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BRIDGING THE GAP BETWEEN UNIFORM CIVIL CODE AND LEGAL PROTECTION TO QUEER COMMUNITY

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ABSTRACT

The longing for the creation of Uniform Civil Code has not only drawn deliberations on the integration of society whilst questioning the inclusivity of the queer perspective but also how people belonging to such segregated or marginalized sections would be able to enter spaces of public discourses. Such dialogues pertaining to their rights of marriage and to have a family, such as right to adopt and custody amongst others which are tenets of legal protection accorded to any other people but not them. Through this research paper, the author attempts to critically analyze such multifaceted discourse surrounding the right to marriage and the right to institute a family afforded to queer people and whether or not comprehensive legislation like uniform civil code could cater to such an inclusive practice which has not yet been explored under the ambit of personal laws in India. Through detailed research henceforth conducted, it was found that neither of the personal laws protects any interests or rights of queer persons pertaining to marriage and adoption, and the invisibility of such secluded people from their legal protection stems from social and cultural considerations in the country. In light of the same, Uniform Civil Code may correct anomalies of personal laws to include queer persons and such inclusivity is the need of the hour.

Keywords: LGBTQIA+, Queer Community, Right to Adopt, Right to Marry, Right to Institute Family, Uniform Civil Code

INTRODUCTION

In a world where identity, equality, and social justice are constant issues, the challenges faced by marginalized communities, especially queer individuals, remain urgent and significant. Through this paper, an attempt is taken to critically explore the multifaceted discourse surrounding the rights of queer persons within the legal framework of India, a nation renowned for its rich diversity and complex social fabric. Queer individuals have long existed at the intersection of societal norms and legal recognition³⁹⁸. The journey toward equal recognition and rights, particularly in marriage, adoption, and custody, has been challenging. The research seeks to delve into the intricate

dynamics at play, examining both the legal provisions and the societal contexts that have contributed to the invisibility and marginalization of queer individuals. This discussion underscores the importance of a Uniform Civil Code, which aims to establish consistent laws governing personal matters like marriage, divorce, adoption, and others across all segments of society considering citizens irrespective of their religious affiliations and was first proposed during the drafting of the Indian Constitution. Article 44³⁹⁹ of the Indian Constitution which expressly states that “*The State shall endeavor to secure for the citizens a uniform civil code throughout the territory of India*”.

³⁹⁸ National Legal Services Authority v. Union of India, (2014) 5 SCC 438.

³⁹⁹ INDIA CONST. art. 44.

With various political and religious groups holding diverse viewpoints, critics argue that this code does not emphasize enough on the importance of gender equality and individual rights and several attempts have been made to introduce it in India, but these efforts have met with limited success. This paper will investigate whether the concept of a Uniform Civil Code, which seeks to standardize Indian personal laws, contributes to addressing these pressing issues and fosters inclusiveness or would it continue to elude them within the current legal framework. Such an interpretation is believed to transcend merely standardizing laws to encompass the imperative of extending legal protections to marginalized communities. Following the steps of the jurisprudence surrounding the queer community, authors have attempted to draw the ambit of legal protection accorded to them, problems surrounding their legal protection and the UCC, followed by union's reservations to expand their spheres of protection as well as attempts to expand the debate regarding the same by the judiciary and international instruments.

LEGAL PROTECTION TO QUEER COMMUNITY

The development of legal protections for queer individuals in India has undergone a dynamic and transformative journey, characterized by notable milestones and persistent challenges. India's legal framework has been historically influenced by colonial-era laws, notably including Section 377⁴⁰⁰ of the Indian Penal Code, 1860 which criminalized consensual same-sex relations and for decades queer individuals faced societal discrimination and legal persecution. Later, Delhi High Court in the Naz Foundation case⁴⁰¹ decriminalized consensual same-sex relations under Section 377 of the Indian Penal Code, 1860 and the same was overruled in the Suresh Kumar Koushal case⁴⁰² where criminalization of consensual same-sex relations under Section 377 was

