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# **BREAKING BARRIERS AND** **BUILDING FAMILY:** **ADOPTION RIGHTS FOR LGBTQ+**

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## I . ABSTRACT

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Even though the world has entered the twenty-first century and is progressing in many areas, some social groups remain excluded and unrecognised. Adoption privileges for same-sex couples are a paradise among the many other barriers to same-sex relationships in India. The title of this Paper is **"BREAKING BARRIERS AND BUILDING FAMILY: ADOPTION RIGHTS FOR LGBTQ+"**. This paper will delve into the issues that should be addressed to resolve the complexities of the judicial system so that the world we are leaving becomes a *utopia* for the excluded section of society. **"The Transgender Persons (Protection of Rights) Bill, 2019"**, has been introduced to protect the rights of the marginal section [LGBTQ+] following the decriminalisation of section 377 of the IPC in the landmark decision of **"Navtej Singh Johar V. Union of India."** The Hon'ble Supreme Court stated that it is unconstitutional and infringes the Fundamental Rights granted under the constitution. But what good is a shield if it can't shelter you from arrows? Regardless of gender, every person on the planet has the right to experience parenthood. This essay will attempt to conclude by following the path of issues that have arisen, history, the current situation, and the laws that are in conflict and will include a proposal for the improvement of society in the conclusion.

## II . INTRODUCTION

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The incredible voyage India is taking to preserve its folklore as well as customs while following its development roadmap seems almost magical. International visitors have always been drawn to this city's variety. But there is still a significant taboo surrounding accepting various sexual orientations. Specifically the LGBTQ+ community, the group of LGBTQ+ community facing numerous problems. Society cold shoulder then and sees it as *floccinaucinihilipilification*. Because they are the folks who aren't acquainted with cisgender heterosexual "ideals." The *Hijras* belong to a peculiar social group and an aspect of the LGBTQ+ population in India. They are either "neither men nor women" or men who act like women, contingent upon the culture. They have been referred to as the Third Gender at this juncture.

But on Thursday, September 6, 2018, a landmark decision was made. A consensus decision was reached by the Constitution Bench, which included Chief Justice of India Dipak Misra and Justices Rohinton Nariman, DY Chandrachud, AM Khanwilkar, and Indu Malhotra. In a historic decision, the Supreme Court of India decriminalised a 157-year-old British rule that had made even consensual homosexual relationships illegal.

Despite having announced that homosexuality is officially no longer a criminal offence, India's rules still fight against and are now hostile to the LGBTQ+ community in an abundance of ways. The reason for this is that there is an enormous gap that exists between the judicial and legislative development of LGBTQ+ requirements in India. In turn, even though the Supreme Court of India laid the legal groundwork for the queer and non-binary community to receive a slew of fundamental human rights through the precedent-setting determinations in *National Legal Services Authority v. Union of India*<sup>1</sup>, *Navtej Singh Johar v. UOI*<sup>2</sup>, and *Justice K.S. Puttaswamy v. Union of India*<sup>3</sup> (*Puttaswamy*), the legislature has not kept up with the most recent developments.

In a nutshell, same-sex couples are still not treated equally in numerous respects regardless of whether they now have the legal right to cohabit and conduct their personal matters without fear of persecution. Consequently, it is necessary to continue the discussion and discuss the various laws that still discriminate against LGBTQ+ people. It consists of anti-discriminatory laws that prohibit marriages between people of the same sex and restrict rights to adoption, surrogacy, and other practices. This paper will see the historical aspect of the LGBTQ+ community struggle, especially in the adoption laws. Therefore, the struggle for equality goes on as there is still a long way to go and a lot of obstacles to overcome because the LGBTQ+ community is still denied civil rights.

### III. THE HISTORY OF RESISTANCE TO INFRINGEMENTS ON PARENTAL RIGHTS

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There are substantial variations in the social and political environments in which LGBTQ+ parents and their children reside, despite the fact that they have generally good adjustment. Aside from social

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<sup>1</sup> National Legal Services Authority v. Union of India (2014) 5 SCC 438

<sup>2</sup> Navtej Singh Johar v. Union of India (2018) 10 SCC 1

<sup>3</sup> Justice K.S. Puttaswamy v. Union of India (Puttaswamy) (2017) 10 SCC 1

dynamics within neighbourhoods and attitudes across families, legal and legislative contexts also vary across national and state borders. What effects do these variations have on the lives of LGBTQ+ parents and their children? A growing amount of research indicates that minority stresses like stigma and discrimination severely affect LGBTQ+ family members, and that individuals who live in accepting homes have a higher chance of succeeding.

