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# Unravelling Social Inclusion India's Introduction to Joint Bank Accounts for LGBTQ+ Community

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## ABSTRACT

*The introduction of joint bank accounts for the LGBTQ+ community in India represents a significant advancement toward social inclusion and economic empowerment. This paper examines the implications of this financial innovation within India's evolving legal and societal landscape concerning LGBTQ+ rights. The decriminalization of consensual same-sex relationships in 2018 marked a pivotal moment, opening doors for financial inclusion that had previously been denied due to systemic discrimination.*

*Joint bank accounts enable LGBTQ+ couples to manage their finances collaboratively, enhancing access to credit, savings, and investment opportunities. This financial inclusion fosters greater economic stability, allowing LGBTQ+ individuals to participate fully in the economy. Moreover, these accounts symbolize recognition and validation of LGBTQ+ relationships, challenging societal norms and promoting acceptance.*

*However, challenges remain. Many LGBTQ+ individuals still face discrimination within financial institutions, and cultural stigma persists, hindering the utilization of joint accounts. Awareness of the benefits of joint accounts, particularly in rural areas, is also limited.*

*The study emphasizes the role of government policy and advocacy organizations in promoting financial literacy and inclusion for the LGBTQ+ community. Educational initiatives are essential to inform individuals about their rights and available banking services. Additionally, advocacy for policy changes is critical to ensure equal treatment in financial institutions.*

*Through case studies and interviews, the research explores the experiences of LGBTQ+ individuals utilizing joint accounts, highlighting their perceptions of safety and empowerment. This paper contributes to the discourse on social inclusion by examining the intersection of finance, identity, and social justice in contemporary India, underscoring the need for continued efforts to dismantle barriers to equality.*

**Keywords:** LGBTQ+ community, financial inclusion, joint bank accounts, *Supriyo@Supriyo Chakraborty v. Union of India*, financial independence.

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## **I. INTRODUCTION**

Ever since the advent of human life and history, we find references to the LGBTQ+ Community. Be it the Greek, Roman, or our very own Indian culture, the community has found mentions in even our epics and holy scriptures.

For instance, we have Shikhandi in the Mahabharata. He was born as a biological female to King Draupada, known as Shikhandini, but later transitioned into a male as a sex exchange with a yaksha. In terms of Islamic history, we have found mentions of transgender individuals during the Mughal dynasty. Their roles varied from that of music and entertainment to that of financial advisors and militants in the courts of the rulers. As per the New Testament, Christianity was always open for the evangelism and baptism of the eunuchs. Even in the year 2003, the United Church of Christ called for full inclusion of this community into the prevalent mainstream human community. Despite the wide history, there exist many nuances in the modern Indian society that give rise to many social and individual distinctions, most of the time the same holding no substance.

In a recent landmark gait <sup>2</sup> towards financial inclusion and equality, India witnessed the launch of joint bank accounts specifically catering to the LGBTQ+ community. This reverence features a turning point in India's gender inclusivity in the banking and financial sphere by welcoming the much-needed recognition of sexually backward communities. Since the advent of Joint Bank Accounts, which found its inception in the Post Office Savings Accounts Rules, 1981,<sup>3</sup> the benefits were bestowed upon couples, families, and business partners who possessed monetary responsibility amongst themselves. It is pertinent to note that this service was not available to the members of the LGBTQ+ community due to social bias, unacceptance, and legal non-recognition. This prejudice has been cracked at the seams with this recent judgment of the Apex Court in India.<sup>4</sup>

This article delves into the background, significance, challenges, and broader implications of this financial reform in India. It explores how joint bank accounts for LGBTQ+ individuals serve as a powerful tool for economic empowerment, social recognition, and greater financial inclusion.

## **II. HISTORICAL CONTEXT: LGBTQ+ RIGHTS IN INDIA**

The queer community's struggle for freedom and equality has been a long-striven one. They

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<sup>2</sup> Supriyo@Supriyo Chakraborty & Anr. v. Union of India, W.P.(C) No. 1011/2022.

<sup>3</sup> The Post Office Savings Bank General Rules, 1981, Notification No. GSR 662 (E).

