
THE LEGAL BATTEL OVER LGBTQ+ ADOPTION RIGHTS: CHALLENGING DISCRIMINATION, RE-IMAGINING FAMILY, AND ENSURING EVERY CHILD A LOVING HOME

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ABSTRACT

The legal struggle for LGBTQ+ adoption rights evidences an important intersection of constitutional equality, human rights, and child welfare policy. While international discourse increasingly acknowledges a variety of family structures, many legal systems insist on limiting adoption to heterosexual married couples through statutory language and policy interpretation. This exclusion perpetuates discrimination on the basis of sexual orientation and gender identity; it denies LGBTQ+ individuals the opportunity to create families while making children worse off by not providing them with a potential stable home. In India, despite landmark judgments like *Navtej Singh Johar v. Union of India*, 2018, decriminalising same-sex relationships, and *NALSA v. Union of India*, 2014, laying down the law on the rights to gender identity, adoption laws, including the *Juvenile Justice Act*, 2015, and *HAMA*, 1956, do not recognize adoption by same-sex or transgender couples explicitly. The 2023 Supreme Court judgment in *Supriyo v. Union of India* refused to grant queer couples joint adoption rights, stating that any reform will be legislative and not judicial. Civil society critics argue that such restrictions are warranted on grounds of social readiness and child welfare concerns. International research, however, consistently establishes that the capacity to parent rather than the gender or sexuality of the parents determines child development outcomes. Lack of legal clarity, social stigma, and administrative biases persist in occluding LGBTQ+ access to adoption. The struggle then is not just a struggle for parental rights but for children's right to a family, dignity, and security. Meaningful reform pertains to statutory amendments, non-discrimination guidelines for adoption agencies, awareness-building, and comparative engagement with international best practice. The movement for LGBTQ+ adoption rights finally represents a deeper commitment to equality, inclusivity, and the remaking of family within the ethical frame of the modern constitutional democracies.

Introduction

The legal struggle for LGBTQ+ adoption rights represents a defining frontier in advancing constitutional equality and human dignity in contemporary democracies. Adoption law is not merely a question of parental eligibility but fundamentally a matter of a child's right to family, security, and emotional well-being. Yet, many legal systems continue to privilege heteronormative family structures by restricting adoption to heterosexual married couples, thereby marginalising LGBTQ+ individuals and couples. Such exclusion constitutes discrimination on the basis of sexual orientation and gender identity—contrary to evolving global human rights norms that emphasise equality and the best interests of the child¹. Empirical research has consistently demonstrated that children raised by same-sex or transgender parents show developmental outcomes comparable to those raised by heterosexual parents, indicating that parenting capacity—rather than parental gender—should guide adoption evaluation frameworks.²

In the Indian context, significant judicial advances have occurred through landmark judgments such as *Navtej Singh Johar v. Union of India* (2018)³, which decriminalised consensual same-sex relationships and affirmed constitutional values of dignity and equality, and *NALSA v. Union of India* (2014)⁴, which recognised the rights of transgender persons to self-identified gender. However, adoption laws such as the Juvenile Justice Act, 2015 and HAMA, 1956 do not explicitly recognise joint adoption rights for LGBTQ+ parents. Most recently, the Supreme Court in *Supriyo v. Union of India* (2023) declined to grant adoption rights to queer couples, stating that legislative intervention—not judicial extension—must determine policy reform. Consequently, social stigma, administrative discretion, and statutory silence continue to impede equal access to adoption.⁵

Therefore, the struggle for LGBTQ+ adoption rights reflects a deeper societal and constitutional effort to redefine family beyond biological or heteronormative boundaries. Meaningful reform requires legislative amendment, non-discrimination guidelines for adoption

¹ United nation human rights council (2019).discrimination and violence based on sexual orientation and gender identity

² Farr,R.H.,& Patterson, C.J.(2013). APPLIED DEVELOPMENT SCIENCE , 17(3),153-165.

³ Navtej Singh Johar v. Union of India (2018).

⁴ *NALSA v. Union of India* ,Supreme court of india(2014).

⁵ *Supriyo v. Union of India* ,Supreme court of india (2023).

agencies, and alignment with international best practices to protect both parental and child welfare rights.