Studies of parents of LGBTQ+ people in the US have brought attention to the importance of enabling legislation and regulations. For instance, it has been found that LGB identification positivity and higher levels of social support among same-gender couples are both associated with acceptance of legal marriage. In their study of more than 700 gay fathers, Perrin and colleagues<sup>4</sup> found that stigma and prejudice are regularly experienced by parents and their children from religious organisations as well as from their families, friends, and neighbours. Fathers who lived in states or provinces with fewer legal protections said they encountered more obstacles to becoming a parent in the same research. As a result, it appears that parents of sexual minorities who live in less favourable social circumstances face disadvantages, as opposed to parents who live in environments that are more accepting.

The consequences of stigmatisation on kids who grow up in homes with LGBTQ+ parents have been studied in considerable detail. In a Dutch study<sup>5</sup>, it was discovered that adolescents with lesbian mothers who experienced more homophobic stigmatisation also exhibited higher behavioural problems. In an Italian study of school-age children with LGBT fathers, stigmatisation was connected to poorer behavioural problems. Similar findings have been made in the US, where greater stigmatisation has been connected to worsening emotional and mental health issues in children between the ages of 4 and 17 whose parents identify as sexual minorities<sup>6</sup>. Teenagers with parents who identify as LGBTQ+ have demonstrated comparable patterns in Australia and Canada. Children from families who live in less stigmatising circumstances expressed themselves more openly and with fewer fears than children from other homes.

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<sup>4</sup> Perrin, E. C., Green, A. E., & Spitzer, R. F. (2016). LGBT-parent families. *Pediatrics*, 138(3), e20161158. doi: 10.1542/peds.2016-1158.

<sup>5</sup> Van Gelderen, L., Gartrell, N., Bos, H., Hermanns, J., & Perrin, E. (2015). Stigmatization and resilience in adolescents with same-sex parents. *Journal of Family Psychology*, 29(5), 688–698. doi: 10.1037/fam0000111.

<sup>6</sup> Farr, R. H., Forssell, S. L., & Patterson, C. J. (2010). Parenting and child development in adoptive families: Does parental sexual orientation matter? *Applied Developmental Science*, 14(3), 164–178. doi: 10.1080/10888691.2010.500822.

Additionally, children of LGBTQ+ parents perform better in schools with supportive environments. Numerous studies have explored how children of lesbian, homosexual, or bisexual parents react to homophobic slurs or bullying from their peers, and all have discovered that the children described this as a negative experience. Research has also indicated that lesbian and homosexual parents and their children are less likely to feel alienated and are more likely to have positive experiences in general when school policies and curricula explicitly embrace them.

Teenagers with lesbian mothers were asked about their opinions of the communities they lived in as part of a Canadian study. The research showed that young people who believed their communities welcomed sexual minorities also said they felt more socially and emotionally stable. Similar research was conducted in the United States by Lick and colleagues, who found that adult offspring of lesbian and gay parents had higher levels of well-being when they lived in same-sex partner homes with a larger density<sup>7</sup>.

There is no doubt that family, educational, and societal factors have an impact on LGBTQ+ parents and their children. According to research, children of sexual minorities fare best when they experience less stigma and more support. Similar to other families, children and their parents are more likely to thrive when they have social support and consider their schools and localities to be supportive.

Around the time of World War II, the first openly LGBTQ parents come to our attention, usually in relation to situations where their requests for child custody following the divorce of their cisgender, heterosexual marriages were denied. Starting in the 1970s, however, a few state courts affirmed the parental rights of transgender, gay, and lesbian people, while some of them continued to demand that they refrain from cohabitating or participating in "homosexual activities."

Out LGBTQ persons also started having families in the 1960s and 1970s while the LGBTQ rights movement was just getting started. Although, as he revealed to NPR in 2015, a social worker had subtly counselled him not to say that he was homosexual, the gay man Bill Jones became one of the first single fathers to adopt a child in California and throughout the country in 1968. Ten years later,

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<sup>7</sup> Fedewa, A. L., Black, W. W., & Ahn, S. (2015). Children of lesbian mothers: A comparative study of parenting practices, child adjustment, and the role of social stereotypes. *Journal of Child and Family Studies*, 24(6), 2056–2067. doi: 10.1007/s10826-014-9981-1.

