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JUDGEMENT COMMENT: SUPRIYO CHAKRABORTY & ANR V. UOI

Saanjh Inuganti¹

I. ABSTRACT

*The present article critically examines the landmark decision of the Supreme Court of India in *Supriyo Chakraborty & Anr v. Union of India* (2023), which addressed the question of legal recognition of same-sex marriages in India. The case arose from petitions filed by several same-sex couples seeking recognition of their unions under existing statutory frameworks, particularly the Special Marriage Act, 1954, the Foreign Marriage Act, 1969, and the Hindu Marriage Act, 1955. The petitioners contended that the exclusion of same-sex couples from the institution of marriage violates fundamental rights guaranteed under Articles 14, 15, 19, and 21 of the Constitution of India, including equality before the law, non-discrimination, personal liberty, and the right to dignity. The Union of India opposed the petitions, arguing that the existing statutory scheme governing marriage was designed to regulate heterosexual unions and that recognition of same-sex marriage would involve complex policy considerations affecting multiple legislations. It was further argued that such a socio-legal transformation falls within the legislative domain rather than the judicial sphere. A Constitution Bench of the Supreme Court delivered a split verdict (3:2) on 17 October 2023, declining to recognize same-sex marriages under existing law. While the majority held that there is no fundamental right to marry and that any recognition of same-sex marriage must come through legislative action, the Court unanimously affirmed the constitutional rights and dignity of LGBTQIA+ individuals. The decision nevertheless left open the possibility of future legislative reform. This article analyses the competing constitutional arguments presented before the Court, evaluates the reasoning adopted in the majority and minority opinions, and offers critical observations on the implications of the judgment for the evolving discourse on marriage equality and LGBTQIA+ rights in India.*

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II. KEYWORDS

Same-Sex Marriage, Special Marriage Act 1954, LGBTQIA+ Rights, Fundamental Rights, Marriage Equality.

III. INTRODUCTION

Marriage has been a fundamental part of society for a long time. While the institution of marriage has a different meaning as per various religions depending on their values and customs, what stays universally common is its societal, customary, and multigenerational nature. Thus, there is no standard definition of marriage, and it may be interpreted differently.

Marriage has largely and commonly been happening between two people of the opposite sex. When a sacred practice has been accepted for a long period of time by many people, the idea of something new which may eventually threaten its course will always be questioned, and maybe even create a stir. So too is the concept of same sex marriage as parties in a marriage have been viewed as a male and a female so widely that the concept of two people of the same sex coming together in a matrimonial relationship may seem odd or unwelcome.

Largely, this is because marriage is a fundamental unit in society. It upholds multilinguistic traditional roots, values, and cultures. Bringing any amendment to something this morally important to society may in the long run be harmful.

On the other hand, practitioners of same sex-marriage may say otherwise, using the defense of violation of various articles of the constitution, violation of their fundamental rights, for marriage to be an integral part of an individual's life, for them to be included in the ambit of marriage by broadening the definition of a "husband" and "wife" etc.

This Article primarily focuses on the judgment of the *Supriyo Chakraborty & Anr v. UOI* case. While commenting on the arguments put forward by the petitioners, arguments of the defendants and finally the judgment.

A. Research Questions

1. Whether the denial of legal recognition to same-sex marriages in India violates the fundamental rights guaranteed under Articles 14, 15, 19, and 21 of the Constitution of India.
2. To what extent the Special Marriage Act, 1954 accommodates or restricts the recognition of same-sex marriages in India.
3. How did the Supreme Court in *Supriyo Chakraborty & Anr v. Union of India* (2023) interpret constitutional principles relating to equality, dignity, and personal liberty in the context of same-sex marriage.
4. Whether the responsibility for recognizing same-sex marriages lies with the Judiciary or the Legislature in India.
5. What are the broader social and legal implications of recognizing or refusing to recognize same-sex marriages in India.

B. Research Objectives

1. To examine the constitutional framework relating to marriage equality and LGBTQIA+ rights in India.
2. To analyze the arguments presented by the petitioners and respondents in *Supriyo Chakraborty & Anr v. Union of India*.
3. To critically evaluate the reasoning and conclusions of the Supreme Court's 2023 judgment on same-sex marriage.
4. To assess whether existing legislations such as the Special Marriage Act, 1954 require amendments to address marriage equality.
5. To provide a critical commentary on the implications of the judgment for LGBTQIA+ rights and future legal developments in India.

