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“ADOPTION RIGHTS OF THE LGBTQIA+ COMMUNITY IN INDIA: A SOCIO- LEGAL OVERVIEW WITHIN THE FRAMEWORK OF INDIAN ADOPTION LAWS”

AUTHORED BY - SHEFALI MAHENDRU¹

Abstract

Adoption in India, while legally positioned to prioritize the best interest of the child, remains largely inaccessible to LGBTQIA+ individuals and couples due to restrictive statutory interpretations and societal bias. The Juvenile Justice (Care and Protection of Children) Act, 2015 permits single individuals to adopt irrespective of their sexual orientation; however, joint adoption is limited to couples in a legally recognized marriage, a status denied to same-sex partners under current Indian marriage laws, including the Hindu Marriage Act and the Special Marriage Act. This paper critically examines how such exclusionary policies violate fundamental rights guaranteed under Articles 14, 15, and 21 of the Indian Constitution by denying equal treatment, protection from discrimination, and the right to dignity, privacy, and family life. Drawing on landmark judgments such as Navtej Singh Johar v. Union of India, NALSA v. Union of India, and KS Puttaswamy v. Union of India, the discussion establishes that the right to parenthood forms an integral part of personal liberty. It also addresses persistent barriers including heteronormative assumptions in CARA guidelines, structural discrimination within adoption agencies, cultural stigma surrounding non-traditional families, and objections from biological or surrendering parents based on religious or moral grounds. Through a comparative lens, the paper references inclusive legal practices in countries such as South Africa, the United Kingdom, and Australia, where same-sex couples are permitted to adopt without prejudice. The analysis offers a roadmap for reform: amending CARA guidelines to recognize cohabiting partnerships, validating civil unions for adoption purposes, implementing institutional sensitization, and establishing a Uniform Civil Code that ensures equal rights in marriage and adoption regardless of gender identity or sexual orientation. Strengthening adoption rights for LGBTQIA+ individuals not only affirms constitutional principles but also expands the possibility for children to be raised in stable, loving, and nurturing environments beyond the bounds of traditional family structures.

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Keywords: Adoption, LGBTQIA+, Sexual Orientation, Same-Sex Marriage, Fundamental Rights, Personal Liberty, CARA Guidelines.

I. Introduction

Every child deserves more than just survival they deserve love, belonging, and a place to call home. Adoption is not merely a process, but a promise of family, warmth, and security. It is where longing hearts meet open arms, creating bonds that are chosen, not born. Adoption is a legal process through which the adopted child is permanently separated from his biological parents and becomes the lawful child of his adoptive parents with all the rights, privileges and responsibilities that are attached to a biological child². **Traditionally, adoption served to continue the father's lineage and ensure the performance of funeral rites³, being deeply rooted in religious and cultural obligations; but in the contemporary world, its primary purpose is to provide a safe, nurturing, and permanent home for children who have been orphaned, abandoned, or surrendered by their biological parents.** It also reflects the child's right to family and protection, as envisaged under Indian law and the United Nations Convention on the Rights of the Child (UNCRC)⁴, to which India is a signatory⁵.

Adoption is not just a means to satisfy an adult's desire to parent but serves a crucial role in the social and legal protection of children. It is a matter of both rights and responsibilities, where the "best interest of the child" becomes the central principle.

II. LGBTQIA+ Identities and the Right to Parenthood

LGBTQIA+ stands for Lesbian, Gay, Bisexual, Transgender, Queer/Questioning, Intersex, Asexual, and others identities that challenge traditional notions of relationships and family structures. While Indian courts have made progressive strides particularly in *Navtej Singh Johar v. Union of India*⁶, where the Supreme Court decriminalized consensual same-sex relations by striking down Section 377 IPC⁷, the legal recognition of same-sex relationships under family law, especially in adoption, remains absent.

² The Juvenile Justice (Care And Protection Of Children) Act, 2015 (Act 2 of 2016), s. 2(2).

³ **Shukra Raj Adhikari**, "Son as the Way of Salvation: Sociological Analysis of the Preta Kalpa of Garudamahapurana," *5 Interdisciplinary Journal of Management and Social Sciences* 207 (2024).

⁴ The United Nation Convention on the Right of the Child, 1990, art. 21.

⁵ **V. Yadlapalli**, "Implementation of the United Nations Convention on the Rights of the Child in Indian Legal System," in **O. Cvejić Jančić (ed.)**, *The Rights of the Child in a Changing World* 167–182 (Springer, 2016).