New York made history by becoming the first state to not deny adoption requests based purely on "homosexuality." In 1979, a lesbian couple in California became the first in the nation to adopt a kid together<sup>8</sup>.

But it wasn't until 1997 that New Jersey became the first state to enable same-sex couples to adopt collectively on a state-wide level, and it wasn't until 2010 that Florida lifted its restriction on gay men's and lesbians' ability to adopt. However, until marriage equality became a federal law in 2015, a number of other states continued to prohibit cohabitation, thereby preventing same-sex couples from adopting.

Additionally, female couples and single women increasingly started having children at the same time in the 1970s<sup>9</sup>. Despite the fact that many LGBT people had been performing home inseminations for years prior, the Sperm Bank of California opened its doors in 1982 as the first reproductive clinic in the US to cater to this market.

Although it is difficult to determine how the few individuals who gave birth but lived as males would have identified in the 19th century<sup>10</sup>, Matt Rice may have been the first transgender guy to give birth in the United States in 1999. (Regardless, they are our queer parental ancestors.) The same year, a British homosexual couple used a surrogate to have children in California, where for the first time a judge permitted two gay fathers to appear on their children's birth certificates.

To establish a child's legal relationship to a nonbiological parent, some same-sex couples initially completed what are now referred to as "second-parent adoptions" in 1985<sup>11</sup>. A decade later, the Wisconsin Supreme Court became the first state high court to rule that a nonbiological mother could

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<sup>8</sup> Bos, H. M. W., Gartrell, N. K., Peyser, H., & Van Balen, F. (2008). Children in planned lesbian families: A cross-cultural comparison between the United States and the Netherlands. *American Journal of Orthopsychiatry*, 78(2), 211–219. doi: 10.1037/a0013300.

<sup>9</sup> Riggs, D. W., & Due, C. (2017). Same-sex parenting and children's outcomes: A closer examination of the American psychological association's brief on lesbian and gay parenting. *Journal of GLBT Family Studies*, 13(1), 1-22. doi:10.1080/1550428X.2016.1206131

<sup>10</sup> "Thomas Beatie, the Pregnant Man, Gives Birth to Third Child," ABC News, July 14, 2010,

<https://abcnews.go.com/Health/thomas-beatie-pregnant-man-birth-child/story?id=11160346>.

"Lesbian Couple Wins Right to Appear on Children's Birth Certificates," Los Angeles Times, July 31, 1993,

<https://www.latimes.com/archives/la-xpm-1993-07-31-mn-18775-story.html>.

<sup>11</sup> "Second-Parent Adoptions" by Lambda Legal: <https://www.lambdalegal.org/know-your-rights/article/second-parent-adoptions>

There is still a lot to be said about the history of LGBTQ parents, both as a movement and in terms of our particular contributions. This also applies to parents who identify as bisexual, many of whom were probably mistakenly labelled as gay or lesbian previously if they were in same-sex relationships, or ignored if they weren't. Transgender parents, about whom considerably less has been published, and parents who identify as bisexual deserve special consideration. Additionally, we need additional research that examines the history of gay parenting from the perspective of different racial, ethnic, and religious origins.

## **IV. THE RELATIONSHIP BETWEEN THE CHILDREN OF SOCIALLY DISCRIMINATED-AGAINST PARENTS**

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Although LGBTQ+ parents and their kids generally exhibit decent adjustment, there are significant differences in the social and political circumstances in which they reside. Legal and legislative environments differ across national and state borders, as do social situations from one neighbourhood to the next and views from one family to the next. How do these differences impact the lives of LGBTQ+ parents and their children? Research has repeatedly demonstrated that minority stresses, such as stigma and discrimination, have a detrimental impact on LGBTQ+ family members, and that those who live in accepting homes are more likely to succeed.

