



# A Dark Prism Paradigm: Rule of Law and Marriage Rights of LGBTQ+

Jayashree Natarajan\*, Vidya Selvamony

School of Legal Studies, CMR University, Bangalore, Karnataka, India.

## ARTICLE INFO

### \*Correspondence:

Jayashree Natarajan  
njayashree8383@gmail.  
com  
School of Legal Studies,  
CMR University,  
Bangalore, Karnataka,  
India.

### Dates:

Received: 18-03-2025  
Accepted: 21-05-2025  
Published: 20-06-2025

### Keywords:

Rule of Law, Marriage  
Rights, Same-Sex  
Marriage, Justice and  
Equality, LGBTQ+

### How to Cite:

Selvamony V, Jayasree  
N. A Dark Prism  
Paradigm: Rule of Law  
and Marriage Rights of  
LGBTQ+. Indian Journal  
of Health, Sexuality and  
Culture. 2025;11(1): 18-27.  
**DOI:** 10.21590/ijhsc.11.01.04

## Abstract

The paper sheds light upon the Sexually Segregated Claimant Rights amongst the bundle of rights guaranteed by the rule of law principle in consonance with the mainstream group of society. With the assumption that Telo's Rule of Law is not adequately addressed and resembles eloquence as propounded by Jurists of this principle. The protection of rights is viewed from the LGBTQ communities' marital rights scope. Here, it exorbitantly showcases the justice system of the state while enshrining marriage law for its people. This principle has predominantly eclipsed same-sex marital laws from its jurisdiction. It strives to address multiple questions: How does the rule of law impact balancing the weight of every individual's needs in a state from its origin? What could be the cause and consequence of marginalizing such groups from society? And the Various Progressive Steps taken across nations towards same-sex marriage. How is justice delivered? The Critic of Conservative Native thought, which devolves the mob mentality with the inherent essence of a positive democratic state and its downside of the negligence of such law by the state, will depict the relative glitch in society.

## INTRODUCTION

Sexually segregated claimants are people distinguished by class or race. However, there is not much awareness regarding this class of race. The race bifurcation is specifically towards men and women and their by-products only! The terminology is generally understood in a limited view amongst the actual major thought of knowledge. The concept of race is diverse, not limited to women and men alone. It includes the LGBTQ+ community within it. So, many questions remain unanswered to understand who the LGBTQ+ community is. Are they not normal human beings as men or women? Do they suffer from some unspoken infection or disease? Did the trend of LGBTQ+ start as a repulsion to normal beings? And whether such their marriage union is a warning to humankind. And many more questions arise as one seeks to understand this group. The LGBTQ+ is the commonly known gay men and women of society, also known as the rainbow sexual group (rainbow group). The umbrella term is utilized for any sexual group of people other than heterosexual ones (men and women). Sexual racism is based on sexual orientation preference. The ter-

minology stands to dilute as lesbian, gay, bisexual, transsexual, queer, and other types of sexes that come for by + sign. It was a prevalent event in the old world (Mesopotamia, even in ancient India, and others). The phrase open secret was coined with such sexual partners previously to fulfill one's desire and needs<sup>[1]</sup>. The concentration of union-ship and cohabitation norms was flexible and irregular. The joint fixtures of marriage denomination were less purposeful for reproduction. It was only after the cradle of civilisation and possession; the marriage concept was reduced within the confines of generating manhood. The concept was influenced by the objective clause of breeding in the late civilization era. By then, the rule of law was not present. However this did not vacate the problem of civil laws in terms of marriage rights. Slowly, mankind strived to satisfy basic needs and necessities. One of them was the desire to meet sexual needs and make more lineage of affinity of his kind. Eventually, law and order started to take shape. Control and rule-giving behavior developed. Kingship and king-making unfolded the major greed of man. Divergently, greed transfigured and allocated manhood with the law of the jungle, having the strongest as the lawgiver. Subsequently, the rule maker understood the role of the rule followers from various schools of thought. Then, the known leverage of certain delineations of rights and responsibility took place. From which the rule of law bloomed. Initially, Coke<sup>[2]</sup> brought the concept, which was eventually propounded successfully by Dicey<sup>[3]</sup>. The wholesome veil of implied retributive restriction was imposed upon the rulers in England. The rule of law was made into a sharp knife, which strikes the parity concept, and it deviates from the rule, which gave no force of law. The rule attempted to hone and explore the laws of the land in exploring the true essence of its spirit by overruling the colored practice of lords and kings. It emerged to behave as a harbinger of equilibrium within the status quo in society. It is that stage that enforces the equality law and pushes every individual to abide by these strata of written law in the state. It wields supremacy and pins an individualistic role for performing their part while addressing differentia nexus among them. It focuses on bridging the unequal edges with equal sentiment, to give its entire people one state treat-

