


LGBTQ

Madras HC Proposes 'Deed of Familial Association' to Protect Queer Couples

The concept of a 'Deed of Familial Association' (DFA) would enable non-conventional families, including same-sex couples, to officially register their commitments stemming from genuine affection within the existing legal structure. This recognition would affirm the personal dignity of individuals involved and validate their chosen human connections.



The Madras HC recommended that the Tamil Nadu government consider recognizing a 'Deed of Familial Association' for LGBTQIA+ couples.

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Chennai- The denial of same-sex marriage rights only intensifies the struggle for queer couples. Yet, the recent ruling from the Madras High Court seems to bring a ray of relief to the LGBTQIA+ community. On November 17th, the court recommended that the Tamil Nadu government consider recognizing a 'Deed of Familial Association' for LGBTQIA+ couples. The recognition of these couples with the freedom to live without unwanted inte

The Mooknayak spoke to Kanmani R, a lawyer from Tamil Nadu, who stated, "Through DFA, queer relationships might be recognized, albeit in limited terms. While marriage equality is lacking, the recent same-sex marriage judgment acknowledged the right to enter into a consensual relationship, deserving state protection."

The lawyer continued, "There is a policy drafting committee for the LGBTQIA+ community in Tamil Nadu, a unique committee in the nation. The justice has directed the committee to include it in their draft and recommend it to the state."



Can a Parliament That Ridiculed Tharoor for LGBTQ Support, Legalize Same-Sex Marriage? India's First Petitioners Assert 'No Way'!



Justice N. Anand Venkatesh suggested that the government incorporate this idea into an upcoming LGBTQIA+ policy, urging the establishment of a registration process for such deeds and clear criteria. The directive arose from a supplementary application filed during the proceedings of a case initiated by a

lesbian couple seeking protection from their family members. Throughout the hearings, the Court issued various instructions aimed at promoting the well-being of LGBTQIA+ individuals.

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The intervenor sought a court order instructing authorities to issue directives acknowledging actions related to familial association. According to the intervening petitioner, the essence of this document is to guarantee the entitlement of two individuals to maintain a relationship and the right to protection while in that relationship.




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Memoir of a Transgender"

The judgment stated, "This Petition has been filed by the impl respondents 10 to 28 herein to issue suitable orders to recognize the ~~Decd of Familial Association,~~ recognizing the civil union entered into between LGBTQAI+ partners to protect the fundamental rights of persons forming part of this community."

“The petitioner stresses the need for familial recognition among LGBTQAI+ persons, proposing a 'Deed of Familial Association.' The purport is to ensure that two persons have the right to live in a relationship and have the right to protection.”

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Harassment, violence, ill-treatment, discrimination impacting employment, housing, and assimilation in society are cited as key concerns addressed by the proposed 

Kanmani added, “This should apply at least to police harassment, a fundamental ask, a positive step forward for everyone, including facing harassment.”

The Social Welfare and Women Empowerment Department is finalizing the LGBTQIA+ community policy. The lawyer emphasized, "While this has been asked for queer couples, it can help everyone. Until now, live-in relationships were not recognized by law. This is a step forward."

Deed Of Familial Association as a Means to Legally Protect Queer Families

Existing marriage laws are built on heteronormative norms and a historical framework that fails to accommodate gender and sexual minorities, their chosen life partners, and the families they establish. The current legal framework lacks provisions to recognize stable LGBT+ family units that may not adhere to traditional spousal relationships but are formed on enduring bonds of care and loyalty among individuals cohabiting. These deep familial connections may arise from shared experiences as a natural minority, necessitating mutual support in the face of societal disapproval.

The concept of a 'Deed of Familial Association' (DFA) would enable non-conventional families, including same-sex couples, to officially register their commitments stemming from genuine affection within the existing legal structure. This recognition would affirm the personal dignity of individuals involved and validate their chosen human connections. Additionally, DFA would provide safeguards through the application of tort law, particularly intentional torts, to protect against malicious actions aimed at undermining the integrity of the voluntarily formed 'familial association' authorized through DFA.



When Ambedkar Quoted Havelock Ellis Works on Homosexuality as 'Natural' in 1930s Court Proceedings!

Already Existing Indian Penal Code is Not Enough

Although the Indian Penal Code already provides provisions safeguarding all residents from general harassment, nuisance, and criminal intimidation (see IPC 294, 503, 506), allowing the registration of a contract between partners and their chosen family would be a direct and beneficial step. This could be promptly facilitated through a contextual interpretation of the Indian Contract Law (1872). Notably, Section e of this law defines agreements as "every promise and every set of promises, forming the consideration for each other is an agreement." The consideration, rooted in the natural affection shared by the parties, can be explicitly articulated in the deed. The deed may outline the involvement of shared life and household, as well as some form of joint economic and social direction within the household.

Simply permitting such a 'deed of familial association (DFA)' would legitimize and positively affirm family units of LGBT+ individuals within the existing social structure. Furthermore, those challenging any 'DFA' would bear a substantial burden of proof in line with Section 114 of the Evidence Act, 1872. Additionally, in cases where there is malicious intent to harm the integrity of the family unit formed by LGBT+ individuals through the DFA, tort law could be invoked for legal recourse.