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## Rainbow wedding

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Dhamini Ratnam



Sonal Giani (right) and Upasana at their Mumbai home. Photo: Aniruddha Chowdhury/Mint

### SYNOPSIS

*Navigating relationships in the absence of marriage equality in India makes life tougher for queer couples*

Upasana, a 28-year-old marketing executive based in Mumbai, wants to get married. But her parents, based in Dehradun, Uttarakhand, don't know how to help their daughter—the oldest among her paternal cousins, and the next in line for marriage among her maternal cousins—tie the knot.

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In a country with the largest youth population in the world, Upasana, who goes by just one name, is among the 10% (based on statistical estimates accepted worldwide) who isn't heterosexual. For the past three years, she has been in a monogamous, committed relationship with Sonal Giani, 28, who works in a non- governmental organization. They live together in a cosy apartment in a crowded Mumbai suburb, close to where Giani works. But they cannot marry for, unlike in the US, there is no law in India that protects their right to marriage equality.

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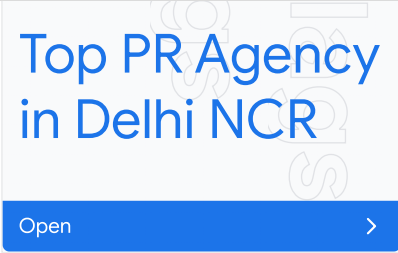
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Supreme Court passed a majority ruling that made marriage a right for all citizens and granted legal e-sex couples. The ruling highlights the contrast in India, where the discrimination faced by LGBT people is not e policy level. Same-sex marriage is legal in 21 countries besides the US, including England, Canada, the Netherlands (the first country to have legalized same-sex marriage in 2001), Uruguay and South Africa.

parents about her sexuality six years ago. when they had begun to look for a suitable boy for their daughter. who



accept their daughter's sexuality. The first words that her 59-year-old father uttered when Upasana told him that she liked women legal."



Marriage has so many social, legal, cultural factors that work towards keeping two people together... But in a same-sex relationship, all you have is love.

Most recently, Union law minister [Sadananda Gowda](#) was quoted in an article published in The Economic Times as saying: "The mood appears to be in favour of it. But it can be done only after widespread consultations and taking all views into account." The minister, the article stated, was speaking in the context of the positive reception on Indian social media to the US Supreme Court's decision to legalize same-sex marriage. However, Gowda soon issued a statement saying that he had been misquoted. Homosexual intercourse is penalized in over 75 countries, including Afghanistan, Nigeria and Iraq.



Giani and Upasana admit that marriage is a distant dream in a country where the fight against Section 377 rages on, but agree that the absence of marriage equality propagates a discriminatory environment against them. This can range from the subtle bias of family members to larger, structural prejudice, such as the difficulty same-sex couples face if they want to buy a home together and the impossibility of nominating as beneficiaries persons who are not blood relatives or spouses for financial instruments such as the Employees' Provident Fund.

When a Delhi-based same-sex couple, one of them a former journalist, decided to buy a house in the capital in 2003, they approached four banks for a joint home loan. No bank was willing, and they were told unofficially that in the absence of a legally recognized relationship, it would be unwise for the bank to loan a large sum of money to them as a couple. From the bank's perspective, property shared by people who are not related does not have a clear title.



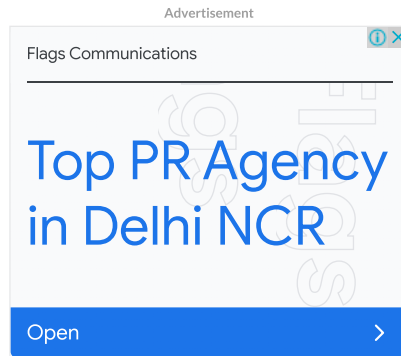
"Their worry was also that there was no way they could ensure accountability in case our relationship ended, or any such situation

case of her partner’s untimely death. They ended up re-registering their home in both their names once the loan was paid off, an added steep cost. While the two are no longer in a romantic relationship, they continue to live together with other members of their queer family in the same home. When they ended their relationship, one bought the other out.

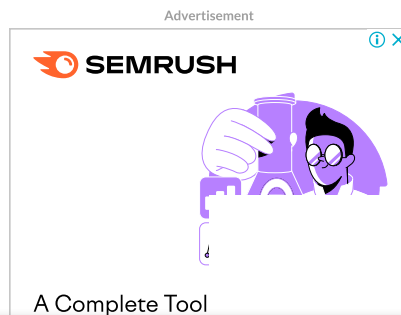


“But very few people are in a financial position to buy another owner out,” says the former journalist. “The banks cannot solve these issues. Through policy, the government should protect the rights of a single person, for instance, to name their chosen heirs. This will help create an environment where unrelated people can own property together, and this would benefit all, not just same-sex couples.”

Amit Patani, a chartered accountant and financial planner based in Mumbai, points out that there is no law that prevents two people who are not married from owning property or taking a home loan together, and that the income-tax law requires tax to be paid by every individual. Yet, as the former journalist’s experience shows, this is hardly an indication of a level playing field.