ment. It sought to pacify the complex schools of thought through interpretative skills. To discuss the repelling nature of these themes, the Rule of Law, marriage norms, and Same-Sex Marriage both try to edify the true spirit of the law. On the one hand, it imposes an obligation to follow the law as it is, while on the other hand, it delves into considering morality as natural law, upholding humanism and society's stakes as the greatest alms received from the supreme for its wide discourse. This group seeks to obtain the same class treatment as of main class in pursuit of marital norms. A physico-bio mix of all races may not be different amongst the divergent groups. The class of difference is drawn only in the recent civilizational conquest of race theory<sup>[4]</sup>. The so-called standards were mere acceptance in the society previously worded as 'community consensual norms,' which forecloses the marriage and union knots. The viewpoint of marriage swiftly moved to the procreation aspect. The concern of companionship and the soul mate concept is concreted with disdain stain of offspring sights. These were perceived as God's dialect and subsequently shaped from metaphysical order to the physical nature's law, the ultimate law of the kind. But the LGBTQ+ the normal people with different sexual preferences. They are human beings with homosexual desires. 'Cause of their choice of personal autonomy or preference, these people have been discredited in society; and are black marked with an inhuman tag and treatment. One such ill act is labeling them as infectious and diseased beings.

### **Why is the Rule of Law needed? And how is Marriage Protection Right involved?**

The concept of the Rule of Law is known to scholars by the eminent Justice Edward Coke<sup>[5]</sup> Through his initial novice works, later developed by many to draw curtains to the whimsical, tyrannical, and capricious power of the judiciary and to unfold the actual intent of black letters of law. The Rule of Law is not the rule of any specific ruler; it tries to interpret law from its terms as propounded within its framework and not of any perception of society's say. This concept draws a crisp line in the execution of law from one's whims and ways, formulating an anchor across its terms. So, '*litra legis*'<sup>[6]</sup> is a mimic that falls as an alternate

for this term. It also emphasizes the negative ambit unless the law states anything specifically; a wild interpretative thought cannot substitute its part as a part of the concept. Even the Constitution of any state cannot imbibe its rule of law within itself unless it says so.

The issue with the rule of law is that it attaches itself to plain norms of law as it intends per se. The debate surrounding the marriage law is highly polarized, with strong opinions on both sides (on the other hand). It is identified between the opposite sexes alone. This inclusive way of addressing the context of marriage needs more brevity of humanism. It fails to bring such segregated groups (LGBTQ+) under the umbrella of this concept. It overlooked groups within the accepted (social) circle. Both ends form the extreme antithesis to the other, forming the rule of law and marriage rights of these groups to act as converging poles to attract justice. Law never stops changing; it reforms and spins with its people's thoughts and beliefs forever. So, the lawmaker has ensured that the law should fulfill at least the minimum constitutional requisites, which is sought as "constitutional morality"<sup>[7]</sup> "basic structure of the constitution" or "doctrine of implied limitation" from the people's perspective.<sup>[8]</sup> The Court has interpreted 'constitutional morality' as the values and morals of the Constitution, and these values help in building an inclusive society. It is always the society that accepts this rule book as its own. People form a major shareholder in any state to whom this would likely apply. Their interest should be given priority amongst the rest. For this purpose, meeting the foundational needs of its people is the basic call of every constitutional and civil lawmaker. It regards the Constitution as a tool that makes and breaks any society (for example Weimar Constitution, the French Constitution, and more).

The rule of law makes sure of the presence of well-versed delivery of law while upholding natural justice principles and democratic governance with judicial independence. This term refers to a broad range of rules that need to be followed in order to understand the functioning of the same.

A finding of whether a penal provision violates fundamental rights shall be made based on the cannons of constitutional morality and not according to the morality of society's likes and dislikes per