reinstated. This setback galvanized LGBTQIA+ activists and their allies, leading to renewed efforts to challenge discriminatory laws where a turning point came in 2018 when the Supreme Court, in the Navtej Singh Johar⁴⁰³ case, unanimously decriminalized consensual same-sex relations by reading down Section 377. This judgment laid the foundation for recognizing fundamental rights for queers and despite such a significant stride, challenges persist, including the need for legal recognition of same-sex marriages, adoption rights, and protection against discrimination in varied aspects of life surrounding their legal protection. Even the NALSA⁴⁰⁴ judgement recognized the rights of transgender individuals under the ambit of the queer community where Supreme Court upheld their right to equality and non-discrimination which laid the foundation for broader discussions on the rights of queer individuals.

Court has recently opined that the gender identity of the individuals should be considered for determining the validity of their marriage. As India continues to evolve towards greater inclusivity and recognition of the queer perspective, the pursuit of legal protection for the right to marriage remains a vital and ongoing endeavor, underscoring the nation's commitment to the principles of equality and justice.

a) Right to Marriage

The absence of specific Hindu personal laws addressing the right to marriage for queer persons in India reveals a significant legal gap within the country's legislative framework as they do not explicitly recognize or protect the rights of LGBTQ+ individuals. It has been argued that Hindu personal laws already offer sufficient protection to queer people, as they provide a gender-neutral definition of marriage however these laws implicitly prohibit same-sex marriages and may result in discrimination against individuals based on their sexual orientation. Hindu personal laws also lack clarity

⁴⁰⁰ Indian Penal Code, 1860, § 377, No. 45, Acts of Parliament, 1860.

⁴⁰¹ Naz Foundation v. Govt. (NCT of Delhi), (2016) 15 SCC 619.

⁴⁰² Naz Foundation (India) Trust v. Suresh Kumar Koushal, (2014) 3 SCC 220.

⁴⁰³ Navtej Singh Johar v. Union of India, (2018) 10 SCC 1.

⁴⁰⁴ *Supra*, note 2.

due to no established guidelines for queer persons divorce proceedings, succession, inheritance, adoption within the Hindu community. Although, recent developments in the ongoing Supriya Chakraborty, mark significant leaps been taken to include marriage equality in India through Special Marriage Act which has been considered as a means to promote interfaith and inter-caste marriages, fostering inclusivity and harmony and thus, extending its provisions to include same-sex marriages could contribute to these ideals by promoting acceptance and equality for LGBTQ+ couples.

Even the Indian Christian Marriage Act of 1872, as it was originally enacted, does not explicitly recognize or provide for same-sex marriage and has traditionally followed a heteronormative model of marriage. The Act primarily governs the solemnization and registration of marriages among Christians in India and sets out the legal framework for Christian marriages but does not include provisions for same-sex marriages or explicitly address the rights of queer individuals to marry someone of the same gender. However, Section 4⁴⁰⁵ of the aforementioned Act dealing with marriages to be solemnized under the act mentions *“every marriage between persons, one or both of whom is [or are] a Christian...”* therefore, leaving the scope of ‘persons’ open to interpretation.

Additionally, within Islam, marriage is regarded as a social imperative and a means of legitimate procreation. Based on conclusive interpretations from the Holy Qur’an and Hadiths, not only same-sex marriages but even homosexuality itself is viewed as a crime and a sin, as it is seen to contradict the natural order established by God for human beings, thereby posing a threat to the family and the institution of marriage.

b) Right to Institute Family

Right to Institute or Found a Family stems originates from Article 23(2)⁴⁰⁶ of the International Covenant on Civil and Political Right where it states that, *“The right of men and women of marriageable age to marry and to found a family shall be recognized.”*

In India, personal laws often stemmed from different religious communities lack explicit provisions addressing the distinctive needs and rights of the queer community and thereby, many personal laws do not recognize same-sex relationships or offer guidance on vital issues such as adoption and custody within these relationships. Consequently, queer persons have faced legal barriers to exercising their fundamental right to adoption and creating legally recognized families but the extent of the same is currently in deliberation by the Supreme Court due to petition filed by Ashwini Kumar Upadhyay pleading right to adoption to same-sex couples.