IV. FACTUAL & PROCEDURAL BACKGROUND OF THE CASE

In November 2022, the petitioners Supriyo Chakraborty and Abhay Dang, along with other petitioners, approached the Supreme Court seeking legal recognition of same-

sex marriages under the Special Marriage Act, 1954, the Foreign Marriage Act, 1969, and the Hindu Marriage Act, 1955. The matter formed part of a batch of 20 connected writ petitions filed by 52 petitioners, including 17 queer couples. The first petition (W.P.(C) No. 1011/2022) was filed by two couples Supriyo Chakraborty & Abhay Dang and Parth Phiroze Mehrotra & Uday Raj Anand seeking recognition of their marital rights under the Special Marriage Act. They approached the court in exercise of its power of judicial review seeking enforcement of their own fundamental rights as well as in the public interest on behalf of many other LGBTQIA+ citizens of India.²

Earlier, a Supreme Court bench led by the Chief Justice debated the same-sex marriage extensively over a ten-day hearing reserving it for May 2023 and referred the case to a constitutional bench. The verdict was finally delivered on 17th October 2023.³

While India has over the years and through various landmark judgments, made a series of pathbreaking changes such as de-criminalizing intimate acts between mutually consenting adults of the same sex in Section 377 of the Indian Penal Code in *Navtej Singh Johar v. UOI*⁴, introduced the Transgender Persons (Protection of Rights) Act, 2019, enacted following the principles laid down in *NALSA v. Union of India*, recognized same-sex couples and called upon for their protection, their status in marriage remains a constant debate.⁵

Following this, the petitioners contended that not recognizing same-sex marriages violates their fundamental rights under Articles 14, 15, 19(1)(a) and 21 of the Constitution of India.⁶

V. ISSUES

The principal legal issues before the Supreme Court were the following:

1. Whether the right to marry constitutes a fundamental right under Part III of the Constitution of India, particularly under Articles 14, 19, and 21.

² articles.manupatra.com, MANU/SC/1011/2024

³ articles.manupatra.com, MANU/SC/1011/2024

⁴ *Navtej Singh Johar v. Union of India (UOI) and Ors.*, AIR 2018 SC, 2018

⁵ *National Legal Services Authority v. Union of India (UOI) and Ors.*, MANU/SC/0309/2014

⁶ *Supriyo and Ors. V. Union of India (UOI)*, MANU/SC/1155/2023

2. Whether the exclusion of same-sex couples from the institution of marriage under existing statutory frameworks, particularly the Special Marriage Act, 1954, violates Articles 14, 15, 19, and 21 of the Constitution.
3. Whether the gender-specific terminology used in the Special Marriage Act, 1954 (such as “husband” and “wife”) renders the statute discriminatory or unconstitutional when applied to same-sex couples.
4. Whether the judiciary possesses the constitutional authority to recognize or reinterpret existing marriage laws to include same-sex couples, or whether such recognition falls exclusively within the legislative domain of Parliament.
5. Whether same-sex couples are entitled to associated rights arising from marital recognition, including adoption, succession, maintenance, and other legal benefits available to heterosexual married couples.

VI. PRIMARY ARGUMENTS OF PETITIONERS

The petitioners sought the following relief primarily:⁷

1. To not differentiate between the LGBTQIA+ community, those not of it for it violates articles 14, 15, 19, and 21 of the constitution and for recognizing the right to marry as a fundamental right.
2. For the state to not have a say in the personal choice of marriage.
3. The Special Marriage Act to make necessary amendments. For instance, terminology of a “husband” and “wife” to be made gender neutral between two spouses or individuals or partners rather than a male and female as implied by the words under Section 4(c).
4. The minimum marriageable age between lesbian couple to be 18 years and a gay couple to be 21 years (same requirements for transgenders depending on how they identify themselves).
5. For the SMA to be violative of article 14, equality before law.

⁷ Supriyo and Ors. V. Union of India (UOI), MANU/SC/1155/2023

VII. ANALYSIS

The petitioners revolved around the principles of equality, non-discrimination, personal liberty, privacy, freedom of expression and constitutional rights to have a family life. By not granting same-sex couples the right to marry, the court is discriminating them based on their sexual orientation and gender identity. Marriage, being a vital and celebrated part of life, must not be discriminatory in nature but a choice accessible to all. Right to marry in words isn't specified in any legislation however it may be interpreted by using various articles of the constitution such as article 21 right to life with dignity by choosing a partner (for a person, a dignified life may begin once they get married to someone of their choice), 19(1)(a) freedom of speech and expression and 19(1)(e) freedom to reside and settle.

