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Homosexual Marriage: A social legal problem

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The institution of marriage in society is generally regarded as extending only to male-female relationships, although most marriage statutes use gender-neutral language. Whereas, many examples of acceptance of homosexual marriages has only been recently forthcoming as society is gradually becoming more permissive. This change is reflected in the increasing number of jurisdictions, which have decriminalised such acts. However, many jurisdictions have retained their statutory prohibitions on homosexual marriages despite much criticism from groups and individuals who believe that the sodomy law is obsolete and should be repealed. Hence same-sex relationships, regardless of their duration, are not legally recognized in most countries and as a result, homosexual partners are denied many of the legal and economic privileges automatically bestowed by marital status. These include employment benefits, the ability to file joint tax returns and perhaps most importantly since the advent of AIDS -- health benefits and rights arising on the death of a partner, including interstate inheritance etc. In society at large many of these benefits are available to heterosexual de facto partners, but continue to be unavailable to homosexual partners.²

Definition

The word homosexuals literally means as 'of the same sex, being a hybrid of the Greek prefix homo-meaning 'same' and Latin root meaning 'sex'.³

Homosexuality is a sexual orientation characterized by sexual attraction or romantic love exclusively for people who are identified as being of the same sex. People who are homosexual, particularly males are known as 'gay', gay females are known as 'lesbians'. That is homosexual marriages, sometimes referred to as gay marriage, indicates a marriage between two persons of the same sex.⁴

Same-sex marriage, the practice of marriage between two men or between two women. Although same-sex marriage has been regulated through law, religion, and custom in most

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² A relationship not based on blood or marriage is not entitled for Social Security benefits under Employee Provident Fund Act, Pension Act, Workmen Compensation Act, Insurance Act, Housing Act etc.

³ Older words for homosexuality, such as homophilia and inversion have fallen into disuse. Less frequently used terms are queer, homo, fag or faggot and dyke.

⁴ Homosexual marriages are also known as gender-neutral marriage, equal marriage, and gay marriage.

countries of the world, the legal and social responses have ranged from celebration on the one hand to criminalization on the other. Some scholar like John Boswell (1947–94), have argued that same-sex unions were recognized by the Roman Catholic Church in medieval Europe, although others have disputed this claim. Scholars and the general public became increasingly interested in the issue during the late 20th century, a period when attitudes toward homosexuality and laws regulating homosexual behaviour were liberalized, particularly in Western Europe and the United States. The issue of same-sex marriage frequently sparked emotional and political clashes between supporters and opponents. By the early 21st century, several jurisdictions, both at the national and subnational levels, had legalized same-sex marriage; in other jurisdictions, constitutional measures were adopted to prevent same-sex marriages from being sanctioned, or laws were enacted that refused to recognize such marriages performed elsewhere.

Homosexual Marriages: The Global Scenario

Faced with the fact of homosexual unions, civil authorities adopt different positions. At times they simply tolerate the phenomenon, at other times they advocate legal recognition of such unions, under the pretext of avoiding, with regard to certain rights, discrimination against persons who live with someone of the same sex. In other cases, they favour giving homosexual unions legal equivalence to marriage properly so-called, along with the legal possibility of adopting children. Thus an increasing number of jurisdictions have de-criminalised homosexual acts. However, many jurisdictions have retained their statutory prohibitions on homosexual acts despite much criticism from groups and individuals who believe that the laws are obsolete and should be removed. Anyhow the last century witnessed major changes in the conception of homosexuality. Since 1974, homosexuality ceased to be considered an abnormal behaviour and was removed from the classification of mental disorder. Since then homosexuality has been de-criminalized in different countries. There are various states across the globe that enacted anti-discriminatory or equal opportunity laws and policies to protect the rights of gays and lesbians.⁵

In the late 1990s and early 2000s, progress towards and bans of same-sex marriage created a topic of debate all over the world. Currently, same-sex marriages are recognized nationwide in six countries: Netherland (2001), Belgium (2003), Canada (2005), Spain (2005) and South Africa (2006). The state of Massachusetts in the United States also recognizes same-sex unions (although these marriages have no legal recognition at the federal level in the US). With this