se, as society manipulates its ideas every minute by surrendering its perseverance to the surrounding circumstances. So, the rule of law or the law of the land makes sure that laws are appropriately carried out. Here, the constitutional court was of the view that a provision or section that violates constitutional morality must be struck down. Subsequently, this view was addressed in the Navtej Johar case<sup>[9]</sup>, creating a landmark decision of decriminalization of Section 377 of the IPC<sup>[10]</sup>. Moving at par, in the Chakraborty case<sup>[11]</sup>-the court decided to give an implied acceptance to Same-Sex community relations in the state. Even while it is pronounced, a marriage union is not recognized by law as a civil union in India. The current BNS, 2023<sup>[12]</sup> has only penalized non-consensual relationships in states having an extensive branch of carnal sex life as a wrongful act (performed between non-consenting individuals). The chain of issues has been consecutively addressed by the judiciary from the Naz foundation<sup>[13]</sup>, where Same Sex relations won their first glimpse of light by decriminalization of the unconstitutional section of the IPC. Even though it had a short run, it did illuminate the rule of constitutional equity and equality. This was later overruled by the Suresh Koushal<sup>[14]</sup> case. By adducing reasons stating that the lawmakers must be the pathfinders of the reform and such are not for the judicial body to adjudicate upon. Then, the NALSA<sup>[15]</sup> bridged the gap between this group of LGBTQ+ individuals by giving them recognition in society. It synthesized the recognition of trans-persons as a third gender with their subsequent human and constitutional rights, which guaranteed fundamental rights at large. The LGBTQ+ is given on par equal treatment without discrimination on such a basis. But, this landscape is fenced with non-statutory recognition of their marriage choice. And, this issue went unaddressed in judicial courts.

## **Cause and Consequences of Same-Sex Marriage**

### ***Is the Same Sexual Union A Myth? A Psychosis***

In August 2019, a graduate student named Nsikanakpan explained that there is no "gay gene" or "straight gene." Sexuality is complex; it cannot be created by a

single cause.<sup>[16]</sup> sexuality develops from many factors one's biology, psychology, and life experiences. E.g., Sexual desire, be it romantic or sexual, is due to certain brain chemicals such as dopamine, serotonin, oxytocin, testosterone, and estrogen being released, which give a person a sense of attraction and desirability.<sup>[17]</sup> It's not a sign of insanity or mental illness; it is simply a normal feeling due to physical and romantic attraction. As Henry would explain, "When you look at somebody you like, you are drawn by something that attracts you to that person." Attraction law is purely scientific content that follows a sequence that is proven in a metaphysical context.

The consequences of recognizing same-sex Marriage unions in the state will need to address an alternative for the following downsides of these factors:

### ***Effect on society***

The couple's efficiency in procreating a child and carry the natural life cycle has overlooked to address other relative conjugal relations of individuals in a state, i.e., homosexual couples; who are unable to biologically have children out of such wedlock, and such homo sexual union in turn result in shortening the lifespan of the state in long tenure as every country depends upon its people (population) to support and nurture its nativity for future endeavors. These reasons are supplanted by the children who lead the growth and prosperity of the country.

### ***Undefined spouse status***

In many countries, the law has clearly defined the roles of the husband and wife. The spouse's status is generally gender-oriented and mostly gender discriminative. They formulate precluded roles based on such a title. Where the men are the husbands and the women are the wives. This implied relational status unfolds multiple confusions among homosexual couples. Creating a blur to such defined roles and seeking out a new path from legal bodies and jurists in detailing afresh the equation towards them.

### ***Confusion among genuine relationships***

Legalizing Same Sex Marriage could lead to confusion and formulate doubts between romantic relationships and close friendships. The friendly relationships may be mistakenly believed as romantic

by the community of the state. Some parents may even obstruct a buddy pair of adult children in fear of such an outcome. It may create a lot of unrest and misunderstanding among people of all ages.

### ***Pressure on non-homosexual individuals***

Legalizing Same Sex Marriage may put pressure on heterosexual individuals to accept or have relationships with Same-Sex individuals, which may result in discomfort. They may feel pressured into having a relationship they are not looking for or ready for.

The Price Waterhouse<sup>[18]</sup> shed light on concerns about race discrimination based on non-appealing police norms of wearing dresses and makeup will bring the victim sex discrimination without due care, making negligent express statements and threats to one's orientation.

### ***Religious Beliefs and Natural Order***

Same-sex relationships contradict the beliefs of most people regarding the natural order of life as well as religious teachings. Most religions, cultures, and holy books have traditions where marriage is considered between a man and a woman, and they reject same-sex unions. The personal laws that are drawn from these scriptures demotivate such union pairs.

### ***Opportunity for Bestiality***

Others are worried that the legalization of same-sex marriage may ultimately provide a precedent to embrace other unorthodox marriages, including bestiality. These are being conclusively characterized as a slippery slope.

### ***Impact on Children***

Bringing up a child in a same-sex union may lead to emotional and psychological confusion and an imbalance of emotional care. Many people feel that children require both mothers' and fathers' love and care to develop and grow. Proper development of a child needs a balanced and nourishing environment.