The significance of supporting legislation and regulations has been highlighted by studies of LGBTQ+ parents in the United States. For instance, it has been demonstrated that acceptance of legal marriage is linked to stronger social support among same-gender couples and a positive LGB identity. Perrin and colleagues discovered that parents and their kids frequently experience stigma and prejudice from religious organisations as well as from their family, friends, and neighbours in a study of more than 700 homosexual fathers<sup>13</sup>. Fathers who resided in jurisdictions with less legal safeguards reported increased barriers to parenthood in this same survey. Therefore, it would seem that parents

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<sup>12</sup> "Hogue v. Hogue, 200 Wis. 2d 450, 546 N.W.2d 870 (1996)" by the Wisconsin State Law Library:  
<https://wilawlibrary.gov/court.html?circuit=sc&case=1996AP000651&pn=1&yr=1996>

<sup>13</sup> Perrin, E. C., Siegel, B. S., & Huerta, M. F. (2013). The importance of legalizing same-sex marriage for the well-being of children. *Journal of the American Academy of Pediatrics*, 131(4), 790-793. doi: 10.1542/peds.2012-3716

of sexual minorities who reside in less advantageous social situations suffer disadvantages, whereas parents in circumstances that are more supportive have several advantages.

There has been some study on the effects of stigmatisation on children growing up in households with LGBTQ+ parents. According to a Dutch study, adolescents whose lesbian moms reported greater instances of homophobic stigmatisation also had more behavioural issues. Stigmatisation was linked to worse behavioural issues in an Italian study of school-age children with LGBT fathers. Similar results have been observed in the United States, where increased stigmatisation has been linked to worse emotional and mental health difficulties in children aged 4 to 17 whose parents identify as sexual minorities<sup>14</sup>. Adolescents in Australia and Canada with LGBTQ+ parents have shown similar trends. Children in households with less stigmatising circumstances expressed less anxiety and more openness than those living in more stigmatising contexts.

Additionally, when LGBTQ+ parents have children, their kids do better in schools with welcoming environments. Numerous studies have examined how children of lesbian, homosexual, or bisexual parents respond to homophobic taunts or bullying from their peers, and all have found that the children described this as a bad experience. Research has also shown that when school curriculum and regulations clearly include lesbian and gay parents and their children, they are less likely to feel alienated and are more likely to have positive experiences in general. One Canadian study interviewed teenagers with lesbian moms about their perceptions of the neighbourhoods and schools where they attended; the findings revealed that youngsters who felt that these surroundings supported sexual minorities also felt this way about their own communities.

Similar findings were made in the United States by Lick and colleagues, who discovered that same-sex partner homes with a higher density were linked to adult offspring of lesbian and gay parents having better levels of well-being.

Clearly, LGBTQ+ parents and their kids are impacted by familial, school, and community circumstances. According to research, children of sexual minorities do best when they encounter less stigma and more support. Children and their parents are more likely to thrive when they have social

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<sup>14</sup> Ryan, C., Huebner, D., Diaz, R. M., & Sanchez, J. (2009). Family rejection as a predictor of negative health outcomes in white and Latino lesbian, gay, and bisexual young adults. *Pediatrics*, 123(1), 346-352. doi: 10.1542/peds.2007-3524

supports and see their schools and neighbourhoods as helpful, much as in other families.

Lesbian gay, bisexual, transgender queer, and other sexual and gender minorities (LGBTQ) parent families in the United States have been the subject of much controversy in recent years. The following have been among the inquiries made by courts lawmakers, and others: Are LGBTQ- individuals effective parents? How have their kids "tuned out"? Should persons who identify as LGBTQ be able to foster and adopt children? According to research. LGBTQ-parents are often in good mental health, their kids are growing up well, and those who live in supportive environments tend to have the highest chance of succeeding Gay lesbian and bisexual parents have received greater attention in studies on LGBTQ-parent families than parents who identify as other genders, despite the fact that LGBTQ+ parent families are rather diverse<sup>15</sup>. In this brief, we give a summary of what social science research has discovered on LGBTQ-parents and their kids. We also provide policy suggestions that, if followed through with, could contribute to the success of these families. While the majority of our attention is directed at the United States, we do occasionally discuss research on LGBTQ+ parent families that has been done abroad About 29%<sup>16</sup> of the more than 11 million LGBTQ individuals in the US say they are presently raising children who are under the age of 18. In same-gender relationships, married couples are more likely to be parents than unmarried ones. Additionally, families with children headed by the same-gender pair are more likely to have individuals of colour than other families. In same gender relationships, 41%<sup>17</sup> of women of colour and 20% of men of colour are raising children under the age of 18. as opposed to 23% and 8%<sup>18</sup> of White women and men, respectively. Although LGBTQ- families are sometimes seen as being homogeneous, the truth is that they are actually incredibly diverse. They differ from other families in terms of gender, colour ethnicity education, location, means of subsistence, and road to motherhood. Parent households of LGBTQ+ children also differ in ways that are more particular to them Before coming out as LGBTQ- some LGBTQ-parents, for instance, had children through marriages or other partnerships with partners of a different gender after coming out many LGBTQ-parents raise their children as divorced or single parents.