<sup>4</sup> *Id.* at 2.

have long been marginalized and discriminated against in Indian society, facing social stigma, indifference from the heterosexual community, and being subjected to less legal recognition. This fight has been fought for not just a couple of years but decades, wherein the community has made huge sacrifices to get the much-deserved recognition in store for them. The LGBTQ+ community faced a lot of discrimination on the grounds of social acceptance, refusal to possess property, non-recognition, subjected to racially and sexually inclined slurs, and above all, inadequate financial, employment, and medical backing. As per the ambit of this article, we shall be delving more into matters related to their financial inclusion. The social stigma even crept through to the banking sector, where queer partners were not legally permitted to hold joint bank accounts.

The most stronghold moment for the Indian queer community was the landmark judgment passed in *Navtej Singh Johar v Union of India*<sup>5</sup>, which decriminalised the laws under the Indian Penal Code, 1860 concerning homosexuality, under Section 377.<sup>6</sup> As per the judgment, criminalisation of consensual intercourse between individuals of the same sex was held unconstitutional. This was a major win for the community as a whole, marking the first step towards the forthcoming reforms in their favour after facing the incessant long-term atrocities. But the same cannot be mistaken for complete freedom from discrimination for the community, since there still exist many lacunae, both in law and society.

For example, marriage between same-sex individuals is still up for legalisation and is still being fought for in the Supreme Court of India. One of such issues was the non-availability of joint bank accounts for queer couples, which is the main subject matter for this article. Such was still in place due to the lack of legal recognition of queer marriages.

### III. THE INCEPTION OF JOINT BANK ACCOUNTS FOR QUEER COUPLES

One might be wondering why there is a need to allow queer couples and transgender individuals to open joint bank accounts when they are completely empowered to hold individual bank accounts. While it is pertinent to note that joint bank accounts are enjoyed by cisgender couples, it helps in increased savings, in terms of couples, for their uncertain future. Some might use it to aid bulk purchases, such as a marriage ceremony or an international holiday, while others might use it for financial flexibility or to steer clear of probate.<sup>7</sup> It helps to maintain a better credit score, enhances accessibility by both account-holders, and easy

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<sup>5</sup> (2018) 10 SCC 1.

<sup>6</sup> Indian Penal Code, 1860, §377, No. 45, Acts of Parliament, 1860 (India).

<sup>7</sup> ICICI BANK, <https://www.icicibank.com> (last visited Oct. 2, 2024).

financial management easy.<sup>8</sup> Considering these prodigious benefits, one can now understand how important it is to provide the same benefits to non-cisgender couples.

Answering to the demand for the same, the landmark judgment in *Supriyo@Supriyo Chakraborty & Anr. v Union of India*<sup>9</sup> brought an impetus for the Reserve Bank of India to issue a notification enabling all scheduled commercial banks to extend their services to the LGBTQ+ community, like so. Certain renowned banks, like Axis Bank, had such services of say, nominating the queer spouses as beneficiaries from as early as 2021.<sup>10</sup> Queer couples can now open joint bank accounts, just like their heterosexual counterparts. It not only recognises the licitness of a queer couple despite the marital recognition, they are also extends a more arrayed and corresponding services that it extends to the society at large. These couples can now share the pros and cons of having shared financial interests while venturing as a legally recognised couple. It also ensures that there is greater financial security and solidity with the capacity to avoid probate charges, maintain a better credit score in the market, and plan financially as a unit. While we should not overlook the dire discrimination that the community faces in their everyday lives, both socially and legally, this renders some of their miseries at ease. It particularly eases the pains suffered by transgender individuals who are one of the most vulnerable parts of the LGBTQ community, in many aspects – financial, professional, social, as well as legal.