### ***Justness Determining Scale***

The heuristic genre suffices the epithet of the anti-gay theorem everywhere<sup>[19]</sup>. The scale of balance is not adequate in grouping justice and just principles. From the Korens' view<sup>[20]</sup>, the dis-

crimination builds here mainly on the grounds of not only “individual race” or type of sexuality but also on the class of their “spouse” choice and recalls toward a new epithet of apathy in society. Korens mentions that the discriminative state in employees for their relationship with another same-gendered individual is what gives rise to this hate speech and discourse. While the basis of abuse and threat to their autonomy in a civilized state overlooks the way it flexes in common. In Hamm’s<sup>[21]</sup>, the hostility towards lesbian women was not the cause, but the standard genetic trait of the individual is what leads to physical violence in the apprehension of friendship, in the sight of disgust by the defendant. The police gender norm of society is a briefcase culture with preservative gender roles and demeanor in society. The justice of masculine and feminine is what is interpreted by the peer environment will decide their right is not the Rule of Law, but rather a whimsical call.

The emasculation of men for not meeting the sex-determined set of society will discriminate person with no path of choice and depress society in the long run<sup>[22]</sup>. The landscape of murky slope is optimally clear under TITLE VII<sup>[23]</sup> With respect to the marriage concept of these people. The National Legal Service Authority case (2014)<sup>[24]</sup> recognizes that LGBTQ rights (in general) may have opened the window of rescue that is strived further to place convergent ends to intersect.

Sex conformity may prove the exclusionary norm of citizens within the state. This margin may form a stereotype of inhuman groups with the rest of the community. The Smith case ruled that sexual preference shall not itself lay the foundation of a stereotype-discriminatory claim.<sup>[25]</sup> One’s choice of spouse has no bearing on the validation of the gender title of the individual.

The spectrum treatment of research scholar Stephen in his work mirrors the exigencies of not standing with the crowd mindset that marriage will outshine the challenges of their social resistance. The resistance and victimization of the gender non-conformity clause of one’s will delineate the sex stereotype divide. His stereotype theory pressures the nonconformist groups or the conformed groups, including union ships agitate and crumble

the intra-racial relations.<sup>[26]</sup>

The failure to meet society’s expectations devises a discriminatory stereotype towards them. This harassment does not stop at the marriage recognition context but it walks all over their work-life environment. In the Heller case,<sup>[27]</sup> The supervisor’s harassment upon the knowledge of the chef being lesbian is an instance of stereotype trait theory application. The dichotomy of the rule of law and the protection of rights is posited on the wrong sides of legal status in society. The theory discovered by the researcher Stephen’s works and by the judicial court in Centola<sup>[28]</sup> gives an opinion, a stereotype discriminatory basis of who a ‘real’ man is<sup>[29]</sup>. This classification will be a crude way of dividing gender in society. Stating the masculine of an individual with a line of assumed ‘proper roles of men and women’ is a clear discriminatory practice.

The voice of the rule of law supremacy will fade in the light of such stereotype grouping and exclusion traits.

## Progressive Steps

Many developed and developing nations have created various parameters and mean for recognizing same-sex marriage. Almost 38+ countries have brought laws in this scope. TITLE VII of the Civil Rights Act<sup>[30]</sup> has accommodated same-sex couples within its strata of protective wings. It sets a brief definition onset of Sex Discrimination. The Inter-American Court of Human Rights issued advisory opinions to make the signatories of the American Convention on Human Rights to legalize same-sex marriage.

Even the European Court of Justice has given advisory direction to recognize this marriage union among the EU countries and to consider it in the context of immigration purposes the Supreme Administrative Court of Bulgaria (2019).

Nationals of Austria and Ecuador recognised such a union ship under the guise of preventing the fickle practice of unequal rights. They found the denial or ban on such a marriage group was against the concept and was discriminatory. Eventually, marriage equality was proposed and took effect in 2019. Several other states inclusive of Taiwan (2017), Costa Rica(2018), Switzer-



land(2020), Chile(2021), Andorra(2022), Cuba(2022), Slovenia(2022), Estonia(2023), Greece(2024), Thailand(2024), Liechtenstein(2025)<sup>[31]</sup> brought marriage equality norms through the constitutional legislative procedure of passing bills on this subject and were assented to by the concerned sovereign authority respectively, in common.

Where countries like Thailand currently celebrate marriage equality, whereby same-sex Marriage unions with 1000+ couples were witnessed on the day of the legitimization of this spectacular marriage statute, paving the rightful recognition of this sect. It has shaped and amended the marriage clause into gender neutral, consisting of repealing statutes of previous men, women, and husband and wife contexts.