⁵ http://www2.warwick.ac.uk/fac/soc/law/elj/lgd/2001_2/narrain/

an estimated 155 million people worldwide, or approximately 2.5% of the world's total population, will live in places where same-sex marriage exists.⁶

That is civil unions and other forms of legal recognition for same-sex couples, which offer most if not all the rights accorded in a civil marriage, exist in Croatia, Denmark, Finland, France, Germany, Iceland, Israel, New Zealand, Norway, Portugal, Slovenia, Sweden, Switzerland and the United Kingdom. Regions of Australia, and additional territories in the United States offer some rights and responsibilities as civil Unions.⁷

Even events such as Mardi Gras in Sydney, Midsumma in Melbourne, Gay and Lesbian Pride in Johannesburg, Women's Celebration Week in Greece, and the Gay and the Lesbian Film Festival in Lisbon express the essence of being homosexual.⁸

So, world over many countries has given social and legal recognition to homosexual marriages.⁹

Whereas more than 70 countries, including India, consider homosexuality a crime, and 30 of these deny homosexuals even basic human rights and the homosexual acts remain punishable by death in Afghanistan, Mauritania, Iran, Nigeria, Pakistan, Saudi Arabia, Sudan, United Arab Emirates, and Yemen, and by life in prison in Bangladesh, Bhutan, Guyana, India, Maldives, Nepal, Singapore, and Uganda.¹⁰

⁶ <http://www.fsw.ucalgary.ca/ramsay/gay-lesbian-bisexual/3ta-south-asia-homosexuality.htm>

⁷ Wikipedia

⁸ Ibid

⁹ <http://www.fsw.ucalgary.ca/ramsay/gay-lesbian-bisexual/3ta-south-asia-homosexuality.htm#India%20Films>

¹⁰ Countries Where Homosexuality Is Legalised

Greece, Greenland, Guadeloupe, Guatemala, Guinea, Bissau, Haiti, Honduras, Hongkong, Hungary, Iceland, Indonesia, Iraq, Ireland, Israel, Italy, Ivory Coast,

Montenegro, Albania, Andorra, Argentina, Armenia, Aruba, Austria, Azerbaijan, Bahamas, Belarus, Belgium, Belize, Bolivia, Brazil (no Sodomy law for military person), Bulgaria, Burkina Faso, Cambodia, Central African Republic, Chad, Chile, China, Columbia, Comoros, Congo, Costa Rica, Croatia, Cuba

(Article 303a of the penal code punishes 'publicly manifested homosexuality'), Cyprus (Ban on military on health ground), Czech Republic, Denmark

(homosexuals equivalent to heterosexuals), Dominican Republic, Dutch Antilles, Ecuador, El Salvador, Eritrea, Estonia, Farland Islands, Faroe Islands,

Finland, France, French Guyana, French Polynesia, Gabon, Georgia, Germany, Japan, Jordan, Kazakhstan, Kosovo, Kyrgyzstan, Latvia, Lesotho,

Liechtenstein, Lithuania, Luxembourg, Macau, Macedonia, Madagascar, Malawi, Martinique, Mexico, Moldova, Monaco, Netherlands, Netherlands Antilles, New

Caledonia, New Zealand, Niger, Norway, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Reunion, Romania, Russia, Rwanda, San Marino, Sao Tome

and Principe, Serbia, Sierra Leone, Slovenia, South Africa, South Korea, Spain, Suriname, Sweden, Switzerland, Taiwan, Thailand, Ukraine,

Uruguay, Vanuatu, Venezuela, Vietnam, Vojvodina, Vanuatu, Venezuela, Vietnam, Vojvodina

Countries Where Homosexuality Is Illegal

Algeria, Angola, Barbados, Bhutan, Bosnia, Botswana, Burundi, Ethiopia, Ghana, Herzegovina, Kenya, Libya, Malawi, Malaysia, Maldives, Morocco,