⁶ AIR 2018 (SC) 4321.

⁷ The Indian Penal Code, 1860 (Act of 45 of 1860).

For LGBTQIA+ individuals and couples, **parenthood is not merely a biological function but a profound expression of identity, dignity, and emotional fulfilment.** The right to privacy under *Article 21* of the Indian Constitution, includes personal intimacies, family life, marriage, procreation, and sexual orientation⁸. For the LGBTQIA+ community, this extends to the **right to parenthood**, which forms an essential part of the rights to life, dignity, and personal liberty. Denying LGBTQIA+ individuals the ability to form families violates their fundamental rights under the Constitution. Just as the Court in *NALSA v. Union of India*⁹ recognized transgender persons as the ‘third gender’ and affirmed their right to live with dignity, the same constitutional spirit should extend to their right to form families.

Adoption laws in India already allow **single individuals**, including unmarried or divorced persons, to adopt¹⁰. If such individuals are deemed fit to raise children, **excluding LGBTQIA+ persons or couples purely on the basis of sexual orientation or gender identity is arbitrary and discriminatory.** A nurturing, stable home should matter more than the gender or marital status of the prospective parents.

With **surrogacy banned**¹¹ and **IVF inaccessible** for most LGBTQIA+ persons¹², adoption remains the most viable route to parenthood. Denying them this right is not only a violation of their constitutional freedoms but also deprives many children of loving families.

III. Constitutional Safeguards Supporting LGBTQIA+ Adoption

- **Article 14** guarantees *equality before the law and equal protection of the law*¹³. Denying adoption rights solely based on sexual orientation or gender identity violates this fundamental right, as such exclusion is neither reasonable nor based on any valid classification.

⁸ Justice K.S. Puttaswamy (Retd.), and Anr v. Union of India and Ors. , 2017 AIR (SC) 4161.

⁹ AIR 2014 SC 1863

¹⁰ The Hindu Adoption and Maintenance Act, 1956, ss. 7,8.

¹¹ Swati Gola, “ Surrogacy In India not just for married heterosexuals”, *360info*, July 19, 2023, available at : <https://360info.org/surrogacy-in-india-not-just-for-married-heterosexuals/#:~:text=Altruistic%20surrogacy%20is%20where%20the%20surrogate%20mother,single%20men%20and%20live%20in%20couples%20are%20excluded> (last visited on June 10, 2025).

¹² **Sonia Stanger**, *Exploring The Experiences Of Members Of 2slgbtqia+ Communities Pursuing Third-Party Reproduction* (2022) (Unpublished Ph.D. thesis, University of Regina).

¹³ The Constitution of India, Art. 14.

- **Article 15(1)** prohibits discrimination on grounds of “sex¹⁴,” which the Supreme Court has interpreted broadly to include **sexual orientation and gender identity**¹⁵. The framers of the Constitution intended to guard against both direct and indirect discrimination arising from gender-based stereotypes. They recognized that ‘sex’ **encompasses both biological attributes and gender identity**, including one’s emotional and psychological sense of self. Therefore, any policy or legal framework that excludes LGBTQIA+ persons from adopting, based on their gender identity or sexual orientation, contravenes this constitutional mandate.
- **Article 16** ensures *equal opportunity in matters of public employment*. It applies to institutions like **CARA (Central Adoption Resource Authority)**, a statutory body performing public duties, which should not discriminate against queer applicants seeking to adopt.
- **Article 21** ensures the *right to life and personal liberty*, which includes the right to privacy, dignity, and the right to form family relationships of one’s choice.¹⁶

Despite these constitutional guarantees, the statutory framework for adoption in India remains outdated and heteronormative.

IV. Legal Barriers to LGBTQIA+ Adoption in India

In India, adoption is primarily governed by two frameworks: the **Juvenile Justice (Care and Protection of Children) Act**, applicable to all individuals regardless of religion¹⁷, and **personal laws**, such as the **Hindu Adoption and Maintenance Act, (HAMA)**, which applies to Hindus. Under the JJ Act, the **Central Adoption Resource Authority (CARA)** is the designated nodal agency that regulates and monitors adoptions¹⁸. While the JJ Act allows single individuals, including LGBTQIA+ persons, to adopt, **CARA Guidelines mandate that couples must have a stable marital relationship of at least two years** to be eligible for joint adoption.

This provision creates a structural barrier for same-sex couples, since **same-sex marriage is not legally recognized** under either *the Hindu Marriage Act* or the **Special Marriage Act**. As a result, LGBTQIA+ couples **cannot satisfy the “marital relationship” requirement**, and

¹⁴ *Id.*, art. 15.