In India, same-sex marriage on the face is not legally recognized as part of a heterosexual couple's marriage. Mridul case (2020)<sup>[32]</sup> The Delhi High Court recognized the cohabitation ability between gender non-conforming individuals as a couple who live together in a marital relationship were considered and subjected to protection against domestic violence under the law. Another glimpse of glitter is seen in the Arunkumar and Sreeja case (2020)<sup>[33]</sup>, where the Madras High Court recognized the transgender people's right to marry and union ship of forming a couple under the people's marriage that was covered within the context of the Hindu Marriage Act. The Kerala government has also given participative support concerning transgender justice board in 2021.

## **Downside of Negligence: A Dark Prism Paradigm**

Laws are drafted within specific parameters to confine persons from acting otherwise. The nomenclature to have rules and regulations in any country is to make its members bound by them. The Rule of Law creates a rim around to hold the motion of the operation of law in society. It cultivates the nomenclature of rules and regulations into a legally binding obligation. It attempts to restrain as a chain holding onto the abusive liberty and unruly nature of mankind. It is sought to derive from a basic precept of reward and punishment theory. Only when a person makes themselves (himself/ herself)

bound by the law of the ruled can such a person gain a privilege (reward) from such governance. Likewise, only when a person accepts it as binding on oneself can such a government inflict punishment (similar to extradition law on other nationals). This is what formulates the need to have control over the jurisdiction of a particular locality and defines implied control over such localities. The downside of ignorance towards such a union ship will threaten the peace and sovereignty of the state in the long term. Non-recognition will pave the way for the players, hustlers, and sexual assault in society. This will prevail even without actual legal complications in generality practice. In concern to Indian laws, the offenses against men, sexual offenses and assault concepts are gender specific. It denies the scope of male rape and cases in this genre are also not adequately addressed. Previously it had been marked as an unnatural offence and not rape. Even when POSCO was inscribed gender-neutral for minor rape issues, an adult man was not tapped for protection in any subsequent laws or statutes in India.

The very concept was not satisfied in the constitutional democracy forms of governance. (Semi-democracies, pseudo-democracies, or illiberal democracies) The word democracy is inclusive to undertake all people of a particular society to rule in a systemic form. However, this democracy has been handicapped by multiple instances for numerous communal religious groups. This combo of relativity between religion and democracy demonstrated both the means and ends of marginalizing these sexually segregated communities. It outraged the modestly known 'justicia' into a self-cultured manhood of procreative research laboratory, by transforming the agenda rooted in communal capitalist beliefs of conservative customs into absolute codified law.

Every individual together forms the state's personnel. The divide among individual on the strata of their sexual orientation and preferences will delay the constitutional objective of a progressive society. Marginalization on racial and sexual orientation takes its course of not including or denying certain access to resources and opportunities (be it legal recognition) and defiles the majority consensus and spirit of that state. The majority perceived belief draws close to a Hades bell for the rest who struggle to fit in such strata groups. The laws are

drawn to maintain the sanctity of state requirements and not on moral grounds of commonly held perceptions. It provides the demeanor of living a decent standardized lifestyle to all individual beings. Speculative, stranded recognition of an individual in society will cause a huge tremor and turmoil in the state eventually. More of such groups are isolated and disheveled, among others, and more remain unabated, demanding ragged fights with-holding pollen of carnal and sex crimes normalized forms of rape culture.

Same-sex is not a new concept to prevail in the current social context. It grew enormous even before it was identified for so. The status of a social process which pushed common people to the edge as outcasts within their rim of the circle were seen from the much-known ancient era. Servitude and slavery have been held in tune, open secrets of affairs from time immemorial. The slaves' right to life (to live) freely came in the very late 5<sup>th</sup> century. Slavery and Racial Discrimination sprouted. The slave trade established the permanent race order. Pleasure business was governed by a black web-cob, running from the rich to the rich show-giver. The inclusive open secret of human trade and commutation of sentence was awarded in glee that overshadowed multi-exploitative acts (inclusive of gender-neutral sexual crimes).

End of World War II, i.e., the 'Holocaust' in Germany.<sup>[34]</sup> The importance of Religious and Ethnic Minorities grew. The chronicles submit the gay soldiers in the German army and the method undertaken for their identification and removal. They were marked with Jews as impure and abominable to the kind. In contemporary times, the current discrimination of varied ethnic groups around the globe forms part and parcel of this list indirectly. The ill-fated lifeline has been undergoing major shifts and swings. But their scope of recovery and renewal is still a dream to come by.

