

International Institute of Information Technology – Hyderabad

5<sup>th</sup> April 2023

Course: Gender, Kinship and State Law (HS2.302)

Quiz/Internal 1

Time: 45mins

**Question 1:** word limit (1000-1100 words).

The Central Government in its counter-affidavit filed in the Supreme Court opposing a bunch of petitions which seek legal recognition for same-sex marriage said that

"The union between persons of opposite sex is socially, culturally and legally ingrained into the very idea and concept of marriage and ought not to be disturbed or diluted by judicial interpretation. Living together as partners and having sexual relationship by same sex individuals [which is decriminalised now] is not comparable with the Indian family unit concept of a husband, a wife and children which necessarily presuppose a biological man as a 'husband', a biological woman as a 'wife' ~~and children which necessarily presuppose a biological man as a husband, a biological woman as a 'wife' and the children~~ born out of the union between the two – who are reared by the biological man as father and the biological woman as mother. Statutory recognition of marriage limited to marriage/union/relation as being heterosexual in nature, is the norm throughout history and are foundational to both the existence and continuance of the State. While other forms of unions may exist in the society which would not be unlawful, it is open for a society to give legal recognition of the form of union which a society considers to be quintessential building block for its existence"

It also said that giving legal recognition to same-sex marriages will give rise to a lot of complications in issues related to adoption, divorce, maintenance, inheritance etc. All statutory provisions relating to these matters are based on a marriage between a man and a woman and it is impossible to make these provisions workable in a same-sex marriage

**Explain your opinion regarding this, substantiate your answer with elaborate examples and insights drawn from the course taught.**

proper extension - foundational to society - the state changes as society does  
"foundational to State" - why does state depend on nature of marriage.