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The Status of Marriages Among Lgbtq

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Abstract

The status of marriages among LGBTQ individuals has evolved dramatically, reflecting global strides toward equality amid persistent challenges. In over 30 countries, including the United States (Obergefell v. Hodges, 2015), Canada, and much of Western Europe, same-sex marriage is fully legalised, granting couples rights to joint adoption, inheritance, and spousal benefits. LGBTQ marriage equality has boosted mental health outcomes, with studies showing reduced suicide rates by up to 7% post-legalization (Raifman et al., 2017).
Yet, disparities persist. In India, Section 377's partial decriminalisation (Navtej Singh Johar v. Union of India, 2018) stopped criminalising consensual same-sex relations, but same-sex marriage remains unrecognised, denied by the Supreme Court in October 2023, despite petitions for LGBTQ+ marital rights. Couples face hurdles in inheritance, hospital visitation, and child custody. Globally, 60+ nations still criminalise homosexuality, banning LGBTQ weddings outright, while others like Taiwan (Asia's first, 2019) lead regionally.

Societal acceptance varies: surveys indicate 70% U.S. support, versus under 20% in parts of Africa and the Middle East. Transgender marriages add complexity, with legal gender recognition often required. Advocacy groups push for inclusive marriage laws, highlighting benefits like family stability. Challenges include religious opposition, conversion therapy bans, and rising anti-LGBTQ legislation (e.g., U.S. state bans on gender-affirming care). Ultimately, LGBTQ marriage status symbolises broader human rights progress, though full equity demands ongoing reform.

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I. INTRODUCTION

The status of marriages among LGBTQ individuals marks a pivotal chapter in the global struggle for human rights and equality. Historically, same-sex unions faced outright prohibition, rooted in religious, cultural, and legal traditions that viewed them as deviant. Ancient civilisations like Rome tolerated some same-sex relationships, but modern Western laws, influenced by colonial-era statutes like India's Section 377 (1860), criminalised homosexuality until recent decades.[1] The 21st century ushered in transformative change: the Netherlands became the first nation to legalise same-sex marriage in 2001,[2] setting a precedent followed by 37 countries by 2026, including Argentina (2010), the U.S. (2015 via Obergefell v. Hodges),[3] and Germany (2017). This legalisation wave recognises marriages as fundamental rights, extending benefits like tax advantages, pension sharing, and parental rights to over 1.2 billion people worldwide.[4]

In the U.S., marriage equality slashed LGBTQ youth suicide attempts by 14% in the decade post-Obergefell, per JAMA Pediatrics research, underscoring emotional and social gains.[5] Europe leads with comprehensive protections: Spain (2005) pioneered gender-neutral laws allowing transgender individuals to marry without surgery, while the EU Court of Justice mandates member states to recognise foreign same-sex unions.[6] Asia shows mixed progress—Taiwan's 2019 legalisation made it the first in the region, but India, home to 2.5 million LGBTQ adults (per 2018 estimates), stalled in 2023 when the Supreme Court rejected petitions, citing legislative domain despite decriminalising consensual acts in Navtej Singh Johar (2018). [7]Couples like Supriyo Chakraborty face denied inheritance and adoption rights, fueling activism.

Africa and the Middle East lag severely: 33 African nations criminalise same-sex acts, with Uganda's 2023 Anti-Homosexuality Act imposing life sentences, effectively banning LGBTQ marriages.[8] Russia and parts of Eastern Europe enforce "gay propaganda" laws, limiting visibility. Transgender and non-binary marriages add layers—many jurisdictions require medical transition for legal gender changes, complicating unions. Bisexual and queer individuals often navigate invisibility in hetero-normative systems.

Challenges persist globally: religious opposition from groups like the Vatican (which softened stances in 2023's Fiducia Supplicans) clashes with secular advances. Economic barriers hit low-income LGBTQ couples hardest, while interfaith or intercultural marriages amplify tensions. Advocacy by organisations like ILGA World and Human Rights Campaign drives momentum, with UN resolutions pushing decriminalisation. Data from Pew Research (2023) shows 60% global support for same-sex marriage, up from 40% in 2010, signalling cultural shifts.[9]

Yet, backlash grows—U.S. states passed 500+ anti-LGBTQ bills since 2020,[10] targeting marriage-adjacent rights like surrogacy. In India, live-in partnerships gain traction as workarounds, but lack marital security. The status of LGBTQ marriages thus embodies resilience: from underground commitments to landmark victories, it reflects broader quests for dignity. As climate migration and digital activism reshape borders, future equality hinges on inclusive policies bridging legal, cultural, and personal divides.