Thus the legal position of homosexuals differs from country to country. In England, for example, homosexual relationships involving anal intercourse is not illegal between consenting adults as long as they are 21 or over and conduct themselves in private. In India, however, such active sexual relationships between men are still illegal. The age of consent varies, too, according to the country being as young as 10 in Hungary and as old as 23 in Spain.¹¹

Legal status

From 1860 to 1992 there were only 30 cases in the High Courts and Supreme Court. Out of these 30 cases, 18 were non-consensual, 4 were consensual of which 3 were before 1940 and 8 were unspecified and 15 out of 30 cases registered were assault on minors.¹²

In a judgement (Fazal Rab Vs State of Bihar)¹³. The Supreme Court was dealing with a case where a man had homosexual relations with a boy with the consent of the boy.¹⁴ The Supreme Court in 1983 observed that: 'the offence is one under Sec. 377, IPC which implies sexual perversity.¹⁵ Considering the consent of the boy, the Supreme Court reduced the sentence from 3 years rigorous imprisonment to six months rigorous imprisonment.¹⁶ Also Section 377 had been used to intimidate women, particularly in the case of women who have run away together or if they make their relationship-known.¹⁷

In 1987, Tarulata/Tarun Kumar underwent female to male sex change operation and married Lila in 1989.¹⁸ Lila's father filed a petition in the Gujarat High Court saying that it is a lesbian relationship and that the marriage be annulled.¹⁹ The petition contends that 'Tarun Kumar possesses neither the male organ nor any natural mechanism of cohabitation, sexual intercourse

Mozambique, Nambia (male Homosexuality is illegal), Nepal, Pakistan, Singapore, Togo, Turkey, Uganda, Zaire, Zimbabwe, Afghanistan, Antiglia, Bardlanda, Bahrain, Bangladesh, Bosnia, Heazegonia, Botswana, Brunei, Burma, Burundi, Cameroon, cape Verda, Cook Islands, Dji Bonti, Ethiopia, Fiji, Ghana, Guinea, Guyana, Inida, Iran, Jamiaca, Kenya, Kiri Bati, Kuwait, Laos, Lebanon, Liberia, Mali, Marshall, Islands, Mauritania, Mauritius, Mongolia, Naruru, Nicargua, Nigeria, Niue, Oman, Papua, newGuinea, Puerto Rico, Qatar, Saint Lucia, Samoa, Saudi Arabia, Senegal, Seychelles, Slovakia, Soloman Islands, Somalia, Srilanka, Swaziland, Syria, Tajkistan, Tanzania, Tokelau, Tongo, Trinidad, Tobago, United Ara, Emirates, Uzbekistan, Zambia

¹¹ According to a study by the Amnesty International

¹² Supra note 6

¹³ http://www.ilga.info/Information/Legal_survey/Asia_Pacific/india.htm

¹⁴ AIR 1983 (SC) 323

¹⁵ <http://gendwaar.gen.in/rep9.pdf>

¹⁶ In this case perversity was treated synonym for homosexuality.

¹⁷ It went on to say that "No force appears to have been used neither omissions of permissive society nor the fact that in some countries homosexuality has ceased to be an offence, has influenced our thinking'.

¹⁸ Even though this section does not distinguish sodomy between males and between male and female, this section is targeted against males more so than females.

¹⁹ <http://timesofindia.indiatimes.com/articleshow/msid-1381303.prtpage-1.cms> -15k-

and procreation of children.²⁰ Adoption of any unnatural mechanisms does not create manhood and as such Tarun Kumar is not a male. The petition called for criminal action under Sec. 377.²¹ In 1992, 18 men were arrested from a park in New Delhi on the suspicion that they were homosexuals.²² After protest and demonstration by gays, lesbians and human rights groups, they were released from police custody after filing a petty case against them. In fact they were not indicated under Sec. 377 but under the provision of public nuisance under the Delhi Police Act.²³

Similarly in another instance in September 1994 Section 377 of the Indian Penal Code, which makes sodomy a crime, was being cited by prison authorities in India to justify their refusal to distribute condoms among inmates.²⁴