The paper is in response to personal laws that often lack provisions for LGBTQIA+ or ‘chosen’ families to foster an inclusive legal environment for which a delicate balance between ascertaining rights to have a child (biologically or through other methods) in individual capacity and by non ‘conventional’ couples must be maintained which not only upholds fundamental rights but also continues to respect religious diversity. It is pertinent to note herein that although the judiciary has interpreted marriage laws for queer community in a progressive or a positive way, legislature through personal statutes and laws has stuck to the conventional and restrictive way of ascertaining laws while excluding LGBTQIA+ persons wholly. Therefore an ideal Indian Civil Code must be aimed at harmonizing the legislative approach to judiciary’s interpretation on position of queer individuals on the given subject matter and ensuring that same-sex couples have equal access to adoption rights

⁴⁰⁵ The Indian Christian Marriage Act, 1872, § 4, No. 15, Acts of Parliament, 1872.

⁴⁰⁶ International Covenant on Civil and Political Rights (adopted 19 December 1966, entered into force 23 March 1976) 999 UNTS 171 art. 23, § 2.

and legal recognition as families which do not compromise on child's development and protection.

LEGAL APERTURES IN UNIFORM CIVIL CODE

The challenges associated with developing a Uniform Civil Code include issues of accountability and the exclusivity of laws pertaining to marriage, divorce, and succession. In a series of judgments, courts have highlighted these problems, which still await resolution.

One of the first questions that could be emphasized herein is the scope of personal laws and whether substantive interference is needed through a code like UCC when such laws are in violation of the Constitution of India. The same was raised in the case of *Narasu Appa Mali*⁴⁰⁷, where it was determined that personal laws, while inconsistent with fundamental rights, cannot be contested, similarly court later interpreted itself as *"ill-equipped to deal with religious matters"*⁴⁰⁸, but has attempted to look out for such practices in respective religions which do not go parallel with the country's constitutional fabric. Such an attempt is visible when in the *Shah Bano*⁴⁰⁹ case, court not only granted her maintenance against her husband, who divorced her through triple talaq, but also commented on the larger issue of the need for a uniform code to eradicate gender discrimination in personal laws.

Amidst court putting its oar in correcting discriminatory practices which has paved the way for such an ideology which would sought to deal with more of a comprehensive legislation than mere interference one after the other. Judiciary has expressed that UCC would further national integration by removing ideology based conflicts⁴¹⁰ and as to how *"a uniform civil code will help the cause of national integration*

*by removing disparate loyalties to laws which have conflicting ideologies"*⁴¹¹.

Furthermore, another question which Uniform Civil Code has to deal with pertains to the inclusivity of the LGBTQIA+ community in the spheres of such legislation. This stems from how the court has accorded to them legal protection, while holding that targeting or classifying the queer community violates Right to Equality⁴¹² under Article 14⁴¹³, Article 15⁴¹⁴ and similarly restricts individuals from fully realizing their identity by violating the right to freedom of speech and expression⁴¹⁵ under Article 19(1)(a)⁴¹⁶ of Constitution of India. But the court has not been able to realize whether or not their seclusion from rights of marriage and adoption just like others, would violate these aforementioned rights for which, the Indian Civil Code might attempt to expand their legal protection to cater to their other rights, which can be held as violated under the present regime of the Constitution. The impetus to the same was already laid down by court, by reinforcing the right not to be perceived as unequal or inferior⁴¹⁷ and that, provisions such as 377 of the Indian Penal Code, 1860 which reinforce gender stereotypes are also in violation of the constitution⁴¹⁸ under Articles 14, 15 and 21⁴¹⁹. However, in these cases merely an umbrella protection was brought up and no future framework concerning such an inclusion.

UNION'S APPREHENSIONS: UCC AND QUEER COMMUNITY

Union Government has emphasized on the subject matter pertaining to legal recognition of queers' right to marriage falls expressly in the ambit of a legislative action and is a matter solely within Parliamentary domain and not

⁴⁰⁷ State of Bombay v. Narasu Appa Mali, AIR 1952 Bom 84.

⁴⁰⁸ Commr., Hindu Religious Endowments v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt, 1954 SCR 1005.