LITERATURE REVIEW

1. Legal and Policy Frameworks

The literature highlights that statutory and policy frameworks in many jurisdictions continue to privilege heterosexual, married couples in adoption law, thereby excluding LGBTQ+ individuals and couples from adoption eligibility. For example, a study of India notes that despite progressive judicial pronouncements, adoption statutes such as the Hindu Adoption and Maintenance Act, 1956 (HAMA) and the Juvenile Justice (Care and Protection of Children) Act, 2015 do not explicitly recognise adoption by same-sex or transgender couples, creating legal ambiguity and exclusion.⁶ Incidents of discrimination in adoption placement processes further reflect policy-implementation gaps.⁷ Such frameworks are often analysed through the lens of constitutional equality and human rights. Scholars argue that the denial of adoption rights to LGBTQ+ individuals/prospective couples constitutes indirect discrimination on the basis of sexual orientation or gender identity and violates principles of dignified family life.⁸

2. Social Barriers and Institutional Discrimination

The literature consistently documents social stigma, agency bias, and judicial discretion as significant barriers to adoption by LGBTQ+ persons. A qualitative study found for example that LGBTQ+ individuals faced delays, negative assessments from adoption agencies, and non-transparent criteria, all owing to heteronormative norms about family structure. Another international scoping review reports pervasive bias in adoption systems globally, which undermines placement stability and access. These structural and societal barriers are not merely incidental: they reflect normative assumptions about what family “should” look like, which in turn reinforce exclusion of non-traditional family forms.⁹

⁶ Saxena, R., & Verma, A. (2024) *An analytical study of adoption rights for same-sex couples in India: legal challenges, societal impacts, and future prospects*. Afr. J. Biomed. Res., 27(4s), 10887-10895

⁷ Goldberg, A. E. (2019). LGBTQ individuals' experiences with delays and denial in adoption. *Children & Youth Services Review*, 100, 47-52

⁸ “Adoption by same-sex couples (bibliometric analysis)”. (2021). *Library Philosophy and Practice*.

⁹ “Adoption by same-sex couples: still a taboo?” (2024). *IJNRD*

3. Child Welfare and Outcomes in LGBTQ+ Parent Families

Perhaps the most substantial body of empirical literature examines child outcomes in families headed by LGBTQ+ parents. Meta-analyses and longitudinal studies in Western contexts find **no consistent disadvantage** for children raised by same-sex parents compared to different-sex parents. A recent study in the Netherlands found that children of same-sex parents perform equivalently on behavioural and emotional outcomes when matched with children of different-sex parents. In India and other jurisdictions where data remains limited, scholars emphasise the need to dismantle “mythic” assumptions—that only heterosexual couples can provide optimal developmental environments for children—and instead focus on parental capacity, quality of caregiving, and socio-economic supports.¹⁰

4. Comparative Context and Reform Trajectories

Comparative studies show a spectrum of legal approaches: some countries explicitly permit joint adoption by same-sex couples, others allow only single LGBTQ+ individuals to adopt, while still others prohibit any LGBTQ+ adoption.¹⁰ The literature advocates reform via statutory amendments, guidelines to eliminate discrimination in adoption agencies, and recognition of diverse family structures aligned with international best-practices.¹¹ In the Indian context, recent scholarship argues for alignment with constitutional equality values and global norms.¹²

5. Gaps and Future Directions

Despite progress, significant gaps remain. There is limited longitudinal data on children adopted by LGBTQ+ parents in non-Western contexts. Also, research on transgender and non-binary prospective parents remains scarce. The literature urges inclusion of intersectional perspectives (e.g., caste, class, religion) and more robust data from jurisdictions (like India) where the legal regime remains ambiguous.

¹⁰ “Adoption by same-sex couples in India: addressing myths, prejudices and realities.” (2025). *Research & Public Health*.

¹¹ Saxena, R., & Shukla, S. (2025). *Parenthood with Pride: A legal analysis of India’s LGBTQ+ adoption rights*. Technix International Journal for Engineering Research.

¹² “Analytical study of adoption rights for same-sex couples in India”. (2024). *Afr. J. Biomed. Res.*, 27(4s).

METHODOLOGY

This research applies a qualitative doctrinal methodology supplemented by comparative legal analysis and a secondary empirical review to discern the legal status and socio-legal implications of LGBTQ+ adoption rights. The doctrinal aspect involves analyzing statutory provisions, judicial precedents, constitutional principles, and policy frameworks governing adoption in India. Primary legal sources examined include the Juvenile Justice (Care and Protection of Children) Act, 2015, the Hindu Adoptions and Maintenance Act, 1956, and relevant Supreme Court decisions such as *Navtej Singh Johar v. Union of India* (2018) and *Supriyo v. Union of India* (2023).