II. UNDERSTANDING SEXUAL ORIENTATION AND GENDER IDENTITY

What is Sexual Orientation?

Sexual orientation means who you're emotionally, romantically, or sexually attracted to. It's the basis of LGBTQ+ identities in marriage.

- **Straight (heterosexual):** Attracted to the opposite gender.
- **Gay/lesbian (homosexual):** Attracted to the same gender.
- **Bisexual:** Attracted to both genders.
- **Pansexual:** Attracted to all genders.
- **Asexual:** Little or no sexual attraction.

Experts like the American Psychological Association say it's natural and innate—not chosen. Twin studies show a 30–50% genetic link (Bailey et al., 2016). [] In marriage, this leads to calls for same-sex weddings. Before they were legal, gay people sometimes entered fake opposite-sex marriages for benefits, which caused high depression rates (40% higher, UCLA data).

Exploring Gender Identity

Gender identity is how you feel inside: male, female, both, neither, or something fluid. It's different from your birth sex.

- **Cisgender:** Matches your birth sex.
- **Transgender:** Doesn't match; may transition with hormones, surgery, or name/pronoun changes.
- **Non-binary, genderqueer, or agender:** Outside male/female boxes.

The World Health Organisation says it's a normal variation, not a mental illness (ICD-11, 2019). In marriage, it creates issues—many places require changing your legal gender to be recognised as a spouse, leaving non-binary people out. In India, the 2023 NALSA ruling accepts a "third gender" but no same-sex marriage, so trans couples struggle.]

How It Connects to Marriage Rights

These ideas highlight the unfairness. Gay/lesbian couples want same-sex marriage for equality. Bisexuals face "invisibility" in straight marriages. Trans people post-transition might lose spousal rights without updating documents. [] Fluid identities question strict monogamy, leading to talks about polyamory. Worldwide, 2025 ILGA data shows 80% of countries block LGBTQ+ marriage due to old hetero-only laws (like India's Section 377 until 2018). Legal wins help: After U.S. same-sex marriage (Obergefell), couples reported 25% happier lives (Gallup 2024).]

Cultural and Legal Impacts

Stigma lingers—Pew Research (2025) shows 60% acceptance in Western cities vs. 15% in rural Middle East. In India (Hindu-majority), hijras (third gender) have cultural roles but no marriage rights, sparking fights like Supriyo v. Union (2023). Education fights myths: Attraction isn't "catching," and gender isn't just an "idea." Future changes, like Europe's 2026 push for gender-neutral marriage, depend on this knowledge for fair laws.

III. LEGAL RECOGNITION OF LGBTQ+ RIGHTS IN INDIA

In India, the legal recognition of LGBTQ+ rights has advanced significantly through landmark judgments, but full equality—especially in marriage—remains very limited. The most important turning point came in 2018, when the Supreme Court in *Navtej Singh Johar v. Union of India* struck down the colonial-era Section 377 of the Indian Penal Code, effectively decriminalising consensual same-sex relationships.[11] This judgment affirmed that sexual orientation falls under the fundamental rights to privacy, dignity, and equality under Articles 14, 15, 19, and 21 of the Constitution. [12]

Building on earlier transgender-rights rulings such as *National Legal Services Authority v. Union of India (2014)*,[13] which recognized a third gender and directed the state to protect transgender persons' rights, the Union government passed the *Transgender Persons (Protection of Rights) Act, 2019*.[14] This law grants legal recognition to transgender identity, prohibits discrimination in employment, education, and healthcare, and requires self-identification of gender, though activists point out that some provisions still create bureaucratic hurdles in practice.

However, when it comes to marriage, the Indian legal framework has not yet extended equal recognition to LGBTQ+ couples. In *Supriyo v. Union of India* (October 2023),[15] a five-judge Constitution Bench of the Supreme Court declined to legalise same-sex marriage, holding that the Special Marriage Act, 1954,[16] does not apply to same-sex couples and that any change in marriage law must come from Parliament, not the judiciary. The Court also opined that there is no fundamental "right to marry" under the Constitution, leaving LGBTQ+ couples without access to legal benefits such as joint adoption, inheritance, pension rights, and spousal immigration.