⁴⁰⁹ Mohd. Ahmed Khan v. Shah Bano Begum, (1985) 2 SCC 556.

⁴¹⁰ Sarla Mudgal v. Union of India, (1995) 3 SCC 635.

⁴¹¹ *Supra* note 4.

⁴¹² Navtej Singh Johar v. Union of India, (2018) 10 SCC 1.

⁴¹³ INDIA CONST. art. 14.

⁴¹⁴ INDIA CONST. art. 15.

⁴¹⁵ *Supra* note 7.

⁴¹⁶ INDIA CONST. art. 19, § 1.

⁴¹⁷ National Legal Services Authority v. Union of India, (2014) 5 SCC 438; Jeeja Ghosh v. Union of India, (2022) 1 SCC 202.

⁴¹⁸ Vishaka v. State of Rajasthan, (1997) 6 SCC 241; Joseph Shine v. Union of India, (2019) 3 SCC 39.

⁴¹⁹ INDIA CONST. art. 21.

executive⁴²⁰. Not only the same, the union has filed an affidavit in the Apex court in the currently ongoing case of Supriyo@Supriya Chakraborty v. Union of India where it has urged to make all the state governments and union territories party to the petition pertaining to same-sex marriage as 'marriage' is part of the Concurrent List in the Seventh Schedule of Indian Constitution. But the court has faced with a dilemma where it presses on legislative involvement but has also acknowledged that though parliament has inevitably been involved in such matters, it is crucial to examine as to what extent the Courts can interfere⁴²¹.

Government also has concerns including the societal and cultural impact of legally recognizing queer marriage. Since marriage according to personal laws is strictly between a 'conventional biological' man and a 'conventional biological' woman⁴²², the Union is concerned with how the same would be responded by the society as well. Government also has reservations pertaining to how the Supreme Court lacks the authority to recognize a new class of marriages and how the meaning of LGBTQIA+ encompasses more than just lesbian, gay bisexual, transgender or transsexual to include around 72 unknown yet distinct sexual and gender identities making it implausible to include sanctioning of such marriages for this group without grave legal ramifications.

The government is also doubtful as to whether according queers with rights of marriage might lead to a 'psychological impact' on children raised by same-sex couples. These concerns are brought forth whilst analyzing the fact that same-sex couple unlike other heterosexual couples cannot procreate and are therefore unfit to be parents⁴²³. Therefore, government is doubtful as to whether according of right to marry to queer community would also later be

accessed to ask for rights of marriage, the same has been considered by Chief Justice D.Y. Chandrachud who has summed up the elements of marriage to include the right to cohabit, recognize a family unit and to procreate or bear a child unless chosen otherwise amongst other such rights. Nevertheless, court has pondered over the fact as to whether heterosexuality is intrinsic to right to marry and have children yet restricted right to found a family particularly, adoption to the queers who are single or in a heterosexual relationship.

UNIFORM CIVIL CODE AND ITS EXPANSION

The inclusivity of the LGBT community by enhancing legal protection to them not merely by providing with a right to do or not to do something rather regulating their protection in spheres of rights as much as the same offered to single men, women and homosexual couples has been attempted to carve out in catena of judgements as well as internalizing various international obligations to enhance protection to the community.

In one of the earliest cases, when court looked at Article 23(1) of the International Covenant on Civil and Political Rights which states that "*The family is the natural and fundamental group unit of society and is entitled to protection by society and State*"⁴²⁴ and deliberated over the issue of adoption being declared as a fundamental right and an essential component right to life under Article 21⁴²⁵ of the Indian Constitution when the same was challenged in the High Court of Bombay in the Shabnam Hashmi⁴²⁶ case, Justice Ranjan Gogoi, in addressing the right to adoption for Christians based on faith, asserted that "*All these factors lead us to conclude that the current time and stage are not suitable for elevating the right to adopt and the right to be adopted to the status of a fundamental right, or for interpreting such a right as encompassed by Article 21 of the*

⁴²⁰ Supriyo @ Supriya Chakraborty & Anr. v. Union of India, (2022) W.P. (C) 1011.