A comparative legal methodology is used to examine how different international jurisdictions—such as the United States, Canada, South Africa, and the United Kingdom—interpret LGBTQ+ adoption rights with regard to the standards of child welfare. This allows the identification of global trends and possible models for reform. The study also draws from a critical review of interdisciplinary scholarly literature including journals in family law, human rights, and psychology, in order to assess the empirical evidence on child development outcomes in same-sex families.¹³

The approach also involves reviewing policy reports, UN documents, national child welfare guidelines, and position papers issued by organizations that focus on LGBTQ+ rights in order to comprehend practical challenges and systemic barriers faced during the course of adoption procedures. Data are synthesized using thematic analysis, which then enables categorization into key themes: discrimination, child welfare, legislative gaps, and judicial limitations.

No primary field interviews or surveys have been conducted, but the secondary data from existing academic studies and government records provide a reliable base for evidence-based conclusions. The methodological approach therefore supports a holistic understanding of constitutional, legal, social, and comparative dimensions of the issue.

RESEARCH OBJECTIVES

The primary objective of this research is to critically examine the legal, social, and

¹³ Research review includes studies published in the *American Psychological Association (APA)*, *Journal of Family Psychology*, and UNICEF policy reports on child welfare.

constitutional dimensions surrounding LGBTQ+ adoption rights in India. The study seeks to analyse the existing statutory framework, particularly the Juvenile Justice (Care and Protection of Children) Act, 2015 and the Hindu Adoptions and Maintenance Act, 1956, which do not explicitly provide adoption rights to same-sex or transgender couples, thereby creating legal ambiguity and exclusionary outcomes for sexual minorities.¹⁴ Another key aim is to evaluate the judicial interpretation of constitutional guarantees under Articles 14, 15, and 21 in landmark judgments such as *Navtej Singh Johar v. Union of India* (2018), which decriminalised same-sex relationships,¹⁵ and *Supriyo v. Union of India* (2023), where the Supreme Court declined to extend joint adoption rights to queer couples, placing reform within the legislative domain.¹⁶ The research further seeks to investigate the socio-legal challenges faced by LGBTQ+ individuals, including stigma, administrative bias, and cultural resistance, and to assess welfare-based objections often raised against queer parenting. International empirical studies demonstrate that child development outcomes in same-sex parent households are comparable to those in heterosexual families, thus challenging assumptions used to justify exclusion¹⁷. The research additionally aims to conduct a comparative analysis of jurisdictions where LGBTQ+ adoption is legally recognised, identifying best practices relevant for Indian reform. Ultimately, the study intends to propose a policy framework grounded in constitutional morality and child welfare principles, advocating a rights-based approach that prioritises children's right to a family and equal citizenship for LGBTQ+ communities.¹⁸

LEGAL FRAMEWORK

The Indian legal framework for adoption is shaped by multiple statutes and regulations, which reflect both personal-law traditions and a more universal, welfare-oriented regime. First, under Hindu law, there is the Hindu Adoptions and Maintenance Act, 1956 ("HAMA"), which applies to Hindus, Buddhists, Jains, and Sikhs.¹⁹ HAMA was enacted to codify and amend traditional adoption and maintenance laws among Hindus, and prescribes the eligibility of adoptive parents and children, conditions for valid adoption, and the consequences of adoption.²⁰ For example, Section 11 of HAMA sets out multiple conditions: the adoptive parents must not

¹⁴ Juvenile Justice Act, 2015; Hindu Adoptions and Maintenance Act, 1956.

¹⁵ *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1.

¹⁶ *Supriyo v. Union of India*, 2023 SCC OnLine SC 1481.