Article 21, not being specific, leaves enough room for interpretations such as these or otherwise. The term "expression" in article 19(1)(a) can be interpreted as sexual orientation or expression. These provisions indirectly address the right to marry. Additionally, by not recognizing same-sex unions for marriage, they are deprived of their other rights such as property, adoption, maintenance etc. which can be granted through a marital relationship only.

While marriage does come down to an individual's private affair, the state must have an equal say in the units of marriage. At the end of the day, the state is responsible for regulation and proper functioning for the benefit of society. The courts, too, look at how the judgment may impact society. If it is negative, the trust of the people from the judiciary will diminish. They cater for the best interests of both the parties and the effect of the verdict after thorough review of evidence and hearing both sides.

The petitioners further argued that the gender-specific terminology used in the Special Marriage Act, such as 'husband' and 'wife', ought to be interpreted in a gender-neutral manner. This contention draws support from the Supreme Court's recognition of gender identity rights in *National Legal Services Authority v. Union of India*, AIR 2014 SC 1863, where the Court acknowledged transgender persons as a 'third gender' and affirmed that gender identity is protected under the fundamental rights guaranteed by the Constitution. The term "wife" and "husband" can be interpreted in one way due

to the specified nature, however, a more generic term such as a spouse can be interpreted differently.

The minimum age to marry in India for a male is 21 years and a female is 18 years. The petitioners seek to keep a standard age to marry for a lesbian couple as 18 years and a gay couple as 21 years with the same legislation applied for a transgender person who may identify themselves accordingly. This goes hand in hand with the laws and with the biological age of non-homosexual couples. The standard age of marriage between a male and female has been decided based on their maturity level. While females are said to be more mature than males, biologically, a three-year gap between the heterosexual couple balances the gap of immaturity for if all is said and done, normally, a 21-year-old male and an 18-year-old female will have the same level of maturity (keeping all exceptions aside).

Thus, for a gay couple of 21 years to get married and a lesbian couple of 18 years to get married as the minimum age criteria shouldn't create discrepancies with this regard. The petitioners also discussed the issue of marriageable age in the context of existing statutory standards, where the legal age of marriage is 21 years for males and 18 years for females. Their submissions primarily sought parity with existing legal requirements rather than the creation of a separate age framework for same-sex couples. Accordingly, the broader constitutional question before the Court concerned whether same-sex couples should be granted access to the same legal institution of marriage and the rights flowing from it, rather than the formulation of distinct eligibility criteria.

The petitioners claimed the Special Marriage Act to be violative of article 14, right to equality because of its provisions and gender biased terminology. While amendments in it are needed for a smooth functioning and more inclusivity as mentioned earlier in this article, something that is unconstitutional and violative of a fundamental right wouldn't have existed and been used in practice if such was its nature. The Special Marriage Act was made in terms of the existing norms of the society and continues to exist due to the continued acceptance of the same. While amendments are needed in

it for a flexible regulation, using heavy terms such as ‘unconstitutional’ and ‘violative of rights’ may be an exaggeration.

VIII. COMMENT ON PETITIONERS’ ARGUMENTS

While the petitioners’ contentions were good, they could have used better arguments to make their claim more meaningful and just. This could have been done by bringing in a more traditional and morale appeal by addressing the origin of same-sex couples in India that dates to the Vedic times. A historical stance in the Indian culture, would have made the argument more convincing. While it is strongly contested that homosexuality is one of the outputs of westernization which was introduced in the Indian territory from the 21st century onwards, we can find references of its existence in Vedic literature of Hindu Mythology. Some instances include:

1. **Mitra and Varuna:** Some scholars have pointed to Vedic literature to illustrate the presence of diverse gender and sexual identities in early Indian traditions. For instance, the relationship between Mitra and Varuna has been interpreted in certain scholarly commentaries on the *Śatapatha Brāhmaṇa* as reflecting intimate companionship between the two deities. However, such interpretations remain debated and should be understood primarily as scholarly readings of Vedic symbolism rather than definitive textual assertions.⁸
2. **Sculptures and Temples:** Carvings at various historic sites such as the famous Khajuraho depicts intimate acts between same-sex couples.⁹
3. **Trtiya Prakrti:** The *Kama Sutra* acknowledged the third gender individuals along with same sex couples, their relationships, appearances, orientation, and roles in society. In the ancient text, same-sex unions are mentioned as bonds of love and trust with examples of third gender individuals marrying one another.¹⁰
4. **Mythological Figures:** Certain mythological narratives are also cited in discussions on gender diversity in Indian traditions. For instance, the character

⁸ Bhagavata Purana (6.18.3)

⁹ Erotic Sculptures of India by Devangana Desai/ Kama Sutra

¹⁰ Tritiya-Prakriti: People of the Third Sex by Amara Das Wilhelm

Śikhaṇḍī in the *Mahābhārata*¹¹ is frequently discussed in relation to gender transformation. Similarly, some retellings of the Bhagiratha legend describe his birth from the union of two widowed queens who conceived with divine intervention after performing a ritual.¹²

While these mythological and literary references do not conclusively establish the existence of legally recognized same-sex marriages in ancient India, they are sometimes cited by scholars to demonstrate that discussions of gender diversity and same-sex relationships have historical and cultural antecedents within Indian traditions. However, it has been forgotten or remained unknown because there may have been a shared taboo since then for recognizing them resulting in their deaths as a form of honor killing. Thus, such an argument could have helped shift the view on the traditional, social barrier and helped in convincing the prolonged existence of such unions beforehand making the arguments of the petitioner's side more efficient to legalize same-sex marriages in India.

IX. PRIMARY ARGUMENTS OF RESPONDENTS

The arguments of the respondents were primarily the following:¹³

1. The Special Marriage Act¹⁴ to be a legislation solely made for the purpose of union between heterosexual couples as the laws are made catering to the majority in the picture which is the heterosexual composition and their children.
2. Bringing a change in the marriage composition would alter the fabric and create an imbalance in society and ultimately the laws made to regulate it.
3. Bringing changes in the laws wouldn't be easy, quick since legislation over 160 would have to be reinterpreted and reviewed.

¹¹ Mahabharata, Vana Parva, Section CLXIV/ Shikhandi and Other Tales, They Don't Tell You by Devdutt Pattanaik

¹² Krittivasi Ramayana, pg. 22-33, titled Born to Two Mothers, The Hero Bhagiratha by Ruth Vanita

¹³ Supriyo and Ors. V. Union of India (UOI), MANU/SC/1155/2023

¹⁴ The Special Marriage Act, 1954, No. 43, Acts of Parliament, 1954 (India)

4. While the Judiciary is a primary forum to go to with grievances, it isn't responsible for the socio-cultural issue of marriage equality and must be laid on Parliament.
5. Marriage is a polycentric issue and earlier made contentions in cases such as *Navtej Singh Johar v. UOI* were monocentric.¹⁵

X. ANALYSIS

The Respondents argued that the Special Marriage Act was designed for the marital institution of a male and female only. This is justified on the grounds of laws catering to the majority. In this stance, the heterosexuals and for best interests of their children. While many may question if the majority is being catered to all the time, who looks at the needs of the minority? Here, one must understand that when a legislation is made, it tries to benefit as many people as possible but there will always be a certain population that will be unhappy. Thus, the minority in every case is different and never the same. Hence, legalizing same-sex marriages would kill the purpose of the legislation.

Laws are supposed to be progressive and evolutionary in nature. They must be flexible to the changing societal standards and if the standards of the modern days cannot be met, they may be amended for the same. Additionally, if the purpose of the Special Marriage Act was only for a male and female of different religions to be able to marry under a legislation, then two Hindus wouldn't have been permitted to marry under the SMA as well, however, they are. Thus, if there can exist religious fluidity in the act, there can exist fluidity for sexual orientations as well.

Bringing in the defense of the social shift by legalizing same-sex marriages is practical since one of the major reasons why the society doesn't welcome this concept is due to the fear that this may bring in change and alter the known cultural and traditional dynamics of the society.