Queer relationship partners can now also nominate their respective spouses in case of death as nominees to receive the balance in the account.<sup>11</sup> Participating in the fruits of financial inclusion helps such couples achieve financial autonomy, wealth generation, and better ways to accumulate savings for the future. This ensures social and economic equality in the most lenient way possible in the country's current legal scenario. It becomes more quintessential for such communities, given the atrocities they face socially. For instance, transgender individuals may face difficulties in obtaining identification documents that reflect their gender identity, which can prevent them from opening bank accounts, accessing credit, and receiving government benefits. Denial of enjoying such benefits becomes unconstitutional on the grounds of violating fundamental rights, as guaranteed under the Indian Constitution, 1950<sup>12</sup>. On the other hand, such disaggregation would imply an outright abandonment of the

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<sup>8</sup> *Ibid.*

<sup>9</sup> *Id.* at 2.

<sup>10</sup> The Hindu, <https://www.thehindu.com> (last visited on Oct. 4, 2024).

<sup>11</sup> Ministry of Finance, F. No. 6/8/2024-Welfare Government of India, Ministry of Finance, Department of Financial Services.

<sup>12</sup> India Const., 1950.

community's rights as a whole.<sup>13</sup> We also should hark back to the number of documentation-related issues that were being faced by the community as a whole, such as visa, insurance, spouse nomination, access to family finances, shared property, and so on.<sup>14</sup>

However, the influx of an initiative such as the opening of joint bank accounts resolves a lot of these issues, if not all. As mentioned earlier, it is a step towards a progressive India where social exclusion is starting to become a subject of bygone days.

#### IV. HOW DOES THE BANKING SECTOR COME INTO PLAY?

It goes without saying that throughout this entire process, the banking sector indeed has the biggest role to play. The entire ordeal revolves around the banks, succinctly. By providing joint bank accounts to the LGBTQ+ community, Indian banks are shattering the long-standing stigma that has held back the community in many ways. It not only provides them the much-deserved social and financial recognition, but the community also gets increased access to financial products, such as loans, insurance, increased credit score, and accessibility to credit cards, etc., thereby increasing the community's financial independence.<sup>15</sup>

As mentioned earlier, banks such as Axis Bank have already been catering to the various individuals of the community for a couple of years. In the year 2022, the ESAF Small Finance Bank Ltd. introduced a scheme under the name of "Rainbow Savings Account," which catered to transgender individuals, undividedly, by providing services such as debit cards, higher savings rates, etc.<sup>16</sup> In 2021, Axis Bank announced a similar initiative for the LGBTQ+ community known as the "ComeAsYouAre" scheme. It embraced diversity, inclusivity, allowing enlistment of nominees for Mediclaim benefits for persons belonging to the community, allowing their employees to dress in manners that support their gender expression, inclusion of the title "Mx." for Savings and Term Deposit Accounts, etc.<sup>17</sup> Inculcating the factor of inclusion, not just for the society but even for the employees, most of the commercial banks are shedding the long forbidden shackles and not just creating an equitable financial system. Also, there is the option of using gender-inclusive terms for transgender individuals who have not yet undergone sex-reassignment surgery.

As a whole, we can say the Ministry of Finance has indeed gone a long way to tackle the

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<sup>13</sup> Marie-Amelie George, *The LGBT Disconnect: Politics and Perils of Legal Movement Formation*, 2018 WIS. L. REV. 503-592, 576 (2018).

<sup>14</sup> Manav Kirtikumar Thakkar and Sure Sai Pranav, *Validity of Live-In Relationships in India*, 3.2 JCLJ (2023) 867; THE OUTCAST COLLECTIVE, <https://theoutcastcollective.com/> (last visited on Oct. 3, 2024).

<sup>15</sup> THE OUTCAST COLLECTIVE, *supra* note 13, at 4.

<sup>16</sup> DECCAN HERALD, <https://www.deccanherald.com> (last visited on Oct. 2, 2024).

<sup>17</sup> AXIS BANK, <https://www.axisbank.com/> (last visited on Oct. 3, 2024).

discrimination faced by the LGBTQ+ community in many ways.

## V. CHALLENGES AND LIMITATIONS

As we delve into the various plus points of this step, it is pertinent to also understand the shortcomings and limitations that exist. The advent of joint bank accounts is a huge step, but nowhere near a complete fix. There still exist many issues that need to be addressed in order to achieve absolute effectiveness of this initiative.