¹⁵ *Supriya Chakraborty & Anr. v. Union of India*, 2023 AIR (SC) 5283.

¹⁶ *Supra* note 7 at 2.

¹⁷ *M/S Shabnam Hashmi vs Union Of India & Ors*, AIR 2014 (SC) 1281.

¹⁸ The Juvenile Justice (Care And Protection Of Children) Act, 2015 (Act 2 of 2016), s.68.

are effectively excluded from joint adoption, even if they have shared a long-term, committed life together. Though individual LGBTQIA+ persons may adopt, their partners are not legally acknowledged as co-parents perpetuating their invisibility in family law.

Similarly, **HAMA codifies adoption rights in strictly heterosexual terms**, using language such as "husband" and "wife", thus implicitly excluding same-sex couples. In judicial discussions, concerns have been raised over **“who will be the father and who will be the mother”** in LGBTQIA+ parenting arrangements reflecting a traditional and binary view of parental roles¹⁹, rather than focusing on the nurturing capacity of the caregivers.

In contrast, **popular culture offers progressive representations** of LGBTQIA+ families. For instance, in the television series *Modern Family*, the characters Mitchell and Cameron **a gay couple raise their adopted daughter Lily with immense love, care, and humor**, challenging the myth that parenting must be gendered. This fictional example reflects a real-world truth: **good parenting is about love, responsibility, and support not gender roles or sexual orientation.**

V. Religious and State-Level Barriers

In addition to central laws, several religious and state-specific legislations have provisions or interpretations that restrict adoption by LGBTQIA+ individuals:

- Under Muslim personal law, the concept of adoption is not recognized²⁰. A child can be cared for as a *kafala* (guardianship) but does not acquire inheritance rights.²¹
- Some states have passed or interpreted laws in a way that implicitly or explicitly bar homosexual individuals or couples from adopting, citing religious or moral grounds²².

In *LK Pandey v. Union of India*²³, a PIL was filed regarding the proper regulation of inter-country adoptions. Although not directly related to LGBTQIA+ rights, the case emphasized that the child's interest is paramount. This principle must extend to recognizing that children can thrive in homes led by LGBTQIA+ individuals or couples.

¹⁹ Megan Speciale & Margaret Lamar, "Exploring the Gender Roles and Parenting Attitudes of LGBTQ Parents: Implications for Counselors" 18 *Journal of LGBTQ Issues Counselling* 198 (2024).

²⁰ *Muhammad Allahdad Khan And Anr. vs Muhammad Ismail Khan And Ors.*, (1888) ILR 10 ALL 289.

²¹ Shabnam Ishaque, "Islamic Principles on Adoption: Examining the Impact of Illegitimacy and Inheritance Related Concerns in Context of a Child's Right to an Identity," 22 *International Journal of Law, Policy and the Family* 393 (2008).

²² Robin Fretwell Wilson, "A Matter of Conviction: Moral Clashes over Same-Sex Adoption," 22 *Brigham Young University Journal of Public Law* 493 (2008).

²³ 1987 SCR (1) 383.

VI. Global Legislation on Adoption by Same-Sex Couples

United States: Adoption by same-sex couples is legal in all 50 states following the landmark *Obergefell v. Hodges*²⁴, which recognized same-sex marriage as a constitutional right. Earlier, *DeBoer v. Snyder*²⁵ declared state bans on same-sex adoption unconstitutional. However, some states still allow agencies to refuse services based on religious grounds, creating disparities in adoption rights.

South Africa: A pioneer in LGBTQIA+ rights, South Africa legalized same-sex marriage through the *Civil Union Act*²⁶. The Constitutional Court, in *Du Toit v. Minister of Welfare*²⁷, struck down adoption restrictions on same-sex couples, emphasizing the child's best interest. The *Children's Act, 2005*²⁸ now permits joint adoption by same-sex couples.

United Kingdom: The *Adoption and Children Act*²⁹, allows same-sex couples to adopt jointly. The *Equality Act*³⁰, prohibits discrimination based on sexual orientation, reinforcing equal rights in adoption.

Australia: All states and territories have legalized adoption by same-sex couples. Western Australia was the first to enact reforms via the *Lesbian and Gay Law Reform (Amendment) Act*³¹. By 2018, legal equality in adoption was achieved nationwide³².