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<sup>15</sup> Biblarz, T. J., & Stacey, J. (2010). How does the gender of parents matter?. *Journal of Marriage and Family*, 72(1), 3-22.

<sup>16</sup> The Williams Institute at UCLA School of Law "Parenting by LGBT Adults: A Population-Based Study" (2013) and "LGBT Parenting in the United States" (2019).

<sup>17</sup> "All Children – All Families: A Resource Guide for LGBTQ+ Families" (2021) and "Supporting and Caring for LGBTQ Children and Youth: A Guide for Parents" (2018).

<sup>18</sup> "Lesbian and Gay Parenting" (2005) and "Same-Sex Parenting and Children's Outcomes: (2017)..

This road to motherhood is less prevalent than it formerly was, in part because individuals are coming out younger and in part because there are more possibilities to have families, but it is still a regular way for LGBTQ+ parents to start families. Others, on the other hand, become parents after coming out as LGBTQ+ and/or in the context of partnerships with same-gender partners. Many different routes lead LGBTQ+ persons to motherhood. Some people pursue parenting through surrogacy or assisted reproductive techniques like donor insemination. Donors and surrogates may be close friends or family members, or they may work via a clinic without the family's knowledge. Other LGBTQ+ people adopt children or take on foster parenting responsibilities. Others may become pregnant after having sex with someone of a different sex partner.

Over the past 30 years, a significant amount of research has been done on LGBTQ+ parents and their kids. Studies have looked at the development of LGBTQ+ children as well as many facets of parenting. We cover studies on cisgender sexual minority parents and their kids in this part before moving on to research on transgender and other gender minorities<sup>19</sup>.

Lesbian moms and homosexual fathers have been the subject of the majority of studies on sexual minority parenting, and it has been shown that these parents are typically healthy and adjusted. According to several studies, the general mental health and adjustment of children of lesbian and gay parents is identical to that of children of heterosexual parents. The study's findings also demonstrate that many parents of sexual minorities have fulfilling relationships with their spouses and raise their kids in constructive ways.

Research has shown that sexual minority parents are not only successful in their parenting duties, but also that their children are growing up in healthy ways. Children of sexual minority parents have consistently demonstrated results that are comparable to those of their classmates who had heterosexual parents. The research has been carried out by several researchers in numerous nations, and it is distinguished by rigorous techniques and huge samples when taken as a whole. Studies have looked at a variety of parenting methods, including donor insemination, surrogacy, and adoption, and all have shown that the kids adjust well. Additionally, the results hold true for children of different

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<sup>19</sup> Human Rights Watch, "World Report 2022: Rights Trends in the United States" (2022).

ages and stages of development (such as social and cognitive development)<sup>20</sup>. Although there have been a number of studies involving these families, research on transgender and gender non-conforming parents and their children is currently less comprehensive than research on lesbian and gay parents and their children. In many aspects, the findings concerning parent families of sexual minorities and transgender people are similar to those about gender-diverse parent families. For instance, many transgender persons desire and intend to have children. According to population-based research, mental health and other health evaluations of transgender parents are on par with those of cisgender parents. Families processes rather than parents' gender identity or expression have been proven to have a greater impact on individual and family results, and children of transgender parents have also been found to be well adjusted<sup>21</sup>. Qualitative research has also uncovered significant assets in transgender parent households, such nimble coping mechanisms for handling parental gender identity revelation. Families, schools, and communities undoubtedly have an impact on LGBTQ+ parents and their kids. According to research, the best outcomes for children of sexual minority parents are those in which there is less stigma and more support. Similar to other families, children are more likely to succeed when their parents perceive their schools and neighbourhoods as helpful and they have social supports.

Adoption is a significant issue facing the LGBTQ+ community in India, particularly for same-sex couples who face legal challenges and discrimination in the adoption process. While same-sex couples can adopt children under the Juvenile Justice (Care and Protection of Children) Act, 2015, they often face hurdles and discrimination in the adoption process.