¹⁵ *Navtej Singh Johar v. Union of India (UOI) and Ors.*, MANU/SC/0947/2018

Changes come at a price, thus, making amendments in legislations would very rightfully not be an easy task. But using this as a defense may not be very satisfactory. If the judiciary makes a similar defense given the overburdening number of cases to deal with on a day-to-day basis, files/documents that must be viewed/reviewed daily, give detailed judgments explaining their conclusion etc. with a time bound, to find status of majority cases still pending, no case would ever be resolved. Thus, refraining from a tedious task is not a solution, addressing it is. If there are over 160 legislations that must be amended for the needful, it must be done rightfully.

The Judiciary is not the primary body to approach for a socio-cultural issue such as same-sex marriages instead the parliament and very rightfully so. It is the duty of the legislature to look at a matter of public discourse and decide upon it, pass a legislation if it deems fit. The duty of the Judiciary is to regulate and guard the legislation once made. Additionally, if the Judiciary enters an exercise that is in the competence of the Parliament, it violates its independent body.

The strongest argument made by the respondents so far that considering same-sex marriage is a polycentric issue, bringing in a vast series of complex and interconnected legal matters affect the laws, institutions, and societal structures. Earlier before the courts, issues were of a monocentric nature, that is, focusing on a single principle legally and socially. Such as the landmark case of Navtej Singh Johar, where specifically only the constitutionality of a provision of Article 377 of the Indian Penal Code was questioned and decriminalized. However, in the current case, multiple areas are interlinked and looked at which go beyond the question of mere constitutionality.

XI. COMMENT ON RESPONDENTS' ARGUMENTS

The arguments of the respondent's revolved around the fixated traditional marriage notion of a male and female, violating many legislations. Additionally, they also focused on how bringing in changes to these legislations would be cumbersome and time consuming. While they touched the areas of the society and the nature of the issue in their arguments, there were multiple points which could have been addressed to improve their stance against same-sex marriages. A few of them are as follows:

- 1. Social acceptance:** While the arguments did slightly touch the point of societal shift, it could have been dwelled upon more. This is how- realistically, non-approval of same-sex marriages in the current society we live in makes sense not only for the larger benefit of the population that is, heterosexuals but the homosexuals too. Afterall, how can a homosexual couple if granted the right to marry, live in a society that doesn't accept it? It would make the life of the couple and their kid (if they choose to have one), more challenging than it already is. Expecting the majority to change their views on marriage and become inclusive overnight is rather very impractical. These thoughts and opinions may have been carried for years and bringing any kind of a change takes time. In a society, where females have existed for the longest period with males, there still exists gender inequality and discrimination, for a third-gender and same-sex couple to get married and be accepted on a whim by the society, is a long way to go. Thus, now may not be the right time to legalize the marriage between same-sex couples. In the future, if the society develops a tolerate temper and accepts this change then it can be a matter of consideration.
- 2. Procreation and Technological Advancements:** The respondents didn't address one of the most relevant and practical points in their arguments which is the challenge of procreation and lack of technological advancements. Historically, marriage has been a sacred union between a male and a female for the purposes of companionship and procreation. While same-sex couples can fill in the need of companionship, they falter when it comes to procreating since they cannot naturally do so. They will be dependent on technology. We haven't advanced in the technological sphere to such a point that we can completely depend on it for procreation. Additionally, being dependent on technology for a fundamental process doesn't fulfill the purpose of human potential.
- 3. Universal stance:** Historically, the institution of marriage has been closely associated with companionship and procreation between a male and a female. However, contemporary legal and social debates have increasingly questioned whether procreation should remain the defining basis of marriage as a legal

institution. Modern child development research suggests that the well-being of a child is primarily influenced by the stability, care, and emotional support provided by parents rather than the gender composition of the household. Several jurisdictions have accordingly recognized the parental rights of same-sex couples, acknowledging that child welfare can be ensured in diverse family structures.

Thus, the contentions of the respondents were good, however, emphasizing on the points mentioned above or anything like it, could have increased their potential to strongly contest against violation of fundamental rights, discrimination, privacy etc., by the petitioner's end and justified their side more efficiently.