European Union: Legal recognition of same-sex adoption varies. Countries like France, Spain, Germany, and the Netherlands permit joint adoption, while others, such as Poland and Bulgaria, oppose it. *Switzerland* legalized same-sex adoption in 2022, expanding access to artificial insemination and parenting rights.³³

²⁴ 576 U.S. 644 (2015).

²⁵ 973 F. Supp. 2d 757.

²⁶ The Civil Union Act, 2016, s.6.

²⁷ 2002 (10) BCLR 1006 (CC).

²⁸ The *Children's Act, 2005* (Act 38 of 2005), s. 231(1) (c).

²⁹ The Adoption and Children Act, 2002, ss. 50(2)(b), 144(4).

³⁰ The Equality Act 2010, United Kingdom, available at: <https://www.legislation.gov.uk/ukpga/2010/15/contents> (last Visited on June 10, 2025).

³¹ The Acts Amendment (Lesbian and Gay Law Reform) Bill, 2001 (Act 3 of 2002).

³² Australian Institute of Health and Welfare, "Adoptions Australia 2018–19" 8 (2019).

³³ Silke Koltowitz, "Switzerland Legalizes via Referendum Civil Marriage and Right to Adopt for Same-Sex Couples", *ConstitutionNet*, Sep.27, 2021, available at <https://constitutionnet.org/news/switzerland-legalizes-referendum-civil-marriage-and-right-adopt-same-sex-couples> (last visited on June 16, 2025).

Belgium & Denmark: Belgium legalized adoption in 2006³⁴ and Denmark, a global LGBTQIA+ rights leader, recognized same-sex unions in 1989³⁵ and joint adoption in 2010. Denmark also allows assisted reproduction for lesbian couples.

China: Same-sex adoption remains illegal. Only heterosexual married couples can adopt. LGBTQIA+ rights are not protected under national law, and censorship of LGBTQIA+ representation persists.³⁶

Pakistan & Afghanistan: Same-sex relationships are criminalized³⁷. Adoption by LGBTQIA+ individuals is legally and culturally impermissible, with severe penalties under religious and colonial-era penal codes.

South Korea: While private same-sex relations are not criminalized, same-sex marriages and adoptions are not legally recognized. Discrimination persists in social and legal institutions³⁸.

North Korea: LGBTQIA+ identities are not acknowledged in law³⁹, with reports of state persecution against same-sex couples.

VII. Challenges Faced by LGBTQIA+ Individuals in Adoption

Despite progressive judicial interpretations, several challenges persist:

1. *Legal Vacuum for Same-Sex Couples*

Indian adoption laws do not explicitly address the eligibility of same-sex couples to adopt. While individuals may adopt under the **Juvenile Justice (Care and Protection**

³⁴ Paul Borghs & Bart Eeckhout, "LGB Rights in Belgium, 1999–2007: A Historical Survey of a Velvet Revolution" 24 *International Journal of Law, Policy and the Family* 1–28 (2010).

³⁵ Mira Patel, "How Denmark became the first country to allow same-sex unions over 30 years ago" *The Indian Express*, Apr.20,2023, available at: <https://indianexpress.com/article/research/how-denmark-became-the-first-country-to-allow-same-sex-unions-over-30-years-ago-8567175/> (last visited on June16, 2025).

³⁶ Jessie Lau, "It's difficult to survive": China's LGBTQ+ advocates face jail and forced confession" *The Guardian*, Jan. 15,2024, available at: <https://www.theguardian.com/global-development/2024/jan/15/its-difficult-to-survive-chinas-lgbtq-advocates-face-jail-and-forced-confession> (last visited on June 18, 2025).

³⁷ **Pakistan Penal Code, 1860 (Act XLV of 1860)**, s.377.

³⁸ Michael Mitsanas, "South Korea's LGBTQ community confronts crushing headwinds in fight for equality" *NBC News*, Nov. 28, 2022, available at: <https://www.nbcnews.com/nbc-out/out-news/south-koreas-lgbtq-community-confronts-crushing-headwinds-fight-equali-rcna57777> (last visited on June 18, 2025).

³⁹ Jumin Kim, "North Korea's only openly gay defector: 'it's a weird life'", *The Guardian*, Feb.18,2016, available at: <https://www.theguardian.com/world/2016/feb/18/north-koreas-only-openly-gay-defector-its-a-weird-life> (last visited on June 18, 2025).

of Children) Act, 2015⁴⁰, the lack of clarity around joint adoption for same-sex partners creates a **grey area** that allows for **selective interpretation and exclusion**, effectively leaving LGBTQIA+ couples in a **legal limbo** without guaranteed recognition or protection.