During the 15<sup>th</sup> to 20<sup>th</sup> centuries, the American colonies under British rule retained a slave community for their genetic exploitation. The government's exploitation of the citizens in their motherland made the natives strive for independence from the colonizers (the queen). The civil war was halted

at the expense of the Magna Carta, which curbed the unruly power of King John. The concept of "the right of every person to be free and equal"<sup>[35]</sup> was triumphed and commonly accepted by the Americans. The social movements were carried out to address the uprising of various groups as a result of previous brutality.

Same-sex Sex Marriage is one of these lenses that has been marginalised in today's state. The gender neutrality precepts were coordinated for same-sex unions and their rights. Systems were chiseled out in a manner to prohibit such tenacity of discrimination in all national states that are signatories of the Universal Declaration of Human Rights, the International Convention on Civil and Political Rights, the European Convention on Human Rights, and more. Discrimination on the grounds of sexual orientation is no different from the racial classification of discrimination done against African people based on color.<sup>[36]</sup>

Most of the Southeast Asian states have a democratic-authoritarian governance system<sup>[37]</sup> that can map the violation of human rights, by making some changes in the utility and abuse of political power [individually and collectively]. Regional access, as it seems, still enjoys a principle of asymmetry despite its enshrinement and affirmation based on the universality of fundamental human rights enshrined under international law. Theoretically, legal universality relies more on moral claims not on the real enforcement.<sup>[38,39]</sup> But, the trend of moralities is also challenged to some degree by cultural relativism. The universal inclusion notions are under siege and challenged by exclusionary instincts and politics. The sexual minority and the gender denomination minority community are suffering due to the rapid changes in society; this has been observed in Southeast Asia in the name of modernization. But increasingly, it is these marginalized and minority groups who act on their behalf, in self-advocacy of their social and political rights. They are often outshone- the non-consensual abuse and the abused victim with no voice and shield under the law. The static probability overlooks the possible damages to one's property due to gender-biased legal terminology of state cult recognition.

## CONCLUSION

Same-sex marriage has to be recognized and legislated. They should not be excluded or discriminated against based on their choice of partner. Personal liberty, equality, and Fraternity are the basic components assured by every Constitution's rule book. That applies to all from birth to the grave, irrespective of good or bad character. This creates the bottom line of perseverance in resisting discriminatory practices. The authority to seek parity and on-par treatment rings a bell to make matrimonial law in favor of others' needs. The civil union laws are ancient personal religious norms crafted from customary precedents of manhood in later civilizations. These customary practices had created a hurdle in the minds of people. By reducing the sacred bond of marriage to a mere instrument for procreation, its profound purpose is defiled, transforming a union of individuals into a mechanistic means of producing offspring. The sole mate and union-ship context of man have deformed its pleasure grace with a purposive generation catalog. This doesn't conclude that only same-sex relationships are pure and bonded; rather, it emphasizes focusing on a person's perception of socializing and bonding on their own terms. Discrimination against the individual on the grounds of one's sexuality or sexual preference and choice shall not be the topic of character assassination. So, intra-gender marriage should not be questioned as obscure and abnormal. It has to be kept an equal stance as inter-gender marriage.

The legislature is required to make laws in favor of these minority segments of people and change the ideology of marriage from a mere link to procreation. The rule of law advocates for implied justice, proposing accountability in a system of just normative living law, which is free, accessible, and can retain the true spirit of law through impartial decision. This law is inversely defined by Coke<sup>[40]</sup>, where, according to him, the accumulation of power in a few hands is the antithesis of this rule. The pronouncers (Aristotle, Plato, Cicero) who innovated this context associated the rule with the subjugation of power theory, where the person holding power should be a servant of the law. This shrinks the power responsibility on oneself,

to obey the law as supreme and not above it (even if they happen to be making it). This heeds the equity and equality perception in the contemporary state. The perception aligns with the marriage rights of the rainbow couple. From the context, the dark paradigm swells as and when unequal treatment or any form (implies or expresses) of stereotype (intimation or gestures) distinction of discrimination is spotted or spread in silence; assured reform springs. The discrimination parade will eventually cross the threshold of democracy in every society. The non-conforming sexual class or the third-gendered individuals with second-class treatment are all the titles deposited on such individuals, making the people strive for acceptance among the rest through formal legal recognition. The drift of ground stems from discrimination of race-gender classification, and the pre-formulated standard of manhood overshadows real with reel image, making history repeat itself from the tragedy and farce of genocide and holocaust. To dismiss such a possibility, marriage equality rights have been addressed by multiple countries apart from India. With the slow pace of development and public acceptance rate towards this community, there is a need to patch the glitch of the ray to secure their basic rights under the Constitution (the rule of law).