⁴²¹ *Id.*

⁴²² Ruth Vanita, *Wedding of Two Souls: Same-Sex Marriage and Hindu*, 20 JOURNAL OF FEMINIST STUDIES IN RELIGION 119, 121-136 (2004).

⁴²³ *Supra* at 15.

⁴²⁴ International Covenant on Civil and Political Rights (adopted 19 December 1966, entered into force 23 March 1976) 999 UNTS 171 art 31(1).

⁴²⁵ INDIA CONST. art. 21.

⁴²⁶ Shabnam Hashmi v. Union of India, (2014) 4 SCC 1.

Constitution.” This not only restricted the right to adoption for individuals of diverse faiths and religions but also closed the possibility of extending such rights to marginalized communities.

Furthermore, the scope of same-sex marriage to the contrary expanded by Justice B.S. Bhauhan when he proposed a draft of a new Uniform Civil Code in furtherance of legalization of same-sex marriage to the Law Commission of India, where he defined marriage as *“the legal union as prescribed under this Act of a man with a woman, a man with another man, a woman with another woman, a transgender with another transgender or a transgender with a man or a woman. All married couples in partnership entitled to adopt a child. Sexual orientation of married couples or partners not to be a bar to provide them with a right to adoption. Non-heterosexual couples will be equally entitled to adopt a child”*⁴²⁷. This interpretation has prompted observations that one's orientation and gender non-conformity should not preclude individuals from adopting. A person's identity or religion should be irrelevant when considering the right to adopt a child, and, critically, the Uniform Civil Code should prioritize deconstructing and reconstructing conventional notions of family.

However, a more institutionalized interpretation was put in the case of *Arunkumar & Other v. The Inspector General of Registration and Others*⁴²⁸ in which the Madras High Court held that a marriage solemnized between a (biological) male and a transwoman where both profess Hindu religion, the same would constitute a valid marriage according to Section 5⁴²⁹ of the Hindu Marriage Act, 1955. Along with the same, court cited the Justice K. Puttaswamy⁴³⁰ case where the Apex Court referred to the US Supreme Court's decision in *Obergefell v*

*Hodges*⁴³¹ which emphasized that it would be inconsistent to acknowledge a right to privacy in other family matters but not in the decision to form the fundamental relationships that underpin society.⁴³² Therefore, interpreting this principle, the Indian court held that since the Constitution of India mandates the inclusion of transgender persons in all aspects of society, they should not be deprived of existing benefits available to the general public.

Although, single people belonging to the queer community can adopt in individual capacities and in conventional couple set-ups but they cannot adopt as a couple *per se*. The court has looked at the concept of ‘chosen families’ and their recognition, but has been wary of venturing such an inclusion across multiple laws such as family, parenthood and social welfare in and beyond acts like Special Marriage Act amongst others. In the case of *Supriya Chakraborty* which is currently in deliberation. The Union's proposal to establish a committee to address the demands of the queer community for rights and benefits, without legally recognizing their right to marry, received an affirmative response from the Constitutional bench for two main reasons. Firstly, it would enable Parliament, rather than the court, to determine the precise scope of rights available to members of these ‘chosen families’. Secondly, it would ensure that the LGBTQIA+ community would not be deprived of alternative options. This decision was influenced by the expansion outlined by Chief Justice D.Y. Chandrachud in the *Deepika* case, where he emphasized that non-traditional families require both legal protection and access to benefits provided under social welfare legislation. This case not only provided for legislature expand its observations to include queer community to accord marriage rights just as others but also opened doors to deliberation regarding rights and benefits of queer persons to which judiciary will be receptive and cognizant.

⁴²⁷ LAW COMM'N OF INDIA, DRAFT FOR A PROGRESSIVE UNIFORM CIVIL CODE, 2017.

⁴²⁸ *Arunkumar & Other v. The Inspector General of Registration and Ors* (2019) Mad HC 415/3220.

⁴²⁹ Hindu Marriage Act, 1955, § 5, No. 25, Acts of Parliament, 1955.

⁴³⁰ *K.S. Puttaswamy (Privacy-UJ.) v. Union of India*, (2017) 10 SCC 1.

