

SAME RIGHTS: ON GOVERNMENT'S RESPONSE TO APPEALS TO ALLOW SAME-SEX MARRIAGE

Relevant for: Indian Polity | Topic: Judiciary in India: its Structure, Organization & Functioning, Judges of SC & High Courts, Judgments and related Issues

To enjoy additional benefits

CONNECT WITH US

Qatar World Cup 2022Brazil 1-0 Switzerland, FIFA World Cup 2022: Casemiro sends Brazil to last 16

November 29, 2022 12:20 am | Updated 12:20 am IST

COMMENTS

SHARE

READ LATER

The Supreme Court has sought the Government's response to appeals to allow same-sex marriage under a special law, in another bid to provide legal sanction to widening social customs. A Bench of CJI D.Y. Chandrachud and Justice Hima Kohli agreed to hear two partners who said the non-recognition of same-sex marriage amounted to discrimination that struck at the rights of LGBTQIA+ couples. The petitioners cited the Special Marriage Act, 1954, which provides a civil marriage for couples who cannot marry under their personal law. Listing the case for hearing, the Court also transferred cases pending before several High Courts to itself. It is a first step towards same-sex marriage, which has been legalised in 30-odd countries, including the U.S. where this July the House of Representatives approved legislation to protect such marriages. This legislative action came amidst concern that an aggressive Supreme Court could revisit settled laws after it overturned *Roe vs Wade* on abortion rights. After the K.S.

Puttaswamy verdict (2017) which upheld the right to privacy and *Navtej Singh Johar* (2018) that decriminalised homosexuality, there was hope that same-sex marriages would follow, but that has not been the case. At depositions in courts and outside, the Centre has opposed same-sex marriage, and said judicial interference will cause "complete havoc with the delicate balance of personal laws".

This is perhaps one of the reasons why the Supreme Court may consider allowing same-sex marriage under the Special Marriage Act, and not several other personal laws such as the Hindu Marriage Act. Over the past few years, it has passed a series of judgments that challenged conservative society and brought hope and expanded the scope for people who do not conform to age-old social norms. Eventually though, even if the Court rules in its favour, the march towards equality for the LGBTQIA+ community will be long and arduous. Enforcing something like same-sex marriage in a diverse country with varying customs and traditions will not be easy. Social mindsets are conservative and so well-entrenched that anyone who feels differently is stigmatised, humiliated and ostracised. Together with the Court, more needs to be done at the societal level to chip away at conservative views on sex, gender, women and the LGBTQIA+ community. Alongside the call for legalising same-sex marriage, activists have been seeking the extension of the benefits of a traditional marriage to same-sex couples, including the right to adopt children. As people's relationships change, and society undergoes transformation,

constitutional rights on freedoms and liberties must extend to every sphere, including a same-sex couple's life.

COMMENTS

SHARE

[marriage](#) / [LGBT](#) / [judiciary \(system of justice\)](#) / [laws](#) / [adoption](#) / [family](#)

BACK TO TOP

Comments have to be in English, and in full sentences. They cannot be abusive or personal. Please abide by our [community guidelines](#) for posting your comments.

We have migrated to a new commenting platform. If you are already a registered user of The Hindu and logged in, you may continue to engage with our articles. If you do not have an account please register and login to post comments. Users can access their older comments by logging into their accounts on Vuukle.

END

Downloaded from [crackIAS.com](#)

© Zuccess App by crackIAS.com

crackIAS