



Centre Opposes Same-Sex Marriage

For Prelims: Navtej Singh Johar Case, Fundamental Right, Personal Laws, LBTQIA+ Rights.

For Mains: Arugments in Favour of Same Sex Marriage, Arugments Against Same Sex Marriage.

Why in News?

The Centre has opposed [same-sex marriage in the Supreme Court](#), stating that **marriage between a biological man and woman is a holy union**, a sacrament, and a sanskar in India.

- A Bench led by [Chief Justice of India](#) refers petitions to legally recognise same-sex marriages to a [Constitution Bench](#) of **five judges of the Supreme Court**

What is the Stand of Government Regarding Same Sex Marriage?

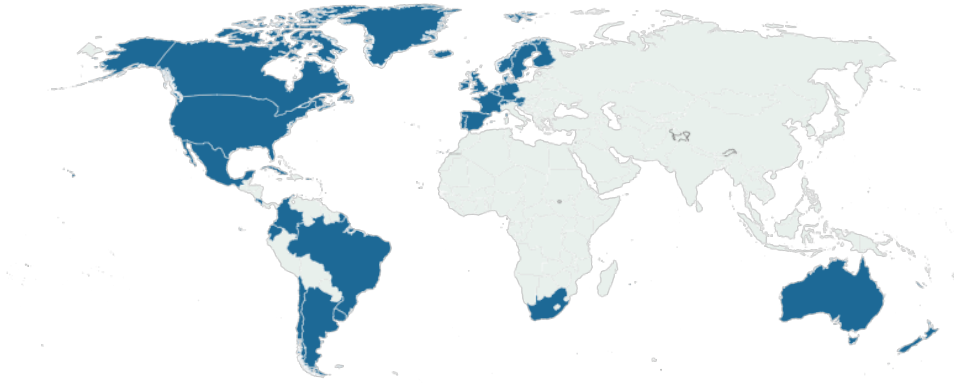
- The government argued that the Court had **only decriminalised sexual intercourse between same-sex persons** in its 2018 judgement in [Navtej Singh Johar v. Union of India](#), and not legitimised this “conduct”.
 - The court, **while decriminalising homosexuality**, did not accept same-sex marriage as part of the [fundamental right to life and dignity](#) under **Article 21 of the Constitution**.
- The government argues that **marriage depends on customs**, rituals, practices, cultural ethos, and societal values.
 - **Same-sex marriage cannot be compared to a man and woman living as a family** with children born out of the union.
- The [Parliament](#) has designed and framed the marriage laws in the country to recognise only the union of a man and a woman.
 - Registration of marriage of same-sex persons would result in a **violation of existing personal as well as codified law provisions**.
 - The [Special Marriage Act of 1954](#) provides a civil form of marriage for couples who cannot marry under their personal law.
- The government argued that **any deviation from this norm can only be made through the legislature**, and not the Supreme Court.

What are the Arugments in Favour of Same Sex Marriage?

- **Equal Rights and Protection Under the Law:** All individuals, regardless of their sexual orientation, have the right to marry and form a family.
 - Same-sex couples should have the **same legal rights** and protections as opposite-sex couples.
 - Non-recognition of same-sex marriage **amounted to discrimination that struck at the root of the dignity** and self-fulfillment of [LBTQIA+ couples](#).
- **Strengthening Families and Communities:** Marriage provides social and economic benefits to couples and their families. Allowing same-sex couples to marry **strengthens families and**

communities by promoting stability and security.

- **Global Acceptance:** Same-sex marriage is legal in many countries around the world, and denying this right to individuals in a democratic society goes **against the global principles**.
 - In 133 countries homosexuality decriminalised, but only in **32 of them same-sex marriage is legal. Countries legalised same sex marriage:**



What are the Arguments Against Same Sex Marriage?

- **Religious and Cultural Beliefs:** Many religious and cultural groups believe that **marriage should only be between a man and a woman**.
 - They argue that **changing the traditional definition of marriage** would go against the **fundamental principles** of their beliefs and values.
- **Procreation:** Some people argue that the primary purpose of marriage is **procreation**, and that same-sex couples cannot have **biological children**.
 - Therefore, they believe that same-sex marriage should not be allowed because it goes **against the natural order of things**.
- **Legal issues:** There are concerns that allowing same-sex marriage will create legal problems, such as issues with **inheritance, tax, and property rights**.
 - Some people argue that it would be too difficult to **change all the laws and regulations to accommodate same-sex marriage**.

Way Forward

- **Cultural Sensitivity:** India is a **culturally diverse country** with different religious and societal values.
 - **Any legislative or judicial decision on same-sex marriage** must consider the cultural sensitivities of different communities while also ensuring that the fundamental rights of individuals are protected.
- **Social Acceptance and Education:** India still has a long way to go in terms of social acceptance of the **LGBTQ+ community**.
 - Education and awareness campaigns should be developed to promote acceptance and understanding of heterosexuality then **same-sex marriages should be considered on table**.
- **International Obligations:** India is a **signatory to various international human rights treaties and conventions**, which require it to protect the rights of all individuals, including the **LGBTQ+ community**.
 - As many other countries such as **Canada, the United States, and Australia** have recognized same-sex marriage, **it is imperative that India legalizes it to ensure equal rights and opportunities** for all individuals regardless of their sexual orientation.

UPSC Civil Services Examination, Previous Year Question:(PYQ)

Which Article of the Constitution of India safeguards one's right to marry the person of one's

choice? (2019)

- (a)** Article 19
- (b)** Article 21
- (c)** Article 25
- (d)** Article 29

Ans: (b)

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