¹⁷ American psychological association report on lesbian & gay parenting (2020)

¹⁸ United Nations Convention on the rights of the child (UNCRC), 1989

¹⁹ See HAMA, 1–2; applicability to Hindus

²⁰ HAMA, Act No. 78 of 1956

already have a son (in the case of adoption of a son), certain age-differences must be maintained (e.g., adoptive father must be at least 21 years older than the adopted child in certain cases), and the child must be formally transferred into the adoptive family.²¹ HAMA is thus quite formal and traditional in its approach: it limits adoption to Hindus, imposes restrictions on who can adopt and who can be adopted, and focuses largely on inheritance and succession consequences rather than a broad child-welfare orientation.²²

There exists a more secular and welfare-oriented statute in the form of the Juvenile Justice (Care and Protection of Children) Act, 2015 (“JJ Act 2015”), which came into force in 2016 and is the principal legislation governing children in need of care and protection, including adoption of orphaned, abandoned and surrendered children.²³ Under Section 56 of the JJ Act, adoption is one of the means to provide for the care and protection of such children.²⁴ Importantly, the Act is not restricted by religion: Section 58(1) allows a couple or a single person of any religion to adopt, provided they satisfy the eligibility criteria.²⁵ The JJ Act also governs inter-country adoption and places children free for adoption through the statutory body Central Adoption Resource Authority (CARA).²⁶

The procedural rules under the JJ Act (including the Adoption Regulations, 2017) emphasise the best interests of the child, home study, agency monitoring, legal finalisation by court or district magistrate and follow-up of adoptive placements.²⁷

Additionally, other statutes play a limited role; for example, the Guardians and Wards Act, 1890, applies to religious minorities (Muslims, Christians, Parsis, Jews). However, in practice, adoption under this regime only creates guardianship rather than a full parent-child legal status comparable to that under HAMA or the JJ Act.²⁸

Despite this multi-layered legal regime, significant gaps and ambiguities remain—especially with respect to inclusive eligibility (for example, LGBTQ+ persons), as well as uniformity of rights across religious communities. The HAMA remains restricted to Hindus, and its eligibility

²¹ Section 11, HAMA: Conditions for valid adoption.

²² On the limitations of HAMA in terms of welfare focus.

²³ Juvenile Justice (Care and Protection of Children) Act, 2015, Act No. 2 of 2016.

²⁴ Section 56, JJ Act: Adoption provisions

²⁵ Section 58(1), JJ Act: Eligibility of adoptive parents.

²⁶ Role of CARA in inter-country adoption under JJ Act.

²⁷ Adoption Regulations, 2017; procedure, home study, monitoring.

²⁸ On Guardians and Wards Act and its limitations vis-a-vis full adoption.

rules (e.g., age differences, existing children) remain rigid.²⁹ The JJ Act's inclusive language has not always translated into inclusive practice or policy guidelines for non-traditional parents. Additionally, adoption laws in India do not explicitly recognise same-sex couples, and there is little jurisprudence on adoption by transgender or non-binary persons.³⁰ Thus, the legal framework, though broadening through the JJ Act, still reflects a hybrid of personal-law and welfare norms, requiring reform to fully align with constitutional equality, human rights and modern family structure realities.

BROAD COMPARISON AND CONTEMPORARY IMPORTANCE

The trajectory of LGBTQ+ adoption rights in India must be seen through the lens of landmark jurisprudence that shapes the constitutional understanding of equality, dignity, autonomy and family life. In *Navtej Singh Johar v. Union of India* (2018), the Supreme Court of India held that “the choice of whom to partner, the ability to find fulfilment in sexual intimacies and the right not to be subjected to discriminatory behaviour are intrinsic to the constitutional protection of sexual orientation.”³¹ At paragraph 253(xvi) the Court notes that consensual private intimate conduct of adults does not harm public morality and that criminalisation of homosexuality therefore “amounts to manifest arbitrariness”.³² The Court further emphasised that “constitutional morality” must prevail over majoritarian notions of social morality.³³

In contrast, the 2023 judgment in *Supriyo v. Union of India*-- while recognising that the right to intimate relationships flows from Article 21--held that “the right to marry” and “the right to found a family” under current law are **not** unqualified fundamental rights for same-sex couples: “until Parliament enacts legislation, the judiciary will not itself extend the institution of marriage or adoption to queer couples.” The bench at paragraph 290 clarified that enabling same-sex adoption or joint recognition is “a matter of legislative policy and not judicial legislation”.³⁴

When compared globally, jurisdictions like the Netherlands, Canada and Spain have enacted laws permitting joint adoption by same-sex couples, treating family formation as a right tied to

²⁹ On rigidity of personal law frameworks in adoption under Hindu law.

³⁰ On gaps regarding LGBTQ+ adoption rights under Indian law. (See discussions in adaptation of statutory regimes and case law commentary.)

³¹ *Navtej Singh Johar v. Union of India* (2018) 10 SCC 1, para 224.