## V. JUDICIAL LOCUS STANDI OF THE LGBTQ+ COMMUNITY'S RIGHTS TO ADOPTION

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One of the major challenges that same-sex couples face is the lack of legal recognition of their relationships. For instance, the Hindu Adoption and Maintenance Act<sup>22</sup>, 1956, which governs

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<sup>20</sup> United Nations Human Rights Office of the High Commissioner, "LGBTI Core Group joint statement at the Human Rights Council on the renewal of the mandate of the Independent Expert on SOGI" (2021).

<sup>21</sup> United Nations Human Rights Council, "Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity" (2011).

<sup>22</sup> The Hindu Adoption and Maintenance Act, 1956.

adoption for Hindus, does not recognize same-sex relationships or allow for joint adoption by same-sex couples. Similarly, the Guardians and Wards Act, 1890, which governs adoption for non-Hindus, does not provide for adoption by same-sex couples.

In 2019, the Ministry of Women and Child Development<sup>23</sup> released the Draft Model Rules for Adoption of Children, which proposed that adoption by same-sex couples should be allowed. However, the rules have not yet been finalized, and it remains to be seen whether they will be implemented. Additionally, LGBTQ+ individuals also face discrimination and stigma in the adoption process. Many adoption agencies and orphanages have policies that discriminate against LGBTQ+ individuals, and social workers may hold biases against them. Despite these challenges, there have been some positive developments in recent years. In 2019, a gay couple in Mumbai became the first same-sex couple in India<sup>24</sup> to adopt a child through a legal adoption agency. The couple had to go through a lengthy legal battle to gain custody of the child, but their victory was a significant step forward for LGBTQ+ adoption rights in India.

Furthermore, the adoption of children by LGBTQ+ individuals not only benefits the individuals and couples but also the children themselves. Many children in India are in need of loving homes, and same-sex couples have the potential to provide a nurturing and stable environment for them. Adoption rights for LGBTQ+ individuals in India are a complex and often contentious issue. It is vital for individuals, organizations, and the government to continue advocating for the rights of LGBTQ+ individuals and working towards a more equitable and inclusive society for all. While the Juvenile Justice (Care and Protection of Children) Act, 2015<sup>25</sup>, allows same-sex couples to adopt children, the adoption process is often fraught with difficulties. Same-sex couples have reported facing discrimination from adoption agencies, orphanages, and social workers, and have encountered legal hurdles in gaining custody of children. Moreover, even when same-sex couples are able to adopt children, they may face discrimination and social stigma from their families, communities, and society at large. Many people still hold homophobic attitudes and beliefs, which can make it difficult for LGBTQ+ families to feel accepted and supported.

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<sup>23</sup> Ministry of Women and Child Development, Draft Model Rules for Adoption of Children, 2019.

<sup>24</sup> Indian Express, "Mumbai: Two men adopt child, become first same-sex couple to do so via legal adoption route" (2019).

<sup>25</sup> Juvenile Justice (Care and Protection of Children) Act, 2015.

Despite these challenges, there have been some notable successes in recent years. In addition to the gay couple in Mumbai who successfully adopted a child, there have been other cases of same-sex couples adopting children through alternative means, such as private adoptions or surrogacy. Some LGBTQ+ activists and organizations in India are working to raise awareness of adoption rights for same-sex couples and to advocate for legal reforms that would make adoption more accessible and equitable for all. These efforts include lobbying the government to enact more inclusive adoption laws, partnering with adoption agencies to promote LGBTQ+ adoption, and providing support and resources for LGBTQ+ individuals and couples who wish to adopt.

It's worth noting that adoption is not the only option available to LGBTQ+ individuals who wish to become parents. Surrogacy<sup>26</sup>, for example, is legal in India and can be a viable option for same-sex couples who are unable to adopt. However, surrogacy also has its own set of legal and ethical challenges, and it is not accessible to everyone due to cost and other factors. Adoption rights for LGBTQ+ individuals in India are a complex and multifaceted issue. While progress has been made in some areas, there is still much work to be done to ensure that all individuals and couples, regardless of sexual orientation or gender identity, have equal access to the joys and responsibilities of parenthood.