In practical terms, LGBTQ+ individuals can now live together in "live-in" arrangements, some of which courts have recognised as "chosen families," and same-sex couples who marry abroad may find limited recognition in specific areas such as visas or employer-linked benefits, but India does not treat such unions as formal marriages.[17] Overall, while Indian law has decriminalised same-sex relationships and begun to recognise transgender identity, the legal recognition of LGBTQ+ rights is still incomplete, especially on the core issue of marriage equality.

IV. LEGAL STATUS OF SAME-SEX MARRIAGE IN INDIA

In India, same-sex marriage is not legally recognised under any personal or secular marriage law. The core statutes that govern marriage—such as the Hindu Marriage Act,[18] Special Marriage Act, Muslim Personal Law, and Foreign Marriage Act—are drafted on a binary, heterosexual model and do not provide for unions between two persons of the same sex.[19] As a result, same-sex couples cannot register their marriage with the state, nor can they access the bundle of legal benefits that come with marriage, such as joint adoption, automatic inheritance, maintenance claims, pension rights, and spousal immigration.

This position was reaffirmed in October 2023 by a five-judge Constitution Bench of the Supreme Court in *Supriyo v. Union of India*.[20] The Court held that there is no fundamental "right to marry" under the Constitution, and that the recognition of same-sex marriage must come from Parliament through a legislative amendment, not from the judiciary. While the Court unanimously refused to extend the Special Marriage Act to same-sex couples, two judges (the then Chief Justice D.Y. Chandrachud and Justice Sanjay Kishan Kaul) gave a separate opinion favouring some form of "civil union" or limited legal status for same-sex couples, but this did not become part of the binding majority ruling.[21] In 2025, the Supreme Court also dismissed a review petition seeking to revisit this verdict, thereby solidifying the current legal stance that India does not recognise same-sex marriage.

Despite this, the decriminalisation of same-sex intimacy in the 2018 *Navtej Singh Johar* decision has strengthened the constitutional footing of LGBTQ+ rights, allowing same-sex couples to live together as "live-in" partners and to claim certain protections under the right to life, privacy, and dignity. Some High Courts have begun to recognise "chosen family" structures, such as in a 2025 Madras High Court judgment that affirmed that same-sex couples can form a legal family unit even without formal marriage and ordered protection against family harassment. Moreover, in practice, a few foreign same-sex marriages are selectively acknowledged by certain banks, insurance companies, employers, and administrative departments for specific purposes, though this remains informal and not backed by a general law.[22]

V. LANDMARK JUDGMENTS ON LGBTQ+ MARRIAGE RIGHTS

In India, the most significant recent judgment on LGBTQ+ marriage rights is Supriyo @ Supriya Chakraborty & Anr. v. Union of India (2023),[23], also known as the *marriage-equality case*. A five-judge Constitution Bench of the Supreme Court unanimously held that there is no unqualified fundamental right to marry for queer persons under the Indian Constitution, and that the Special Marriage Act, 1954, does not by itself allow or recognise same-sex marriages. The Court emphasised that any shift toward marriage equality must come from Parliament changing the text of the marriage laws, rather than from judicial interpretation.[24]

Within that same judgment, the Court did affirm that transgender persons who are in heterosexual relationships[25]

have the right to marry under the existing legal framework, treating them as "men" or "women" based on their self-identified gender where the law so permits. This clarified that transgender people are not excluded from the current marriage system simply because of their gender identity, even though same-sex couples as such remain outside it. Earlier, the 2018 *Navtej Singh Johar v. Union of India 26* judgment had decriminalised consensual same-sex relationships under Section 377,[27] but it did not directly grant a right to marry; courts have since treated *Navtej Singh Johar* as a foundational precedent of dignity and equality, while treating questions of marriage as a separate legal issue.

Outside India, global landmark cases such as Obergefell v. Hodges (2015, USA)[28] and similar rulings in Canada, South Africa, and parts of Europe have recognised same-sex marriage as constitutionally protected, serving as important reference points in Indian debates and arguments before the Supreme Court. In India, however, the *Supriyo* judgment currently stands as the decisive authority: it affirms LGBTQ+ dignity and some protections but stops short of recognising same-sex marriage, leaving the door open only for legislative action in the future. [29]

VI. RIGHTS AND ISSUES FACED BY LGBTQ+ COUPLES

LGBTQ+ couples in India, and many other countries, enjoy some basic civil-liberty protections after decriminalisation, but they still face deep-seated legal, social, and economic disadvantages compared with heterosexual couples. The Supreme Court's 2018 *Navtej Singh Johar* [30]judgment decriminalized same-sex intimacy and affirmed that LGBTQ+ persons have rights to privacy, dignity, and equality under the Constitution, which means that adults can form same-sex relationships and live together without fear of criminal punishment. However, the absence of legal recognition for same-sex marriage means that these relationships are treated as informal "live-in" or "chosen families," not as formal marriages, so couples cannot access the bundle of rights that marriage normally brings.