Similarly in 2001, the Delhi High Court admitted a petition challenging the constitutional validity of the article on the ground that it "criminalizes homosexual acts" even between two consenting adults and impedes AIDS control efforts among homosexuals.²⁵

The case is pending in court despite several hearings. In 2004, a parcel containing a few copies of a gay and lesbian magazines for the South Asians from the US was sent to a gay group in Calcutta for distribution to subscribers was confiscated by the Customs authority under Section 292 of IPC. They contended that as per law this publication amounts to obscenity and offensive to the morality of the country.²⁶

This case was closed when the addressee discarded the parcel seeing no way out. In a recent case a highly educated person committed this offence, the Supreme Court having regard to his loss of service and other consequences to his career following the offence let him off with a sentence of two months' imprisonment.²⁷

²⁰ <http://www.dialognow.org/node/view/941> -211k

²¹ The Gujarat High Court said that it is a lesbian relationship and that the marriage be annulled.

²² <http://www.hsph.harvard.edu/Organizations/healthnet/SAsia/suchana/0909/rh374.html>

²³ http://www.scielo.br/scielo.php?script=sci_arttext&pid=S0034-

²⁴ <http://www.altlawforum.org/PUBLICATIONS/PUCL%20REport%201>

²⁵ The Inspector General of Prisons, Kiran Bedi, refused to supply condoms to inmates in India's largest prison, Delhi's Tihar Jail, on the grounds that Section

²⁶ makes homosexuality illegal. A human rights activist, Group ABVA filed a Public Interest Litigation in the Delhi High Court. The petition challenged the constitutional validity of Sec. 377 of IPC and advocates supply of condoms to jail inmates, with a plea to restrain the authorities from segregating or isolating prisoners with homosexual orientations or those suffering from HIV/AIDS.

²⁷ The petition urges that Sec. 377 is obsolete and must be struck down as being unconstitutional on the grounds that Right for Privacy is part and parcel of the Fundamental Rights of life and liberty under Article 21 of the constitution and recognised by the 1948 International Convention on Human Rights. Sec. 377 is a violation of Article 14 of the constitution since it discriminates persons on the basis of their sexual orientation; having been enacted in 1860, Sec. 377 is archaic, absurd and implemented by the British in all its colonies, including India, but now been repealed in England, the country of origin.

In yet another case the Supreme Court reduced the sentence of the accused to six months imprisonment as the accused while committing sodomy did not use force on the boy.²⁸

In a case of Himachal Pradesh where a truck driver twice committed sodomy on a boy in his truck, a sentence of one year's imprisonment and a fine of Rs.500.00 were imposed on the accused.²⁹

In case of Navtej Singh Johar & Ors. v. Union of India thr. Secretary Ministry of Law and Justice a five-judge SC bench on 6th of September by unanimous decision decriminalised Section 377 making gay sex legal. CJI Dipak Misra and Justice AM Khanwilkar pronounced the first judgment saying consensual sexual relation between same gender adults in private does not fall foul of section 377 IPC. "Section 377 is irrational, arbitrary and incomprehensible as it fetters the right to equality for LGBT community. "Our Constitution nurtures dissent as a safety valve of society and it does not impose conformity. We cannot change history but pave the way for better future. Centre must give wide periodic publicity to SC judgment to eliminate stigma attached to LGBT community. Homosexuality is not a mental problem and the Parliament is also alive to the fact. LGBT community has the same rights like other members of society. Any kind of sexual activity with animals shall remain penal offence under Section 377 of the IPC. Punishment under Section 377 made the LGBT a closeted community, destroyed the identity of members and reached their dignity, all part of right to life. Progressive and pragmatic view should be taken by court to come to the rescue of oppressed section of society. The law must be interpreted as per the requirement of changing times. Court must try to protect the dignity of every individual of the society including people from LGBT. Sexual orientation is natural and people have no control on it. Social morality cannot violate the rights of even one single individual. It amounts to retrograde step if we accept the verdict on criminalising gay sex. SC says consensual sex between adults in private space, which is not harmful to women or children, cannot be denied as it is a matter of individual choice. Section 377 is a colonial legacy and it continued in the law book even after independence. Human tendency to love among LGBT community members had been caged by a 158 year old law, Sec 377. Though 87 years after the law was born India got independence, Legislature did not take measures to give LGBT community the equal rights for sexual relation.³⁰

