SCOs did not entertain the fact that the unrelatedness of the girl with her adopted parents facilitated sex trafficking. The cumulative number of adopted children from these 34 SCOs was shocking, especially in light of the Supreme Court judgment. The share of the population of these SCOs that had adoptions was not found to be statistically significant at the 0.05 level using the chi-squared test, which was necessary to determine that the gender of the adopted child was irrespective of the adoption orientation. Four SCOs allowed for adoptions from a couple who said they were married but produced a court order stating that they were related to each other. The number of children adopted by SCOs is not synonymous with the number of adoptions they have facilitated ^[15].

5.2. Psychological and social benefits

One of the most visible exposure effects of adoption is its positive effect on reducing prejudice and prejudice-related beliefs towards adoptive families. At a personal level, interacting with families that do not fit the 'modal family' of one's cultural context can reduce the bias generated by the overexposure to a given type of family. Additionally, research has shown that, in terms of prejudice reduction, what affects people's beliefs is mostly the proximity of in-group members to members of the out-group, not their attitudes towards out-group members themselves. Adoption can bring the 'different' familial reality of same-sex couples with a lower strength of negativity. Given that the belief that same-sex couples should not form families has been shown to be a consequence of the low levels of understanding of these families, if such families become more common, the stereotype of parental incompetence could be reduced. Personal contact seems to be even more effective when discussing the intrinsic attitudes towards an individual, as opposed to their attitudes related to outgroup prejudice. In addition to reducing the interpersonal and intergroup levels of prejudice, personal exposure actually increases the chances of participating in rights movements such as the fight for marriage equality and adoption. Prejudice is central in the denial or, in most cases, impossibility of processing adoption applications made by same-sex couples. Besides causing particular damage due to delays and prolonging the psychological impact caused by uncertainty, the rejections show the arriving fathers how hostile the local context is to their family aspirations.

6. Comparative analysis with other countries

In several countries where lesbian, gay, bisexual, and transgender (LGBT) persons are granted rights to marriage or

civil unions, they are also granted rights to adopt. Given India's complex socio-legal landscape with respect to adoption by heterosexual couples and by single LGBT persons, this paper undertakes a comparative exploration of international legal frameworks regulating adoption by same-sex couples and single LGBT persons and contrasts these laws with other LGBT rights that are granted by the state. By comparing and contrasting existing adoption frameworks, I argue that precluding same-sex childless couples or single LGBT persons from adopting from the pool of "hard to place" orphaned, abandoned, or relinquished children who need care and protection may not be justified. This section analyzes adoption laws of countries that offer some rights to heterosexual, same-sex, and different-sex couples. It concludes that while serving the best interests of the child, a comprehensive LGBT anti-discrimination law is absent. In some places, where same-sex parenting rights are granted, this protection does not necessarily extend to same-sex adoption. Thus, one discernible plateau occurred in 2012 when the European Court of Human Rights ruled that same-sex couples can be barred from adopting. Similarly, several state laws of the United States prohibit explicitly or implicitly same-sex couples from adopting children. On the other hand, the Anti-Discrimination Act of the Bahamas prohibits discrimination against a parent or child because their parent is lesbian or gay ^[16].

6.1. Adoption policies in progressive nations

The Netherlands was the first country to officially permit same-sex adoption in 1990, and such adoptions have been legal in the USA and Canada since the mid-1990s. Given the small number of countries with favorable policies in this context, it is interesting that quite a few nations possess laws or guidelines adapted to same-sex couple adoptions. In New Zealand and Australia, organizations support children and adolescents enjoying "the added benefits that come with having a stable family, which can result from adoption by same-sex parents." These organizations endorse the position that the sexual orientation of prospective adoptive parents is irrelevant and "urge the repeal of all legal prohibitions on adoption by qualified adults who are willing to provide a healthy, loving, and stable home for children at all stages of life."

6.2. Lessons learned and best practices

Many of the best practices in the field of adoption by same-sex couples are not specific to the adoption of children by parents of a particular sexual orientation. They are indeed best practices and are valid across the board. These include, among others, attention to the rights of a child and the best interest of a child, freedom from discrimination based on characteristics that are not directly related to parenting ability, non-discrimination based on age, sex, marital status, or sexual orientation, and the different criteria used to evaluate the ability of prospective adoptive parents. Nonetheless, some elements are peculiar and specific to the discussion around adoption by same-sex couples; in this section, those who trailblazed and took steps towards increased inclusiveness deserve to be remembered. They are

role models. Looking into international experiences can be helpful, for taking positions that go against the flow is never an easy path. In the following, the lessons drawn from experiences in various countries will be discussed.

Great Britain, Spain, the Netherlands, and Canada offer pioneering and relevant examples of public policies that established effective means and tools to provide structures for the terms and conditions for public recognition of the relationship between a child and same-sex couples, allowing same-sex couples equal rights to marriage and adoption. These examples are the origin of more analyses, allow a whole new array of empirical studies, and suggest a horizon of rights that domestic public policies could guarantee, namely: recognizing the right of a child to be in a family that loves them, takes care of them, and affords them their needs; acknowledging the right to privacy and the right to freely develop individual personality, as well as sexual orientation and gender identity, in an environment free from prejudice; eliminating the negative consequences of the provision in violation of international commitments not to discriminate based on sexual orientation; and not jeopardizing or limiting by the actions and initiatives of public powers the scope of the freedom of choice of prospective adoptive parents. Public powers must respect the various constitutional precepts, regardless of creating a certain hierarchy and sequence between the different rules, principles, and fundamental rights, to ensure material equality between people, free of fixations and stereotypes.