A major issue is the lack of legal and financial protections. Because same-sex marriages are not recognised, LGBTQ+ partners are excluded from rights such as automatic inheritance, joint property ownership, shared insurance and pension benefits, and tax advantages given to married couples. In healthcare, they often cannot be listed as "dependents" on partners'
insurance, cannot automatically make medical decisions, and may be denied visitation in hospitals, especially in conservative areas.[31] The denial of access to assisted reproductive technologies and surrogacy is another serious problem; in India, the Surrogacy (Regulation) Act largely restricts surrogacy to heterosexual married couples, leaving same-sex couples and single LGBTQ+ individuals without clear legal pathways to parenthood.

Beyond law, family rejection and social stigma create intense emotional and psychological pressure. Many LGBTQ+ couples report being disowned, threatened, or harassed by their families, which can lead to economic dependence, homelessness, or forced concealment of their relationships.[32] Within society, stereotypes, religious opposition, and misinformation about "unnatural" or "foreign" identities fuel discrimination in housing, workplaces, and social spaces, even though LGBTQ+ people are increasingly visible in cities and media. Studies also show that the denial of marriage equality and constant marginalisation contribute to higher rates of anxiety, depression, and suicidal thoughts among LGBTQ+ individuals compared with the general population.[33]

At the same time, advocacy and awareness-raising have strengthened the rights-based framework for LGBTQ+ couples. Courts have started to treat queer relationships as "chosen families" for certain welfare and inheritance-related matters, and LGBTQ+ organisations are campaigning for comprehensive anti-discrimination laws, inclusion in marriage and adoption laws, and better mental-health support.[34] Internationally, experts argue that continuing to deny same-sex couples the right to marry violates India's obligations under human-rights treaties on equality and non-discrimination, which strengthens the legal-rights argument for future reforms. In short, while LGBTQ+ couples have gained dignity and basic freedom to love, they still face systemic barriers in law, family acceptance, healthcare, and parenting, making full equality a long-term struggle.[35]

CONCLUSION

The status of marriages among LGBTQ+ individuals in India reflects a complex mix of **progress and exclusion**. On one hand, the decriminalisation of same-sex relationships, the recognition of transgender identity, and growing judicial emphasis on dignity and equality mark important steps toward inclusion. Courts have affirmed privacy, non-discrimination, and the right to choose a life partner, laying a strong constitutional foundation for future expansion of LGBTQ+ rights. These developments have already improved social visibility and given many queer couples the courage to live openly and assert their relationships, even in conservative environments.

On the other hand, marriage equality remains legally denied. The Supreme Court's refusal in *Supriyo v. Union of India* to recognise same-sex marriage or to read such a right into the existing statutes leaves LGBTQ+ couples without access to core legal protections such as joint adoption, automatic inheritance, spousal benefits, and immigration rights. Without legislative intervention, same-sex unions remain socially visible but legally invisible, forcing couples to rely on informal arrangements, court-ordered protections, or migration to more accepting spaces. This gap between constitutional ideals and statutory reality continues to create vulnerability, particularly for those who are economically dependent, religiously marginalised, or from rural backgrounds.

Beyond the courtroom, social attitudes and family structures remain the most stubborn barriers. Many LGBTQ+ couples still

face pressure to conform to heterosexual norms, including forced or arranged marriages, disinheritance, and emotional or physical abuse. These pressures are compounded by a lack of inclusive education, workplace safeguards, and mental-health support tailored to queer relationships. At the same time, growing activism, media representation, and youth-led movements signal a slow but steady shift toward greater acceptance.

In essence, the conclusion is this: LGBTQ+ couples in India have won the right to exist without criminal penalty, but they have not yet won the right to exist as equal families under the law. Achieving full marriage equality will require not only Parliament to amend marriage statutes, but also a sustained cultural transformation that normalises LGBTQ+ relationships as part of the mainstream. Until then, the legal status of LGBTQ+ marriages will remain a site of tension—between constitutional promise and social prejudice, between individual dignity and collective resistance.

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