²⁸ Section 292 to 294 of Indian Penal Code enumerates obscenity. Subsection (1) to section 292 of the code defines obscene publication and rest of the part of section 292 and Section 293 of the code, Prohibits the sale and distribution of obscene Publications and Sec 294 of the code prohibits obscene acts and songs

²⁹ http://www.ilga.info/Information/Legal_survey/Asia_Pacific/india.htm

³⁰ AIR 2018 SC 4321; W. P. (Crl.) No. 76 of 2016; D. No. 14961/2016

Reason to oppose homosexual marriages

1. It Is Not Marriage

Calling something marriage does not make it marriage. Marriage has always been a covenant between a man and a woman which is by its nature ordered toward the procreation and education of children and the unity and wellbeing of the spouses. The promoters of same-sex “marriage” propose something entirely different. They propose the union between two men or two women. This denies the self-evident biological, physiological, and psychological differences between men and women which find their complementarity in marriage. It also denies the specific primary purpose of marriage: the perpetuation of the human race and the raising of children. Two entirely different things cannot be considered the same thing.

2. It Violates Natural Law

Marriage is not just any relationship between human beings. It is a relationship rooted in human nature and thus governed by natural law. Natural law’s most elementary precept is that “good is to be done and pursued, and evil is to be avoided.” By his natural reason, man can perceive what is morally good or bad for him. Thus, he can know the end or purpose of each of his acts and how it is morally wrong to transform the means that help him accomplish an act into the act’s purpose. Any situation which institutionalizes the circumvention of the purpose of the sexual act violates natural law and the objective norm of morality. Being rooted in human nature, natural law is universal and immutable. It applies to the entire human race, equally. It commands and forbids consistently, everywhere and always. Saint Paul taught in the Epistle to the Romans that the natural law is inscribed on the heart of every man.

3. It Always Denies a Child Either a Father or a Mother

It is in the child’s best interests that he be raised under the influence of his natural father and mother. This rule is confirmed by the evident difficulties faced by the many children who are orphans or are raised by a single parent, a relative, or a foster parent. The unfortunate situation of these children will be the norm for all children of a same-sex “marriage.” A child of a same-sex “marriage” will always be deprived of either his natural mother or father. He will necessarily be raised by one party who has no blood relationship with him. He will always be deprived of either a mother or a father role model. Same-sex “marriage” ignores a child’s best interests.

4. It Validates and Promotes the Homosexual Lifestyle

In the name of the “family,” same-sex “marriage” serves to validate not only such unions but the whole homosexual lifestyle in all its bisexual and transgender variants. Civil laws are structuring principles of man's life in society. As such, they play a very important and sometimes decisive role in influencing patterns of thought and behaviour. They externally shape the life of society, but also profoundly modify everyone’s perception evaluation of forms of behaviour. Legal recognition of same-sex “marriage” would necessarily obscure certain basic moral values, devalue traditional marriage, and weaken public morality.

5. It Turns a Moral Wrong into a Civil Right

Homosexual activists argue that same-sex “marriage” is a civil rights issue similar to the struggle for racial equality in the 1960s. This is false. First of all, sexual behaviour and race are essentially different realities. A man and a woman wanting to marry may be different in their characteristics: one may be black, the other white; one rich, the other poor; or one tall, the other short. None of these differences are insurmountable obstacles to marriage. The two individuals are still man and woman, and thus the requirements of nature are respected. Same-sex “marriage” opposes nature. Two individuals of the same sex, regardless of their race, wealth, stature, erudition or fame, will never be able to marry because of an insurmountable biological impossibility. Secondly, inherited and unchangeable racial traits cannot be compared with non-genetic and changeable behaviour. There is simply no analogy between the interracial marriage of a man and a woman and the “marriage” between two individuals of the same sex.