³² *Navtej Singh Johar*, para 253(xvi).

³³ *Navtej Singh Johar*, para 156.

³⁴ *Supriyo v. Union of India* (2023) SCC OnLine 1481, para 290

equality rather than deference to social norms. The Indian jurisprudential framework, thus, remains in a “waiting mode” where constitutional rights to dignity and equality are acknowledged (as in *Johar*) but not yet translated into statutory recognition of adoption for LGBTQ+ couples (as in *Supriyo*).

This gap assumes contemporary importance because India faces significant numbers of children in institutional care where family placement is a welfare imperative. Preventing or slowing access to adoption on the basis of sexual orientation or relationship status thereby reduces potential homes and conflicts with the child-centred ideal embedded in the Central Adoption Resource Authority policy framework³⁵. At the same time, the Constitution of India under Articles 14, 15 and 21 demands that laws evolve to reflect the equality and dignity of all citizens.³⁶ The jurisprudence signals a two-step landscape: first recognise autonomy and non-discrimination in intimate life (*Johar*) and second extend that recognition into institutional domains of marriage and parenthood (pending legislative reform as per *Supriyo*).

Thus, the current legal framework stands at a crossroads: one path leads towards inclusive family recognition aligning with international human rights norms³⁷; the other continues with statutory inertia, leaving an inconsistency between constitutional promise and legal practice.

DISCUSSION

This research adopts a **qualitative doctrinal methodology** and uses **socio-legal analysis** to examine the constitutional and legal position of LGBTQ+ adoption rights in India. Primary sources include statutory provisions under the **Juvenile Justice (Care and Protection of Children) Act, 2015**. This Act regulates adoption and outlines the best interest principle as a guiding norm for child welfare³⁸. The **Hindu Adoption and Maintenance Act, 1956 (HAMA)**, is also analyzed to show how religion-based personal laws restrict adoption rights and exclude non-heteronormative relationships³⁹. Beyond these statutes, the study critically evaluates judicial reasoning in landmark cases. In *Navtej Singh Johar v. Union of India (2018)*, the Supreme Court emphasized dignity, autonomy, and equality as constitutional

³⁵ Hindu Adoptions and Maintenance Act, 1956; Guardians and Wards Act, 1890.

³⁶ Constitution of India, Articles 14, 15 & 21.

³⁷ United Nations Human Rights Council Resolution on LGBTQ+ Rights, 2016.

³⁸ Juvenile Justice (Care and Protection of Children) Act, 2015, 2(9), & 56.

³⁹ Hindu Adoption and Maintenance Act, 1956, 7–12.

guarantees⁴⁰. In *Supriyo v. Union of India (2023)*, the Court declined joint adoption rights and deferred reform responsibility to the legislature⁴¹.

Secondary materials include scholarly publications, child welfare research, United Nations Convention on the Rights of the Child (UNCRC) guidelines, and comparative international studies showing no adverse developmental outcomes among children raised by same-sex parents⁴². The analysis uses **thematic coding** across categories such as *constitutional equality*, *child welfare outcomes*, *judicial interpretation*, and *international best practice*.

Furthermore, a **comparative legal method** is used to study jurisdictions like Canada, the United States, and South Africa, where LGBTQ+ adoption is legally recognized and empirically validated⁴³.

Through triangulation of doctrinal analysis, child welfare evidence, and comparative jurisprudence, the study identifies significant legal and social gaps and evaluates potential pathways to reform in alignment with constitutional morality and human rights principles.

LANDMARK JUDGEMENT EXPLAINING ADOPTION RIGHTS OF LGBTQ+

1. Navtej Singh Johar v. Union of India (2018):

The Supreme Court decriminalised consensual same-sex relations between adults and held that sexual orientation is an intrinsic part of identity, deserving equality protection. para 224 (criminalisation of consensual same-sex adult sex violates Articles 14, 15, 21), para 253(xvi) (right to choose partner and privacy & dignity).⁴⁴ “224. *Explanation 2 to section 375 IPC gives the definition of “consent” for the purpose of section 375 to the effect that consent means an unequivocal voluntary agreement by the woman through words ,gesture or any form of verbal or non-verbal communication whereby she communicates her willingness to participate in any of the sexual acts described in the former part of the section 375 IPC*”⁴⁵ “ In **para 253(xvi)** of the judgment, Justice Chandrachud explicitly recognizes dignity, autonomy, and privacy in the context of

⁴⁰ *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1, para 224.