XII. THE JUDGEMENT

The Supreme Court did not legally recognize same-sex marriages. On 17th October, 2023, it delivered a 3:2 judgment with the majority ruling against recognizing same-sex marriages in India and the minority in favor of it. Several petitions concerning the recognition of same-sex marriage were initially filed before the Delhi High Court and the Kerala High Court. Considering the constitutional importance of the issues involved, the Supreme Court transferred the pending matters to itself and referred them to a Constitution Bench for authoritative determination.¹⁶

The landmark judgment was given by a five-judge bench comprising of Honorable former Chief Justice of India, Justice D.Y. Chandrachud, Justice S.K Kaul, Justice S.R. Bhat, Justice Hima Kohli and Justice P.S. Narasimha.¹⁷

The following points were addressed by the respective judges:¹⁸

A. Ratio Decidendi (Binding Legal Principle)

The Constitution Bench unanimously held that the right to marry is not a fundamental right guaranteed under Part III of the Constitution of India. While the Constitution protects individual autonomy, dignity, and the freedom to choose one's partner under

¹⁶ Lawfullegal.in by Shalini Shukla, S.S. Khanna

¹⁷ Lawandotherthings.com by Sughosh Joshi

¹⁸ Supriyo and Ors. V. Union of India (UOI), MANU/SC/1155/2023

Article 21, the Court clarified that marriage as a legal institution is governed by statutory law rather than constitutional mandate.

Consequently, the Court held that the Special Marriage Act, 1954 (SMA) could not be judicially reinterpreted or “read down” to include same-sex marriages, as such a modification would effectively amount to judicial legislation, a function that lies within the domain of Parliament.

The majority further held that the Special Marriage Act, 1954 is constitutionally valid and cannot be declared unconstitutional solely because it does not presently recognize same-sex marriages. The Court reasoned that replacing gender-specific terms such as “husband” and “wife” with gender-neutral terms like “spouse” would require substantial legislative restructuring affecting numerous allied statutes relating to succession, adoption, maintenance, and family law.

The Court therefore concluded that any extension of marriage rights to same-sex couples must be undertaken by Parliament through legislative reform rather than judicial interpretation.

B. Obiter Dicta (Persuasive Observations)

In his minority opinion, Chief Justice D.Y. Chandrachud, joined by Justice S.K. Kaul, emphasized the constitutional importance of dignity, equality, and autonomy for LGBTQIA+ individuals. The minority opinion recognized that queer persons possess the right to form relationships and unions of their choice and suggested that the State should explore mechanisms to legally recognize civil unions for same-sex couples.

These observations, while not forming part of the binding ratio of the case, highlighted the constitutional principles of dignity, equality, and personal autonomy under Articles 14, 19, and 21 and urged the State to take positive steps toward protecting the rights of queer couples.

Justice Chandrachud, joined by Justice S.K. Kaul in the minority opinion, emphasized that constitutional guarantees of equality, personal liberty, and freedom of expression under Articles 14, 19, and 21 protect the right of queer individuals to form intimate relationships and unions of their choice. However, the minority stopped short of

declaring a fundamental right to marriage, instead advocating greater legal recognition and protection for such unions.

He added on to saying that *“Marriage is an important part of an individual’s life, a stage of fulfillment and self-development for what it means to be a human while emphasizing the need for the legislature to enable this right.”*

XIII. COMMENT ON THE JUDGEMENT

While the Honorable Supreme Court did not recognize same-sex marriage legally, it did unanimously acknowledge the rights of the LGBTQIA+ to live with dignity and privacy with protection making the state responsible for taking the appropriate actions for the queer community. However, there were some discrepancies in the judgment such as:

A. The Right to Choose a Partner of Choice but not Marriage with Relation to the SMA

Unanimously the bench agreed marriage not to be a fundamental right, however, recognized the right to choose a partner of choice under Article 21 of Right to Life and Personal Liberty ensuring right to marry doesn’t get mixed with this fundamental right. However, if a person has the fundamental right to choose a partner, irrelevant of sexual orientation and gender, then it should come with a permanent provision of marriage. Having a right to choose a partner of your choice goes against the contentions of the majority bench for not granting the right to marry for same-sex couples. It’s as if an individual has the right to go to a store and choose an item of their liking if they can afford it, but not having the right to claim it because that isn’t a fundamental right. What good is the right to choose a partner of one’s choice if they can’t form a union, start a family with them?

If the majority bench believes in the right to choose a partner but not the right to marry then marriage between two individuals of different religions shouldn’t be permitted under the SMA as well. Two individuals of different religions in love are permitted to choose a partner of their choice and marry under the said act but not if the same two people are of the same religion but of different sexual orientation or of the same sex

because when the term “queer” comes into the picture then there is no fundamental right to marry but only to choose a partner of liking? This can be interpreted as a biased opinion in the judgment. If inter-religious marriages can be permissible, so can same sex. Marriage grants a gateway to some of the best pleasures of life. Acknowledging the right up to only choosing a partner restricts the relationship and deprives the same sex couples of the pleasures of life. The right to marry would allow them for a more diversified life.