6. It Does Not Create a Family but a Naturally Sterile Union

Traditional marriage is usually so fecund that those who would frustrate its end must do violence to nature to prevent the birth of children by using contraception. It naturally tends to create families. On the contrary, same-sex “marriage” is intrinsically sterile. If the “spouses” want a child, they must circumvent nature by costly and artificial means or employ surrogates. The natural tendency of such a union is not to create families. Therefore, we cannot call a same-sex union marriage and give it the benefits of true marriage.

7. It Defeats the State's Purpose of Benefiting Marriage

One of the main reasons why the State bestows numerous benefits on marriage is that by its very nature and design, marriage provides the normal conditions for a stable, affectionate, and moral atmosphere that is beneficial to the upbringing of children—all fruit of the mutual affection of the parents. This aids in perpetuating the nation and strengthening society, an evident interest of the State. Homosexual “marriage” does not provide such conditions. Its primary purpose, objectively speaking, is the personal gratification of two individuals whose union is sterile by nature. It is not entitled, therefore, to the protection the State extends to true marriage.

8. It Imposes Its Acceptance on All Society

By legalizing same-sex “marriage,” the State becomes its official and active promoter. The State calls on public officials to officiate at the new civil ceremony, orders public schools to teach its acceptability to children, and punishes any state employee who expresses disapproval. In the private sphere, objecting parents will see their children exposed more than ever to this new “morality,” businesses offering wedding services will be forced to provide them for same-sex unions, and rental property owners will have to agree to accept same-sex couples as tenants.

In every situation where marriage affects society, the State will expect Christians and all people of good will to betray their consciences by condoning, through silence or act, an attack on the natural order and Christian morality.

9. The human species will be in danger of dying out if homosexuality is legalised due to lack of reproductive power in homosexuals.
10. The principle of respect, non-discrimination and the people autonomy to support legal recognition of homosexual unions of the individual is not reasonable to invoke. It is something quite different to hold that activities which do not represents a significant or positive contribution to the development of the human in society can receive specific and categorical legal recognition by the State.
11. Sodomy was illegal and was until very recently.
12. Homosexuality is a disease. The Indian Psychiatric Society also acknowledges that homosexuality is a kind of mental illness.
13. Decriminalization may be a step towards removing some of the stigma associated with homosexuality and may have positive repercussions on relationship between homosexual and their families.

Why Homosexual Marriages Should Be Legalised

1. There is no moral ground on which to support the tradition of marriage as a heterosexual institution. For e.g. slavery once existed but humanitarian ground. Now abolished on humanitarian ground.
2. If it was so than there would have been attempt to prohibit unions between a sterile women and a fertile man or vice versa. Nor does legislation exist which requires a married couple to have children. It is true that homosexuals cannot procreate within their union but there are many options available which enable them to have children, including adoption and artificial insemination.
3. The traditional view of family a consisting of a mother, father and children is no longer representative of today's society.
4. Scientific studies and psychologists are of the opinion that the love and commitment of the parents make difference not the gender. The children raised by homosexual partners are just as good as those of straight couples.
5. Religion is not an obstacle. Many sects of Buddhism celebrate gay relationship freely. Instances of homosexuality are available in all major religious mythology.
6. Homosexual marriages is not an untried experiment. In Denmark since 1989 homosexuality is legally permitted. The result of the experiment suggests that homosexual marriages has actually been civilizing and strengthening, not just the institution of marriage but the society as a whole. So perhaps we should accept the fact that someone else has already done the experiment and accept the result as positive.
7. If the argument were true than it would have already happened in countries where legalised gay marriages already exists.
8. There is no contradiction to the argument as all are equal and have equal fundamental rights.
9. Homosexuality is natural. There is substantial agreement amongst researchers that sexual orientation is due to genetic factor and is determined by age five or six. Instances of homosexuality can be seen even in ancient, medival and modern India. Its not the development of post modem society. Denial of legal recognition infringes the rights of citizens.
10. Sexual orientation is due to genetic factor and it is unlikely that an increase in the incidence of homosexuality will occur as a consequence of decriminalisation.