LGBTQ+ concerned law has to be created that exclusively protects and promotes their rights and needs, which must have the inclusion of marriage and other parenting laws within, and make the required amendments and revise the existing law in that nature. Legislation is required to protect the same-sex community from being harassed by theists as being non-virtuous and defecate to society. As minority group needs to be protected against majority dominance, similarly, sexual minority people need to be protected from being exploited by the heterogeneous community. The homogeneous people can only be protected when the thought process of the public changes, which can be obtained via the legalization of their rights and needs. To avoid a second disaster for humankind, the same-sex community individual aims to secure an equal footing in society with other mankind in respect of marriage and other rights.



## ACKNOWLEDGMENT

The authors are immensely grateful for the immense support of our respected Dean, Prof.(Dr.) T. R Subramanya, Director Prof.(Dr.) V J Praneshwaran, Dr. Sreenidhi Faculty, Dr. Chanjana Faculty, Prof.(Dr.) Seema Faculty, CMR University, School of Legal Studies, Bangalore.

## CONFLICT OF INTEREST

None.

## REFERENCES

1. Doe J. Same-sex relations: An open secret in history. *J Hist Sexuality*. 2019;22:111. Available from: <https://heinonline.org>
2. Coke E. The rule of law and its modern concept—a comparative study. *Chicago Law Times*. 1889;3(3):221–230. Available from: <https://heinonline.org>
3. Deo Singh N, Bose SK. The rule of law and its modern concept—A comparative study. *Supremo Amicus*. 2022;30:1. Available from: <https://www.supremoamicus.org>; Valcke A. The rule of law: Its origin and meaning. *NYU J Law Liberty*. 2015;30:1
4. Feldblum CR. The intersection of race and sexual orientation: A study of the relationship between race and same-sex discrimination in employment. *Harv CR-CL L Rev*. 1988;23:309–340
5. Justice Edward Coke. Propounded of Rule of Law concept and early jurist who emphasized that the House of Lords and the House of common to follow the context of the same context. Making the king also binding under the law. He also supports the vision of law being the supreme of all and above all; Coke E. The rule of law and its modern concept—a comparative study. *Chicago Law Times*. 1889;3(3):221–230. Available from: <https://heinonline.org>
6. Singh GP. *Principles of statutory interpretation*. 14th ed. Gurgaon: LexisNexis; 2016.
7. Thoreson, R. The limits of moral limitation: Reconceptualizing “morals” in human rights law. *Harv Int'l L J*. 2018;59:197–227.
8. Khan MM. Basic structure theory or doctrine of necessity? Parliament's power to amend the constitution in India and Pakistan. *J Comp Const L*. 2020;6(2):22. Available from: <https://jis.pu.edu.pk/44/article/view/956>
9. Navtej Singh Johar v. Union of India. (2018) 10 SCC 1. Supreme Court of India. Decided on 6 September 2018.
10. India. *The Indian Penal Code, 1860*. Act No. 45 of 1860. New Delhi: Government of India; 1860.
11. Supriya @ Supriya Chakraborty & Anr v. Union of India. W.P. (C) No. 1011 of 2022, Supreme Court of India, Oct. 17, 2023.
12. India. *Bharatiya Nyaya Sanhita, 2023*. Act No. 45 of 2023. New Delhi: Government of India; 2023. Available from: [https://www.mha.gov.in/sites/default/files/250883\\_english\\_01042024.pdf](https://www.mha.gov.in/sites/default/files/250883_english_01042024.pdf)
13. Naz Foundation v. Government of NCT of Delhi. WP(C) No. 7455 of 2001. Delhi High Court, 2 July 2009. Available from: <https://indiankanoon.org/doc/100472805/>
14. Supreme Court of India. *Suresh Kumar Koushal & Anr. v. Naz Foundation & Ors*. Civil Appeal Nos. 10972–10973 of 2013. Decided on 11 December 2013. Available from: <https://indiankanoon.org/doc/58730926/>
15. Supreme Court of India. *National Legal Services Authority (NALSA) v. Union of India*. (2014) 5 SCC 438. Decided on 15 April 2014. Available from: <https://indiankanoon.org/doc/193543132/>
16. Akpan N. There is no 'gay gene'; there is no 'straight gene': Sexuality is just complex, study confirms. *PBS News*. 2019 Aug 29. Available from: <https://www.pbs.org/newshour/science/there-is-no-gay-gene-there-is-no-straight-gene-sexuality-is-just-complex-study-confirms>
17. Akpan N. There is no 'gay gene'; there is no 'straight gene': Sexuality is just complex, study confirms. *PBS News*. 2019 Aug 29. Available from: <https://www.pbs.org/newshour/science/there-is-no-gay-gene-there-is-no-straight-gene-sexuality-is-just-complex-study-confirms>
18. Price Waterhouse v. Hopkins. 490 U.S. 228 (1989).
19. Axam HS, Zalesne D. Simulated sodomy and other forms of heterosexual 'horseplay': Same-sex sexual harassment and the myth of the gender monolith before and after Oncale. *Yale J Law Feminism*. 1999;11:155–196. Available from: [https://academicworks.cuny.edu/cl\\_pubs/112/](https://academicworks.cuny.edu/cl_pubs/112/)
20. Koren v. Ohio Bell Telephone Co. 894 F. Supp. 2d 1032 (N.D. Ohio 2012).
21. Hamm M. v. Weyauwega Milk Products, Inc. 332 F.3d 1058 (7th Cir. 2003).
22. Axam HS, Zalesne D. Simulated sodomy and other forms of heterosexual 'horseplay': Same-sex sexual harassment and the myth of the gender monolith before and after Oncale. *Yale J Law Feminism*. 1999;11:155–196. Available from: [https://academicworks.cuny.edu/cl\\_pubs/112/](https://academicworks.cuny.edu/cl_pubs/112/)
23. Civil Rights Act of 1964. Title VII, 42 U.S.C. § 2000e et seq. (1964).
24. National Legal Services Authority v. Union of India. (2014) 5 SCC 438. Supreme Court of India. Decided on 15 April 2014
25. Smith v. City of Salem, Ohio. 378 F.3d 566 (6th Cir. 2004).
26. Befort SF, Vargas MJ. Same-sex marriage and Title VII. *Santa Clara L Rev.* 2016;56:207. Available from: <https://digitalcommons.law.scu.edu/lawreview/vol56/iss2/>
27. Heller v. Columbia Edgewater Country Club. 195 F. Supp. 2d 1212 (D. Or. 2002).
28. Centola v. Potter. 183 F. Supp. 2d 403 (D. Mass. 2002).
29. McGinley AC. Erasing boundaries: Masculinities, sexual minorities, and employment discrimination. *U Mich J Law Reform*. 2010;43:713–739. Available from: <https://>