2. Systemic Discrimination in Adoption Authorities

Despite legal neutrality regarding adoption by individuals, many adoption agencies and officials exhibit **systemic resistance** rooted in **heteronormative values**⁴¹. The absence of inclusive training or affirmative policy leads to practices that often reflect **subjective moral judgments** rather than the best interest of the child or objective eligibility criteria.

3. Cultural Conditioning and Gendered Norms

The deep-rooted belief that a “complete” family must include both a mother and a father remains a **dominant social narrative** in India. LGBTQIA+ persons are frequently viewed as **incomplete or unfit** to parent, despite global evidence showing that **children raised by same-sex couples thrive equally** when provided with love, care, and stability.

4. Structural Barriers Due to Marital Status

The **non-recognition of same-sex marriage** under Indian laws⁴² like the **Hindu Marriage Act, 1955** and **Special Marriage Act, 1954** prevents LGBTQIA+ couples from meeting CARA’s “**stable marital relationship**” requirement for joint adoption. This forces long-term partners to navigate the system as **legal strangers**, denying children the security of two legally recognized parents.

5. Exclusion from Parenthood Alternatives

LGBTQIA+ individuals are barred from **altruistic surrogacy** under the **Surrogacy (Regulation) Act, 2021**, which is limited to married heterosexual couples⁴³. **Access to IVF** and other assisted reproductive technologies is either **prohibitively expensive** or

⁴⁰ Srishti B. Dutta, “Same-Sex Couples Denied Right To Adopt, But Single Homosexuals Can: What India's Adoption Laws Say”, *IndiaTimes*, Oct.18, 2023, available at: <https://www.indiatimes.com/news/india/same-sex-couples-denied-right-to-adopt-but-single-homosexuals-can-what-indias-adoption-laws-say-617989.html> (last visited on June 19, 2025).

⁴¹ **Abbie E. Goldberg**, “LGBTQ individuals’ experiences with delays and disruptions in the foster and adoption process,” *106 Children and Youth Services Review* 104473 (2019).

⁴² **Lakshita Bhagat**, “India: Is Legislature the Only Way to Legalise Same-sex Marriage?”, *LSE South Asia Blog*, Dec.4, 2023, available at : <https://blogs.lse.ac.uk/southasia/2023/12/04/india-is-legislature-the-only-way-to-legalise-same-sex-marriage/> (last visited on June 18, 2025).

⁴³ Nishka Kapoor, *Surrogacy in India: The Need for Inclusive Laws*, A National Consultation on “Surrogacy Issues,” organized by National Commission for Women (New Delhi, 21 September 2022), available at: <https://www.ncw.nic.in/media-gallery/conference-proceedings/surrogacy-india-need-inclusive-laws-nishka-kapoor> (last visited on June 19, 2025).

restricted by policies, leaving adoption as the only realistic route to parenthood yet it remains legally and socially fraught with obstacles.

6. *Internalized Barriers and Social Risks*

Many LGBTQIA+ individuals refrain from initiating adoption proceedings due to **fear of discrimination such as** earlier school abandonment, Leaving the family and home, Lacking access to regular employment and having fewer possibilities than others, Being shunned and alone in the neighbourhood Unable to access a range of services and unaware of their rights Mobility, moving to new locations., **forced disclosure, or emotional harm**⁴⁴. The process often lacks **privacy safeguards**, and applicants fear being rejected or stigmatized, leading to **self-exclusion** even when they are technically eligible to adopt.

7. *Religious Bias and Objections from Birth Parents*

Religious and moral beliefs deeply influence adoption narratives in India⁴⁵. Some **faith-based agencies or staff** may reject LGBTQIA+ applicants based on perceived moral grounds. Additionally, in cases involving **surrendered children** or **open adoptions, biological parents or guardians** may insist the child be placed with a heterosexual family, driven by **personal, cultural, or religious bias**. These objections though not always legally binding often sway agencies and undermine inclusive child placement practices.

VIII. Recommendations and the Way Forward

In light of these challenges, several recommendations can be made:

1. *Enact a Uniform Civil Code for Marriage and Adoption: To ensure equality and non-discrimination across all communities, it is recommended that the Indian legislature develop a Uniform Civil Code (UCC) that guarantees equal rights in marriage and adoption⁴⁶, regardless of religion, sexual orientation, or gender identity. A secular, inclusive UCC would harmonize family law⁴⁷, recognize diverse family structures including same-sex unions and provide a clear, lawful pathway for joint adoption..*

⁴⁴ Aashank Dwivedi, "Problems Encountered by LGBT Youth in India" *The Times of India Readers' Blog*, Sep.12,2022,availableat:<https://timesofindia.indiatimes.com/readersblog/aashank-dwivedi/problems-encountered-by-lgbt-youth-in-india-44851/> (last visited on June 19, 2025).