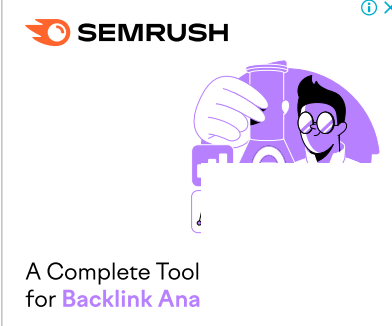


“I feel I should have the right to marry and the right to divorce. Couples that are monogamous and who want to access this sort of family unit should be able to,” says Giani. Upasana recounts a recent hospital scare that brought home the vulnerability of their situation. “In March, I had to rush Sonal to the hospital in the middle of the night when she complained of intense stomach pain. It was 3am, and while taking her to the hospital, I realized that if she had to undergo an emergency operation, her family would have to be called as I wouldn’t be allowed to sign any hospital forms.” Giani was prescribed medication for kidney stones, but the scare made Upasana think of how difficult the situation would have been had she fallen ill. Giani’s parents accept their relationship, but Upasana’s don’t. “If we are married, we can make medical decisions for each other,” says Upasana.



their heads,” explains Giani, adding that they often don’t realize things that they would take for granted in a heterosexual relationship. She offers the example of how her mother, who lives in Goa, reacted when Giani wanted to move in with Upasana shortly after they began their relationship. Giani shared a flat with her sister in Mumbai at the time, and their mother was apprehensive that her other daughter would be “left alone”. “If my sister was about to get married and move out, then the same situation wouldn’t have posed a problem at all,” she says.

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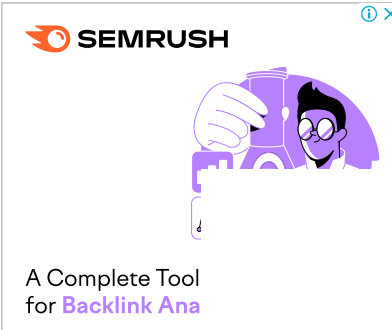
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Sridhar Rangayan, film-maker and director of the Kashish Mumbai International Queer Film Festival, who has been with a same-sex partner for 21 years, understands this subtle form of discrimination that family and society can exercise over queer couples. “My family wasn’t supportive from the word go when I entered this relationship in 1994. Over the years, they’ve realized that this is as valid a relationship as any other. My partner and I took it a day at a time.”

Rangayan compares his relationship to another social taboo, an inter-caste marriage, and says that his partner and he have had to work harder to bring their families around. “Marriage has so many social, legal, cultural factors that work towards keeping two people together in a relationship. But in a same-sex relationship, all you have is love. Every other force is intent to pull you away,” he says.

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Yet the 53-year-old film-maker says that it was more important to recognize that there are other, equally valid ways of relating and marriage isn’t his end goal. “Giving the institution of marriage primacy over others negates the possibility that there are other ways of being happy. What we need is an equitable law that allows property sharing and makes inheritance between same-sex partners foolproof. We are still fighting an archaic law in Section 377 and we need an anti-discriminatory law in place to prevent violation of human rights of LGBT persons.”

Rangayan points to the ways in which queer persons live “happily” regardless of Section 377. Often, this takes the form of existing socio-cultural practices. A report published in 2010 by the New Delhi-based not-for-profit Partners for Law in Development (PLD) refers to Maitri Karar, a companionship contract that was all the rage in Gujarat in the 1970s for married men seeking to legitimize relationships with women they weren’t married to. The report, titled Rights In Intimate Relationships, says that same-sex partners also entered into such contracts before the practice was outlawed in the early 1980s. “The agreements—referred to variously as friendship contract, companionship contract, living together agreement, upa-patni karar and kept contract—do not grant any rights under the Hindu Marriage Act to the woman who is party to the contract. The karars were earlier written with the help of a



A 1991 report by the now defunct organization AIDS Bhedbhav Virodhi Andolan, titled *Less Than Gay: A Citizens' Report On The Status Of Homosexuality In India*, cites a 1987 newspaper article that spoke of two women in Vadodara district who had entered into a Maitri Karar. "The women, Aruna Sombhai Jaisinghbhai Gohil, 31, resident of Vadia village, of Savli Taluka and Sudha Amarsingh Mchansingh Ratanwadia, 29, of Varsada village in Naswadi taluka, entered into the agreement before a notary public here. This is the second Maitri Karar in Gujarat between two women. In a signed statement at the city court, the two declared that they had known each other since 1978 when they were together at a teachers' training school. Since then, they had been working as teachers in different parts of Baroda district, and were now based at Vadadhali village. During all these years, the two women had been living together. Since they did not wish to get married and wanted to continue living together, they decided to enter into this friendship contract, the statement signed by them said."

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Maya Sharma, a feminist activist associated with Vadodara-based grass-roots organization Vikalp Women's Group, recalls a story that she co-wrote for a book, *Kinaron Par Ugati Pehchan: Farkon Ki Rajniti Ke Naye Narivad Ayaam*, edited by Abha Bhaiya and published by Rajkamal Prakashan in 1996. In it, she spoke to a 70-year-old rural woman in Uttar Pradesh who had entered into a friendship "contract" with another woman years ago. They did so not by signing any stamp paper before a lawyer, but by standing knee-deep in a river that ran close to their village and exchanging saris and betel leaves. According to Sharma, marriage, as an institution itself, is premised on inequality. A law that guarantees marriage equality may subsume existing cultural practices that often accord greater agency to women than marriage does. "The law accords uniformity and does not recognize social practices which are far more tolerant and which are far more in use among common people," she says.

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