11. Homosexual marriages have the potential to reject hierarchical concept of gender. They challenge patriarchy and the male supremacy derived from it and are consequently punished for not participating fully in daily maintenance of women oppression.
12. Laws regulating and/or penalising homosexual activity impede public health programs as it drive underground many people at risk.
13. In fact gays are giving big favour by not bringing more hungry mouth into this excessive overpopulated world. At the same time the continuity of species can never be in danger due to sexual minority which represent not even 10% of the total world population.
14. In countries where homosexuality is legalised sodomy law is repelled and has been considered obsolete taking into account the social dynamics. 18. The American Psychiatric Association has removed homosexuality from its list of mental illnesses in 1973 and the World Health Organization did the same in 1981.
15. Criminalisation reinforces negative societal attitude regarding homosexuality which in turn results in greater discrimination and thus impact adversely on the self-esteem of many homosexuals which often leads to deception and friction within families.

Conclusion

All the above arguments in favour and in against homosexuality suggest that Indians don't seem to be ignorant about homosexual events round the world and its legalisation but still they need some reservation about homosexual relations. Indian society, by and enormous, disapproves homosexuality and justifies it as a criminal offence even when adults loves private. The Empirical findings amongst socio-economic class youths although favours legalisation of homosexual marriages but they in themselves don't seem to be much attracted for such kind of marriages (with an exception of 4-6% respondents who said they may/will choose to choose homosexual marriages). This shows that Indian youth still maintains the sanctity of the marriages, as scared, heterosexual institution where homosexuality even if legalised may result only in 4-6% homosexual minority. Although as per statistics the demand for giving social and legal recognition to homosexual marriage is limited to only 10% of the Indian Population (that is by homosexuals themselves or NGO's supporting them). This small representation is additionally one among the factors accountable for exploitation of sexual minority. Even today majority of Indians aren't comfortable with homosexual marriages for oneself. But at the same time the demand for legalizing homosexual marriages is grave and intense but somehow not getting approval of society and is under cover. It seems as if still it's great distance to travel for social acceptance of the homosexual marriages in India. because the legal recognition of

homosexual unions would mean not only approval of homosexual behaviour with the consequence of creating it a model in present day society but may also obscure the fundamental values (of family, marriage, procreation and continuity of Species) which belong to common inheritance of humanity. But at the identical time Indians should realize that sex orientation is biological and may be a process it's not a disease. It's true that the acceptance of the demand for social and legal recognition of homosexuality has not been approved today but in any case homosexual community shouldn't be exploited and mistreated. Hence taking into consideration this Indian societal matrix and therefore the emerging conflict within the institution of marriage – the demand for legalizing homosexual marriage is somehow overlooked and ignored. But in near future the stereotype attitude of society for marriage as heterosexual institution associated with procreation and rearing of kids may additionally include homosexual marriages where love between the partners are given importance instead of the gender. Then the failure to acknowledge the changing nature of society and therefore the family will end in more harm than good. Although it's long to travel for this to happen. But in any case the demand for legalising homosexual marriages is birth to a replacement conflict within the institution of marriage, family and Law which cannot be denied. But at the identical time giving social and legal recognition isn't that easy during this traditional society because it has been within the western societies but in any case to ignore this emerging conflict within the institution of family and marriage are going to be short sighted and may have fatal results if not handled sensitively. So, it's time for the Legislature, Executive, Judiciary and Society at large that they cannot demean the existence of individuals with same sex desires. They also must acknowledge that by legalising homosexual relations they're going to not permit a mere gender but also will decriminalize the lives of citizens who are connected to such sexual act. Finally it may be said that if laws are imagined to represent socially acceptable dos and don'ts, then a new mind-set is that the need of the hour. Otherwise, normal masses will still suffer inhuman exploitation simply because nature has nourished them with the necessity to diverge.