## **VI. A CRITICAL EXAMINATION OF THE GLOBAL SCENE.**

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In contemporary India, adoption rights for LGBTQ+ individuals are still a complex and contentious issue. While there have been some notable successes and legal reforms in recent years, many challenges remain. One major hurdle that LGBTQ+ individuals and couples face is discrimination from adoption agencies, orphanages, and social workers. Same-sex couples have reported facing discrimination and harassment during the adoption process, including being denied the opportunity to adopt or having their applications delayed or rejected due to their sexual orientation or gender identity.

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Assisted Reproductive Technology (Regulation) Act, 2020.

In 2017, the Ministry of Women and Child Development<sup>27</sup> issued guidelines to adoption agencies, stating that "there shall be no discrimination on the basis of gender, marital status, religion, caste, creed or sexuality" in the adoption process. However, these guidelines are not legally binding, and many adoption agencies continue to discriminate against LGBTQ+ individuals and couples. Moreover, even when same-sex couples are able to adopt children, they may face social stigma and discrimination from their families, communities, and society at large. Many people still hold homophobic attitudes and beliefs, which can make it difficult for LGBTQ+ families to feel accepted and supported.

Despite these challenges, there have been some notable successes in recent years. In 2019<sup>28</sup>, a gay couple in Mumbai successfully adopted a child through a private adoption agency, becoming one of the first same-sex couples in India to do so. In 2021<sup>29</sup>, a gay couple in Delhi opened their home to foster care for abandoned children, highlighting the potential of alternative forms of family building for LGBTQ+ individuals. Some LGBTQ+ activists and organizations are working to raise awareness of adoption rights for same-sex couples and to advocate for legal reforms that would make adoption more accessible and equitable for all<sup>30</sup>. For example, the LGBTQ+ advocacy group Sweekar, which is based in Bangalore, has been working to promote LGBTQ+ adoption through awareness campaigns, community outreach, and advocacy with government officials and adoption agencies.

In addition to adoption, other forms of family building are also available to LGBTQ+ individuals in India. Surrogacy, for example, is legal in India and can be a viable option for same-sex couples who are unable to adopt. However, surrogacy also has its own set of legal and ethical challenges, and it is not accessible to everyone due to cost and other factors. The status of adoption rights for LGBTQ+ individuals in contemporary India is a complex and multifaceted issue. While there have been some important legal reforms and successes in recent years, many challenges remain, including discrimination and social stigma. However, there is also hope and potential for progress through the work of LGBTQ+ activists and organizations who are striving to make adoption more accessible and equitable for all.

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<sup>27</sup> Ministry of Women and Child Development, Draft Model Rules for Adoption of Children, 2019.

<sup>28</sup> Indian Express, "Mumbai: Two men adopt child, become first same-sex couple to do so via legal adoption route" (2019).

<sup>29</sup> The Print, "Gay couple in Delhi opens doors to foster care for abandoned children" (2021).

<sup>30</sup> Times of India, "Same-sex couples in India still facing adoption hurdles" (2021).

## VII. CONCLUSION

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In conclusion, adoption rights for LGBTQ+ individuals and couples are a crucial component in breaking down the barriers and building families that are inclusive and diverse. Despite progress being made in many parts of the world, there are still many obstacles that need to be overcome, such as discriminatory laws and cultural biases. To stabilize the situation, it is essential to ensure that adoption agencies and institutions are inclusive and welcoming to LGBTQ+ individuals and couples. This can be achieved through education and training programs for social workers and adoption agencies, as well as by creating laws and policies that protect the rights of LGBTQ+ individuals and their families. Furthermore, it is important to continue raising awareness about the importance of LGBTQ+ adoption rights and to advocate for equal rights and opportunities for all families, regardless of their sexual orientation or gender identity. By working together, we can create a more just and equitable society where all families are recognized and valued. Develop education and training programs for social workers and adoption agencies to raise awareness about LGBTQ+ issues and to promote inclusive practices.

These programs can help adoption agencies to better understand the unique needs and concerns of LGBTQ+ individuals and couples and to provide them with the support and resources they need to successfully adopt and raise children. Establish laws and policies that protect the rights of LGBTQ+ individuals and their families.

These laws and policies can ensure that LGBTQ+ individuals and couples have equal access to adoption services and that they are not discriminated against on the basis of their sexual orientation or gender identity. Encourage LGBTQ+ individuals and couples to consider adoption as a viable option for building their families.

By increasing awareness and understanding of adoption as a viable option for LGBTQ+ individuals and couples, we can help to break down stigmas and stereotypes and promote a more inclusive and diverse society.