⁴¹ *Supriyo v. Union of India*, 2023 SCC OnLine SC 1481, para 290.

⁴² American Psychological Association, “Research Summary on Lesbian and Gay Parenting,” 2020.

⁴³ Adoption and Children Act 2002 (UK); Civil Marriage Act 2005 (Canada); *Minister of Home Affairs v. Fourie* (2005) (South Africa).

⁴⁴ *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1.

⁴⁵ *Navtej Singh Johar*, para 224

*personal and family choices: “The right to form intimate associations, including the choice of a partner, lies at the core of individual autonomy protected by the Constitution. Such choices are an essential attribute of dignity.”*⁴⁶

2. NALSA v. Union of India (2014):

The Court held that transgender persons have fundamental rights under Articles 14, 15 and 21, including the right to self-identify their gender. This judgment lays groundwork for addressing gender identity issues in adoption rights.⁴⁷ *“PARA 20-Each person’s self-defined sexual orientation and gender identity is integral to their personality and is one of the most basic aspects of self-determination, dignity and freedom...”*⁴⁸ This paragraph establishes the foundational principle that gender identity and orientation are core to personal autonomy—supporting arguments that discrimination in adoption on the basis of gender identity violates dignity under Article 21.

3. Supriyo v. Union of India (2023):

The judgment reaffirmed rights of LGBTQ+ persons to dignity and equality but **declined** to recognise a right to same-sex marriage or joint adoption under existing law, thereby maintaining status quo and signalling need for legislative reform.⁴⁹ It recognized the fundamental rights of LGBTQ+ persons to dignity, equality, and non-discrimination, affirming that queer relationships deserve constitutional protection. However, the Court **declined to legalise same-sex marriage**, ruling that marriage is a legislative domain and cannot be judicially mandated. The bench also **refused joint adoption rights** for same-sex couples, noting that policy changes must come from the executive. While rejecting marriage relief, the judgment urged governments to create legal frameworks for queer partnerships.⁵⁰

4. Deepika Singh v. Central Administrative Tribunal (2022):

In para 38, the Court stated that: **“The notion that a family is limited to a married**

⁴⁶ *Navtej Singh Johar*, para 253(xvi).

⁴⁷ *National Legal Services Authority (NALSA) v. Union of India*, (2014) 5 SCC 438.

⁴⁸ *National Legal Services Authority v. Union of India*, (2014), para 20.

⁴⁹ *Supriyo v. Union of India*, 2023 SCC OnLine SC 1481, para XX (recognising dignity and equality of LGBTQ+ persons).

⁵⁰ *Supriyo v. Union of India*, para 290 (joint adoption rights for same-sex couples not granted).

husband and wife and their biological children is outdated and inadequate. Family relationships may take the form of domestic, unmarried partnerships or queer relationships.”⁵¹ This decision marks a significant shift in judicial thinking by acknowledging **pluralistic family structures**. Though not directly addressing LGBTQ+ adoption, it strengthens the legal foundation supporting recognition of queer families and provides jurisprudential support for future claims regarding **adoption rights, child custody, and inheritance**.⁵²

“Constitutional and Judicial Foundations Shaping LGBTQ+ Adoption Rights in India”

The constitutional provisions and landmark judgments cited throughout this research play a crucial role in understanding the evolving legal position on LGBTQ+ adoption rights in India. **Article 14**, guaranteeing equality before law, is central to questioning discriminatory adoption restrictions that differentiate between heterosexual and LGBTQ+ couples without reasonable justification.⁵³ **Article 15(1)** prohibits discrimination on the basis of sex, which has been judicially expanded to include sexual orientation, making denial of adoption rights unconstitutional.⁵⁴ Similarly, **Article 21**, ensuring life and personal liberty, has been interpreted to include dignity, privacy, and autonomy in family-making decisions.⁵⁵

The judgment in *NALSA v. Union of India (2014)* affirmed gender identity as a protected constitutional right and directed the State to safeguard transgender persons’ access to family and social rights, which implicitly includes adoption and parenting.⁵⁶ This was followed by *Navtej Singh Johar v. Union of India (2018)*, where the Supreme Court decriminalised homosexuality and recognized sexual orientation as an essential attribute of identity.⁵⁷ In the same case, Justice Chandrachud emphasized eliminating state-imposed barriers restricting LGBTQ+ family life.⁵⁸

More recently, in *Supriyo v. Union of India (2023)*, the Supreme Court acknowledged the dignity of queer relationships but declined to extend marriage or adoption rights, referring the

⁵¹ *Deepika Singh v. Central Administrative Tribunal*, (2022) 8 SCC 529, para 38.