⁴³¹ *Obergefell v. Hodges*, 576 U.S. 644.

⁴³² *Id.*

In the same case court referred to the Schalk and Kopf⁴³³ case where it was held by the European Court of Human Rights that the court whilst dealing with Article 12 of the European Convention which recognizes marriages solely as a heterosexual Union held that the ECHR does not mandate the member states to legally recognize same-sex marriages. However, understanding the non-binding nature of international statutes which are part of soft law instruments, court interpreted the case of Nicholas Toonen v Australia⁴³⁴ in Navtej Singh Johar⁴³⁵ case where it took cognizance of the change in Para 1 and 26, Article 2⁴³⁶ of the International Covenant on Civil and Political Rights where reference to 'sex' in the article is to be taken as inclusive of 'sexual orientation' which was also clearly laid down in the NALSA case where Article 15⁴³⁷ was understood to be inclusive of 'sexual orientation' as well, which depicts internalization of international statutes.

Additionally, queer community has been provided with rights of adoption amongst other family-related rights through statutes such as Hindu Adoption and Maintenance Act, 1956, and institutions like Central Adoption Resource Authority but they can only avail the same by adopting a child in their individual capacity *i.e.* when single, or when they want to realize their right to found a family⁴³⁸ through heterosexual intercourse. This view of the court to segregate individual and family rights has been due to the influence of the International Covenant on Civil and Political Rights which has clearly defined the right to found a family under Article 23(2)⁴³⁹ by using the term 'men' and 'women' rather than general terms used elsewhere in Part III of the Covenant which depict the Covenant's intention that right to found a family is

particularly for a men and women and only such a marriage would be recognizable⁴⁴⁰.

Therefore, court has understood right to found a family not to be read as being conditional on marriage or on the intention to marry⁴⁴¹. Internal contextualizing of Article 26 has been followed where court has involved a 'value-driven' approach to attempt to give meaning to the vague notion of equality by understanding broad values which are understood as objectives of the equality guarantee⁴⁴² to provide queers with rights just as others or simply, enabling them to derive their rights in individual capacity like others. Nevertheless, there is no 'direct' approach under Right to Found a Family to support procreative rights of lesbians and gay persons regardless of their ability or desire to marry.

CRITICAL ANALYSIS

It is emphasized that while the Uniform Civil Code holds the potential to normalize personal laws and advance equality, its execution entails profound repercussions for the rights of the LGBTQIA+ community in India. This calls for additional investigation using empirical or primary data sources to ascertain the degree of rights deprivation, particularly in relation to marriage and the establishment of family structures as guaranteed. The Uniform Civil Code, as envisaged in this paper, could potentially extend legal recognition to same-sex marriages, thereby ensuring that LGBTQIA+ individuals access rights and safeguards on par with unmarried individuals and heterosexual couples.

While authors acknowledge how deeply ingrained cultural and societal biases against the queers which have been taken into account by the government as well as the courts, the same has affected the practical application and enforcement of inclusive provisions to

⁴³³ Schalk and Kopf v. Austria, 2010 ECHR 30141/04.

⁴³⁴ Nicholas Toonen v. Australia, 1994 SCC OnLine HRC 14.

⁴³⁵ Navtej Singh Johar v. Union of India, (2018) 10 SCC 1.

⁴³⁶ International Covenant on Civil and Political Rights (adopted 19 December 1966, entered into force 23 March 1976) 999 UNTS 171 art. 2.

⁴³⁷ INDIA CONST. art. 15.

⁴³⁸ International Covenant on Civil and Political Rights (adopted 19 December 1966, entered into force 23 March 1976) 999 UNTS 171 art. 33.

⁴³⁹ International Covenant on Civil and Political Rights (adopted 19 December 1966, entered into force 23 March 1976) 999 UNTS 171 art. 23, § 2.

⁴⁴⁰ Juliet Joslin v. New Zealand, 2002 SCC OnLine HRC 14.

⁴⁴¹ Hohengarten & William M., *Same-Sex Marriage and the Right of Privacy*, 103(6) YLJ 1495, 1499-1501 (1994).