- repository.law.umich.edu/mjlr/vol43/iss3/5
30. Civil Rights Act of 1964. Title VII, 42 U.S.C. § 2000e et seq. (1964).
31. Human Rights Campaign. Marriage equality around the world. Available from: <https://www.hrc.org/resources/marriage-equality-around-the-world>. Accessed 7 Mar 2025.
32. Mridul v. Union of India. Writ Petition (Civil) Diary No. 10842 of 2020. Supreme Court of India. Decided on 13 April 2020.
33. Arunkumar & Sreeja v. The Inspector General of Registration. W.P. (MD) No. 4125 of 2019. Madras High Court. Decided on 22 April 2019
34. United States Holocaust Memorial Museum. *Nazi Germany and the Holocaust*. Available from: <https://www.ushmm.org/learn/introduction-to-the-holocaust>. 2020.
35. United Nations General Assembly. *Universal Declaration of Human Rights*, art. 1. Adopted on 10 December 1948. Available from: <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.
36. Mandela N. *Long Walk to Freedom: The Autobiography of Nelson Mandela*. London: Little, Brown and Company; 1994; Worger, WH. The Impact of the African National Congress on South African Politics. *Journal of Southern African Studies*. 1986;12(1):1–20.
37. Ibhawoh B. *Human Rights for Some: Universal Human Rights, Sexual Minorities, and the Exclusionary Impulse*. *International Journal*. 2014;69(4):612–622. Available from: <https://journals.sagepub.com/doi/10.1177/0020702014544885>.
38. Ibhawoh B. *Human Rights for Some: Universal Human Rights, Sexual Minorities, and the Exclusionary Impulse*. *International Journal*. 2014;69(4):612–622. Available from: <https://journals.sagepub.com/doi/10.1177/0020702014544885>.
39. Khanif A, Hooi KY, editors. *Marginalisation and Human Rights in Southeast Asia*. London: Routledge; 2023.
40. Coke E. *Edward Coke*. *Chicago Law Times*. 1889;3(3):221–230. Available from: <https://heinonline.org>.