⁴⁵ **Anushka Rohilla**, "Why Adoption Rights Are Not Provided to Same-Sex Couple: Unravelling the Social Stigma and Legal Impediments in India" *IV Vishwakarma University Law Journal* **3** (2024).

⁴⁶ **Prerna**, "Uniform Civil Code and Laws of Adoption and Custody," *I ILI Law Review* **6** (2017).

⁴⁷ Sunainaa Chadha, "Explained: How Uniform Civil Code Will Impact Marriage, Adoption, Inheritance" , *BusinessStandard*,Feb.8,2024,availableat:<https://www.business-standard.com/finance/personal>

2. **Recognize Same-Sex Partnerships for Legal Purposes:** Even if marriage is not immediately recognized, civil unions or domestic partnerships should be legally validated to allow for joint adoption.⁴⁸
3. **Amend CARA Guidelines:** Replace the “two years of stable marital relationship⁴⁹” clause with “two years of stable partnership or cohabitation,” to accommodate same-sex couples.
4. **Training and Sensitization of Authorities:** Adoption agency staff and government officials should be sensitized about LGBTQIA+ issues to reduce institutional discrimination⁵⁰.
5. **Individual Evaluation Over Gendered Assumptions:** The assumption that a child needs both male and female role models should be replaced with an understanding that children need loving, stable, and responsible caregivers. Two mothers or two fathers can fulfill this role effectively.
6. **Clarify Legal Provisions in Light of Article 15 and 21:** Discriminating against LGBTQIA+ individuals or couples in adoption clearly violates constitutional rights, as established in Navtej Singh Johar and KS Puttaswamy case, where the Supreme Court upheld the right to privacy and family life.
7. **Emphasize the Best Interest of the Child:** According to JJ Act, the best interest of the child must be the paramount consideration⁵¹. If LGBTQIA+ individuals are capable and willing to provide a secure environment, their applications must not be rejected merely based on sexual orientation or gender identity.
8. **Expand Access to ART and Surrogacy:** Amend the Surrogacy Act and ART regulations to allow LGBTQIA+ persons access to parenthood through other means if they so choose, considering IVF and surrogacy as part of reproductive rights under Article 21.

finance/explained-how-uniform-civil-code-will-impact-marriage-adoptioninheritance-124020800227_1.html (last visited on June 19, 2025).

⁴⁸ **Kath Browne & Catherine Nash**, “Opposing Same-Sex Marriage, by Supporting Civil Partnerships: Resistances to LGBT Equalities,” in **Nicole Barker & Daniel Monk (eds.)**, *From Civil Partnership to Same-Sex Marriage* 18 (Routledge, 1st edn., 2015).

⁴⁹ The Adoption Regulations, 2022, reg. 5(3).

⁵⁰ **Kavita Bajeli**, “Over 3000 transgender people use health benefits under PM JAY insurance scheme”, *The New Indian Express*, Aug.10, 2024, available at: <https://www.newindianexpress.com/nation/2024/Aug/10/over-3000-transgender-people-use-health-benefits-under-ayushman-bharat-vojana-insurance-scheme> (last visited on June 18, 2025).

⁵¹ The Juvenile Justice (Care And Protection Of Children) Act, 2015 (Act 2 of 2016), s. 2 (9).

IX. Conclusion

While Indian law has taken commendable steps by decriminalizing homosexuality and upholding the dignity of LGBTQIA+ persons, significant gaps remain in family law, especially regarding same-sex marriage, adoption, inheritance rights . LGBTQIA+ persons deserve the same right to form families and raise children as any other citizen. Legal systems must evolve beyond heteronormative assumptions to truly reflect the diversity and complexity of modern Indian society. Allowing LGBTQIA+ individuals and couples to adopt, without discrimination, will not only uphold their constitutional rights but also ensure that thousands of children in need of homes can find loving families regardless of the gender or sexual orientation of the parents.

In the end, the central question should always be: What is in the best interest of the child? If that answer includes a stable, nurturing home provided by an LGBTQIA+ parent or couple, the law must not stand in the way.