⁴⁴² DAVINA COOPER, CHALLENGING DIVERSITY: RETHINKING EQUALITY AND THE VALUE OF DIFFERENCE 117 (Cambridge University Press 2004).

enable legal protection to targeted queer persons. The developments in the Indian Judicial System followed by Navtej Singh Johar case have ingrained the concept of heterosexuality not to be intrinsic to marry but through the contours of Uniform Civil Code, same-sex marriage has been expanded for marriages to be considered among 'any person' according to Justice B.S. Chauhan's perspective in the law commission report⁴⁴³, the same has not been followed up to as such reports are merely persuasive and recommendatory in nature, even CJI Chandrachud's opinion regarding protection of law and benefits to be conferred to 'atypical' families⁴⁴⁴, lack of inclusion of queers only limits the scope of the same to The Mental Healthcare Act and not otherwise.

Right to institute a family has only been interpreted in India driven through ICCPR but two factors have ascertained need for inclusion of the queer individuals are; Article 23(2) where it mentions "*men and women*" which not only limits the scope of family for other individuals but where it restricts a union of marriage also between only a "*men and women of marriageable age*" as well as partly availability of these rights to even LGBTQIA+ single persons or those part of any heterosexual intercourse. Therefore, to provide them legal protection in all spheres of marriage and family, India must prioritize inclusivity, ensuring that the rights and interests of queer individuals are fully recognized and protected within the framework of a comprehensive legislations and that the success of Uniform Civil Code stands as a litmus test for the nation's commitment to principles of equality and justice, regardless of one's orientation.

CONCLUSION AND SUGGESTIONS

This paper has shed light upon the absence of legal protections and recognition for queer community, particularly in the realms of

marriage which have stemmed largely from societal and cultural considerations. There is a necessity of comprehensive legislation, which throughout the focus has been the Uniform Civil Code which would attempt to serve towards rectification of gaps and discriminatory practices prevalent in personal laws. The UCC would not only act as a guardian of the rights of the community pertaining to marriage, adoption and succession but also would be seen as a potential avenue to ensure inclusivity and equal legal protections for such individuals aligning with constitutional principles of equality and justice.

Whilst the paper has throughout argued how the invisibility and marginalization of queer individuals in legal protections is rooted in deep-seated societal biases and the limited scope of personal laws. There is an evolving role of judiciary emphasized which through its various interpretations has been able to interpret ambiguous yet inclusive laws but no explicit guidelines when advocating for fundamental rights for LGBTQIA+ persons, and therefore the Apex Court's has merely cited this necessity of legislative reforms such as the one being, UCC but not strived at its interpretation to be materialized.

Yet, it can be said that through the discourse followed in this paper while the longing need and implementation of UCC still is an impediment, legislative reforms, such as amendments to existing personal laws or the enactment of a comprehensive UCC, should explicitly recognize and protect the rights of LGBTQIA+ individuals, which would also entail ensuring legal recognition of same-sex marriages, adoption rights, and non-discrimination provisions within a uniform legal framework. An importance of fostering public discourse and awareness on the limited score of rights and issues faced by the queer community is also accentuated here, where the authors have advocated for sensitizing society and policymakers to the need for inclusive legal reforms that uphold constitutional principles of equality and non-discrimination.

⁴⁴³ *Supra*, note 32.

⁴⁴⁴ Deepika Singh v. Central Administrative Tribunal, 2022 SCC OnLine SC 1088.

Therefore in conclusion, the need for enactment of comprehensive legislation that explicitly recognizes and protects the rights of queer persons such as marriage, adoption, inheritance, and divorce is quintessential. This implementation process must involve extensive consultation with legal experts, queer advocacy groups, religious leaders as well as renowned judges in the same area to balance between individual rights and religious diversity. Uniform Civil Code also must adapt to a gender-neutral language and aim explicitly at prohibiting discrimination based on sexual orientation and gender identity rather enable legal protection to them as well as regulating equal access to adoption and custody rights for safeguarding their ability to form and support families. Lastly, the Uniform Civil Code and its legal framework to be evolving with societal norms and international thrust on human rights are henceforth envisioned.

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