First and foremost, the biggest issue that persists is the absence of legal recognition of same-sex marriages. With marriage, many advantages come into purview, such as property rights, financial benefits in terms of tax, monetary benefits, insurance, joint loan accounts, etc.<sup>18</sup> Legalising same-sex marriages would fix many of these issues, effectively. The same would also ensure that even when one of the partners passes away, the other's future is secure, much like cisgender couples. The same is also applicable when it comes to other major life events, such as separation, financial crunches, medical downfalls, etc.

Secondly, the social stigma is one of the toughest challenges to tackle. Given the number of reforms to aid the community, queer persons still face discrimination. Personal biases and inadequate knowledge will come into the picture, no matter the number of legal and social mitigating steps towards social inclusion. An employee who does not know the varying needs of a queer person would be unable to perform at their best while catering to such customers. Especially towards customers whose gender identities are different from the stereotypical and most common ones known to society, such as when it comes to transgender individuals. This can also give rise to many bureaucratic issues. It is more likely to affect the services and their extent if proper and correct awareness is not imparted.

## VI. RECOMMENDATIONS & SUGGESTIONS

To ensure the success of the joint bank account initiative and promote greater financial inclusion for the LGBTQ+ community, several key steps can be taken:

1. **Legalisation of Same-Sex Marriages:** The legal recognition of same-sex marriages or civil unions is a quintessential step towards full financial inclusion for LGBTQ+ individuals. As discussed earlier, marriage recognised in the eyes of law can bring about many benefits to queer couples thereby removing many social, financial, and personal ambiguities. It should be at par with cisgender marriages, if not more. Implementation of the same would not come by easily, but surely it is an important and much-needed step.

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<sup>18</sup> *Id.* at 14.

**2. Anti-Discriminatory Social Policies & Awareness Programmes:** Scheduled commercial banks must strive to bring about the implementation of more fitting and flexible policies while catering to a community as diverse and unique as LGBTQ+ persons. Their needs are different from heterosexual individuals, necessitating a need to be more gender, socially, and financially inclusive. Addressing the customers as per their preferred pronouns, treating them with respect and dignity, and having a more layered understanding of their needs would aid the cause. Most of these issues can be solved with more awareness campaigns and workshops where employees are taught to work professionally while catering to such needs. Why we say “most of these issues” is because often, we find personal biases by individuals who adamantly refuse to understand the sensitivity of the situation. This is borne from social stigma. It is also to be noted that awareness ought to go both ways – even for the LGBTQ+ community, where they are made aware of their rights and the services available at their disposal.

**3. Enhancing Inclusive Methods of Documentation & Collaboration:** For the varying needs of different individuals from the queer community, a standard form of documentation would prove to be futile. The same needs to be more dynamic and flexible to satisfy everyone’s needs. Banks need to inculcate more gender inclusive ways of documentation, which would be bereft of bureaucratic latencies, gender inclusive, free from discrimination, and streamlined. For the same reason, even the Government needs to put efforts into an enhanced experience. Such institutions can also collaborate with non-governmental organisations that specialise in the field and know exactly how to cater to the community.

## CONCLUSION

The emergence of queer based joint bank accounts in India can easily be termed as one of the most revolutionary milestones in Indian queer history after the decriminalisation of Section 377. The Ministry of Finance’s step towards such implementation curtails the gaps towards financial inclusion and social egalitarianism.

This provides the LGBTQ+ community with the much-needed impetus towards financial safety, security, and independence. One cannot deny that this is not the ultimate fix to the persisting issues related to the subject matter, but it is an important stride towards gender justice in our current stigmatised society. As stated in the recommendations and suggestions section, what we need is the legal recognition of same-sex marriages to tackle most of these existing issues.

With India stepping into a more progressive society, we should also learn from nations that



have well-established laws in such matters, while descending progressively enough to set an example for those countries that are yet to take any steps whatsoever. India's financial inclusion will undoubtedly serve as an example to many socially backward nations. This stands as a testament to our country's bright future, where people from all walks of life can stand on par with one another.

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