⁵² Supreme Court of India. (2022). *Deepika Singh v. Central Administrative Tribunal*, SCC.

⁵³ Constitution of India, Article 14.

⁵⁴ Constitution of India, Article 15(1)

⁵⁵ Constitution of India, Article 21.

⁵⁶ *NALSA v. Union of India*, (2014) 5 SCC 438, paras 59–62.

⁵⁷ *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1, para 156

⁵⁸ *Navtej Singh Johar*, para 253(xvi)

matter to the legislature.⁵⁹ Although restrictive, the judgment underscores the urgency for comprehensive family-rights reforms for queer individuals. Finally, *Deepika Singh v. CAT (2022)* broadened the legal understanding of “family” beyond traditional forms, strengthening the argument that diverse family structures are constitutionally legitimate.⁶⁰

CRITICAL ANALYSIS

The ongoing debate over LGBTQ+ adoption rights shows a strong conflict between constitutional equality and current social and legal views. While Indian constitutional law has increasingly recognized the dignity and independence of queer individuals, laws and policies still exclude them. In *Navtej Singh Johar v. Union of India (2018)*, the Supreme Court stated that sexual orientation is a key part of identity. It ensured equal citizenship and pushed back against majority moral views. Despite this progress, laws like the Juvenile Justice Act, 2015 and HAMA, 1956 still assume a heterosexual, cisgender norm for families.⁶¹ This effectively stops same-sex couples from adopting children together.

The Court in *Supriyo v. Union of India (2023)* recognized the discrimination queer couples face but denied them joint adoption rights. It explained that these decisions belong to the legislature. This cautious approach, while constitutionally sound, leaves LGBTQ+ families without real protection. It also goes against global evidence showing that parenting ability does not depend on gender identity or sexual orientation.⁶² The argument that society is “not ready” only reinforces stigma and ignores what is best for the child, which is the primary aim of adoption law. Excluding qualified LGBTQ+ parents limits the number of loving homes available and undermines children's rights to family and growth. Therefore, ethical and constitutional consistency calls for changes to the law and proactive policy measures.

CONCLUSION

The fight for LGBTQ+ adoption rights marks an important moment in the development of democracy, human rights law, and family law in India. Key rulings like *NALSA v. Union of India (2014)* and *Navtej Singh Johar v. Union of India (2018)* confirmed the dignity, equality, and autonomy of queer individuals. However, the lack of recognition for these principles in

⁵⁹ *Supriyo v. Union of India*, 2023 SCC OnLine SC 1481, para 290.

⁶⁰ *Deepika Singh v. CAT*, (2022) SCC OnLine SC 1088.

⁶¹ Juvenile Justice (Care and Protection of Children) Act, 2015; Hindu Adoption and Maintenance Act, 1956.

⁶² American Psychological Association, *Research on Same-Sex Parenting*, 2019.

adoption policy shows a gap between what the law says and how it is applied. The 2023 ruling in *Supriyo v. Union of India*, which rejected joint adoption by same-sex couples, highlights the conflict between progressive constitutional values and judicial respect for legislative power. The Court recognized discrimination but did not provide relief, leaving queer families legally unseen and reinforcing social bias.

Adoption law in India is still based on traditional views, favoring married heterosexual couples and ignoring what is best for the child, which should be the main focus of any adoption system. Research worldwide shows that parenting success depends on emotional stability, care, and supportive home environments, not on sexual orientation or gender identity. Denying adoption rights to LGBTQ+ individuals violates principles of equality and non-discrimination and also denies thousands of children the chance for permanent families and stable upbringings.

Real change must go beyond court opinions to include new laws, guidelines for adoption workers, training for those in the system, and awareness programs for the public. Examples from other countries reveal that inclusive adoption policies strengthen families, reduce reliance on institutional care, and build social unity. Ultimately, the issue is not just about parental rights but also about upholding moral values in the constitution. Every child deserves love, security, and dignity, no matter who their parents are. Advancing LGBTQ+ adoption rights shows India's dedication to justice, inclusivity, and a truly equal society.

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