B. Responsibility of the Issue of Same-Sex Couples and Recognition of Marriage

The five-judge bench unanimously stated that it is out of their scope to legislate on such matters and legislation, policy making is part of another pillar of democracy. However, there is no hard and fast rule that only the Legislature is responsible for this issue. It ultimately comes down to collective responsibility of both the bodies. The Judiciary must not brush this off, but carry it out by playing a role of the interpreter and suggesting ideas to deal with this challenge. The first step to social acceptance comes from legal recognition and legislation. Till the time laws aren't made inclusive of the queer community, no one will begin to accept it.

Ever since the LGBTQIA+ community has come into light, there have been questions on morality and ethics, of what is right and wrong with the way ahead. Most of the times social issues of sensitive nature such as this create a strong influence on the opinion of the public about the judiciary quickly, leading to many pending cases because the judges themselves find it hard to take a call. More than the facts/issues of the case, the public outrage and response make their judgment biased and hypocritic. While it is only a mere assumption with no proof, it may be of possibility that the five-judges didn't want to give the right to the petitioners and legalize same-sex marriages for queer couples but to prevent any future outbreak, a 3:2 ratio might have been decided along with putting the responsibility of such a controversial nature on the shoulders of the legislature. At such times, the state and courts must learn to balance their roles appropriately and effectively.

C. Civil Union not Akin Marriage

The bench declared not to mix the idea of a civil union with a marital union. Under Article 19(1)(c), Freedom to form Associations and Unions, the term “Unions” doesn’t specify any type opening the door to interpret it as a civil union as well¹⁹. According to the English definition, “A civil union is a legally recognized relationship between two individuals providing rights and obligations of a married couple.” The definition recognizes civil unions as a marital relationship making it one. Under article 19 of the Indian Constitution, one can freely form a union, including non-heterosexual couples into this relationship as well. Additionally, the judgment doesn’t specify any differentiation between the two and on what grounds a civil union is not to be similarly thought of as marriage. Thus, providing clarity by emphasizing more on the justification of this could have improved the contents of the judgment.

Thus, while the judgment addresses issues in all spheres and the points argued by the petitioners, better reasoning, specifications between terms with commonly understood meaning and grounds for such differentiation could have solidified the judgment more and made it just.

XIV. CONCLUSION

The decision in *Supriyo @ Supriya Chakraborty & Anr. v. Union of India* (2023 INSC 920) represents a significant moment in the evolving constitutional jurisprudence surrounding LGBTQIA+ rights in India. Although the Supreme Court declined to recognize a fundamental right to marry and refused to read the Special Marriage Act, 1954 in a gender-neutral manner, the judgment nevertheless reaffirmed the constitutional values of dignity, equality, and autonomy for queer individuals. In doing so, the Court continued the progressive trajectory initiated in earlier decisions such as *Navtej Singh Johar v. Union of India* and *National Legal Services Authority v. Union of India*, which recognized sexual orientation and gender identity as protected aspects of constitutional liberty.

¹⁹ The Constitution of India

At the same time, the ruling exposes certain limitations within the present constitutional framework. By holding that the recognition of same-sex marriage falls within the legislative domain, the Court effectively shifted the responsibility for institutional reform to Parliament. While this approach respects the doctrine of separation of powers, it also leaves same-sex couples without access to the legal protections and benefits that accompany marriage under existing statutory law.

Despite these limitations, the judgment retains considerable precedential value. The Court unanimously affirmed that LGBTQIA+ individuals possess the right to form relationships and live with dignity, and it acknowledged the State's obligation to prevent discrimination against queer persons. These observations may influence future constitutional challenges involving civil unions, adoption rights, and anti-discrimination protections.

Ultimately, the case stands as a landmark not because it resolved the question of marriage equality, but because it placed the issue firmly within the constitutional discourse of equality, dignity, and personal autonomy. The judgment therefore opens the door for continued legislative debate and potential judicial reconsideration, shaping the future trajectory of LGBTQIA+ rights jurisprudence in India.

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