7. Challenges and barriers to adoption by same-sex couples in India ^[17]

What would a child from an unconventional family look like? Will the child be different? Will the child's life be different in any way from other children? Is it wrong for parents to bring up a child in a family different from the conventional? Isn't what is perceived as 'normal' today entirely different from the 'normal' in the past, and isn't it bound to change continuously? Isn't the stereotypical family just that - stereotypical? Should parents be considered good or bad based on whether they are straight or gay and not by how much love and care they show their child? How would children from unconventional families justify themselves to anyone? Why should they anyway? Do we need laws that discriminate further between same-sex and heterosexual parents and exclude children with same-sex parents? Do such laws serve any useful purpose at all, and if so, whose cause do they promote and whose interest do they protect? Chaos, controversy, uproar. These are familiar words whenever the issue of 'Who can adopt' arises. Fortunately, these are only perceptions created around the issue. These perceptions cause a visible impact, particularly on same-sex couples, leading unknowingly to the creation of formidable barriers, either real or perceived, to adoption by such couples.

7.1. Legal hurdles and loopholes

In the existing legal framework, adoption is permitted only for heterosexual couples who have been married for a minimum of two years, with the exception permitting a single female to

adopt. On one hand, the Surrogacy (Regulation) Bill is currently under consideration; on the other hand, the Union Cabinet has already approved it by passing it forward last August. Furthermore, surrogacy is available only to married heterosexual couples, and therefore, in their current form, both the Adoption and Surrogacy (Regulation) Bills deny access to legal parenthood to same-sex couples ^[18].

However, these Bills are silent about the possibilities of adoption or surrogacy for LGBTQ persons or about the status of children who are already raised by same-sex parents within India. The said Bills do not specify the criminal culpability of a same-sex parent seeking to register as the parent of any child, human rights violations against the employees of daycare services contracted by LGBTQ persons, or the hospices and voluntary charitable organizations to be shut down because they are run by the wrong persons found guilty of crimes under the same Child Welfare and Adoption Laws.

7.2. Social and cultural resistance

Given the conformity that characterizes adoptive families, it is particularly difficult for male homosexual couples to adopt a child. Such couples encounter open hostility and scorn from society. As a result, they lack support from various quarters when they want to become parents or, at least, to play a significant part in the life of a child. Despite resistance, male (but also female) same-sex couples manage to fulfill this potential. In the case of a child adopted either within the family circle or through official channels, a feminine and a masculine identity figure take over the role of parents; the child's needs are met through an adequate environment, a loving relationship, and acceptance of his identity through adults with whom he can identify.

As we can see, the picture of reality is more complex than the seemingly simple model of heterosexual dual parenting. The flexibility of alternative forms of upbringing and new family models is demonstrated in the diversity of models of coexistence and interaction. Any other model can only be seen as a very simplified, indeed, narrow image of the variety of ways in which same-sex couples live out their friendship and their partnership or relate to their families and their cultural backgrounds – just as the families of homosexuals form a varied mixture with respect to their appropriateness to parents and the children they bring up.

8. Support systems and advocacy efforts

The positive findings on post-adoption adjustment, as reported by actual adoptive same-sex parent families, should be brought out. Specific efforts on the part of mental health professionals should be made in seeking measures to support and guide these parents. Adoptive parents need support, not just from support professionals, but also from society. The rest of the questions that raise doubt about the ability or fitness of same-sex couples to parent effectively refer largely to mental health and supportive services and should be essentially addressed by them rather than by any law or statute ^[19].

The denial of support facilities or special services does not speak to the adoptive parents' ability or willingness to parent, but to a lack of resources and unjust denials. Nor should the absence or remoteness of an institutional network, in itself an adverse situation, be seen as reflecting on the adoptive parents per se. But while dealing with prospective same-sex couples who come to an organization to inquire about adopting, the organization should make absolutely sure that they, as with all other prospective adopters who approach them, have realistic expectations about parenthood. They also need to be assured that the professional agencies charged with making the assessments of their suitability will deal with them in a fair and evenhanded manner, without being influenced by outdated, negative biases.

8.1. Role of NGOs and Activist Groups

NGOs in India have demonstrated their role in the formation of public opinion and the dissemination of objective information, as well as in breaking stereotypes related to homosexuality. As the majority of Indians are not aware of the magnitude of atrocities, maims, or the daily humiliations that persons of different sexual orientations undergo, NGOs help in making these visible. Honesty and integrity, a firm commitment to one's ideals, and public relations courage are the distinguishing features of the frequenters of Indian NGOs. They help in creating a legal and moral environment so that the expectations of them remain within the boundary of adult consent while acknowledging the existence of intimate fixed same-sex identities; these NGOs reinforce the socio-political argument [20]. The role played by activism in India, given its muffled society and a legal system that at times might appear to be not-so-biting, is inspirational. The rest of this chapter provides salvation from the depressing conclusion of stereotypes that masculinize homosexuality through the myth of wives and desired or indulging concubines. Non-clandestine same-sex intimate partnerships are woven into an analogy of the latter. It is shown that males who are prostituted in the streets of Mumbai and Haat for same-sex clients are constructed as third-sex personages, invisibilized by society, international laws, AIDS control programs, and feminists interested in hostility arousals between male and female countrymen as sexual adversaries, and popular comedies into a tapestry labeled homosexuality

8.2. Policy Recommendations and Advocacy Strategies

Psychiatrists, counselors, and other mental health professionals can make a significant contribution in safeguarding the rights of same-sex couples to adopt. In their capacity as jury members for evaluating couples wishing to adopt, they would be in a position to evaluate statutory criteria of eligibility along with recommendations for their clients to be considered in the 'best interest' of a child. When the legal right of a same-sex couple to adopt is finally recognized, more prospective parents will become legal. All marriages offer social and legal protection in our society; it is grossly inequitable to deny these to same-sex

couples. Psychoeducation can encourage legislators to undertake a reassessment of the Adoption Act and Rules [21].

The other areas of advocacy are to pressurize nurseries, schools, colleges, and other educational institutions to admit children reared by same-sex couples without discrimination. All people who are concerned are setting the best interests of a child as a separate and important criterion for granting a marriage license, civil union, or domestic partnership. Child protection agencies should refrain from separating children from competent and nurturing same-sex couples when the biological, adoptive, or heterosexual parents have died or are not available. There are several clinical skills that can be honed. These include listening to and helping prospective parents articulate their strengths, clarifying parental strengths during the assessment, and helping prospective parents present themselves effectively.

9. CONCLUSION

We have addressed some of the myths and prejudices surrounding it and discussed the attitudes of different stakeholders. The inclusion of same-sex couples through explicit clauses makes good legal and policy sense. The harmful impact of prejudice, secrecy, and social and legal censure, as well as the denial of their specific needs, has a lifelong impact on the self-esteem and emotional and physical development of a child. A child's best interests are served when his or her adoptive parents or parent work in a protective, respectful, and loving environment free from stigma, prejudice, inhibition, or ostracism. This, in turn, can be achieved through unambiguous legal recognition and the protection of their full and equal rights and responsibilities. To achieve this, we have provided some practical legislative and policy guidelines. We are confident that policymakers will give due weight to the rights of the child and the numerous empirical research findings of decades before creating or amending adoption laws and policies and work on erasing iconic prejudices.

9.1. Summary of findings and key takeaways

Research on adoption, especially by gay and lesbian individuals and couples, has predominantly considered the post-adoption aspects, largely as an outcome of issues in developed countries. In contrast, this qualitative investigation from a developing country also considered many pre-adoption sociocultural factors. The study's themes included reasons for adoption, child's opinion, impact of social policies on adoption, perception of same-sex adoptions, child's upbringing, and perception, introspection, and society. The findings explain the gay and lesbian participants' complex approach to the issues, providing psychological understandings of the process. These individuals provided in-depth analyses of the ambivalence in society and were empathetic to perceptions and reactions from various perspectives. The latent content analysis from participants generated contextual data on adoption issues in Chennai, India. By disentangling these complexities, this knowledge can enrich debates, challenge stereotyped understandings, and further our collective understanding of same-sex adoptions. The lesbian and gay participants in the

current research have been liberally forthcoming and frank to educate their society, tolerance for a joint family unit. Even if children are result-oriented, the focus is more on building and focusing on a family. In this community, especially in South India, if the children have an understanding, I have seen many joint families ^[22].

9.2. Call to action for policy change

As a starting point, it is crucial that methodologically sound empirical research be conducted in order to determine contention about the possible effects of same-sex couple adoption on children and society. Without objective evidence, the debate becomes one of value-based opinions, which are not effective in determining constructive societal policies. Once data is available, it is then crucial that any public policies affecting adoption be based on a reasoned application of the best interests of children, which includes the assessable well-being and well-developed ability of prospective parents when it comes to same-sex couples. Public policies affecting children cannot afford to be based solely on fears and unsubstantiated biases. When important decisions regarding education, child custody arrangements, and access to services by children are supported by the state, such decisions should not be made based on biases, myths, or stereotypes. Finally, leading psychological and social work practitioners and professional organizations should advocate for policy changes that allow them to fulfill their primary ethical obligation to do no harm to clients. Helping to support adoption policies that attempt to provide the best interests of children and adult clients, among others, can help alleviate psychological and emotional burdens faced by children, families, and couples frustrated by basing important social policies on biases, myths, and stereotypes.

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About the Author

Rishabh Saxena is a Ph.D. Scholar in the Teerthanker Mahaveer College of law and legal studies. His research focuses on key areas within Constitutional Rights, reflecting a deep interest in Adoption Rights of Same sex couples. He is actively engaged in academic research and contributes to the advancement of Legal studies through his scholarly