



Written by [Angeline Tan](#) on September 8, 2022

## Singapore Leaves Marriage Definition to Parliament After Sodomy Law Repeal

SINGAPORE — In accordance with the decision to [repeal Section 377A of the Penal Code](#) and decriminalize gay sex, Singapore Law and Home Affairs Minister K. Shanmugam announced in August that the government would amend the Constitution to enable Parliament to have the prerogative to define marriage.

Section 377A reads:

Any male person who, in public or private, commits, or abets the commission of, or procures or attempts to procure the commission by any male person of, any act of gross indecency with another male person, shall be punished with imprisonment for a term which may extend to 2 years.



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The move by the government is not to enshrine the traditional definition of marriage in the Constitution, but to preempt court challenges on the definition of marriage, admitted Shanmugam to *The Straits Times*, Singapore's national newspaper.

"I want to be clear because I think there's some confusion. The definition of marriage is not going to be in the Constitution. That's not the intention," he said.

With a constitutional amendment in place to grant Parliament the right to define marriage, the government can then craft pro-family policies on housing, education, and other issues accordingly, Shanmugam said in a carefully worded statement.

Shanmugam's comments come in light of the fact that the incumbent People's Action Party (PAP) government enjoys a supermajority in the Singaporean Parliament. Any legislative change, such as a change in the definition of marriage, only necessitates a simple majority in Parliament for the change to be effective.

Moreover, the [Indian Supreme Court's recent ruling](#) to broaden that country's definition of families to "atypical" households such as homosexual couples has showcased the risks of a legal challenge to Singapore's current definition of marriage, Shanmugam remarked in a Facebook post.

He pointed out that the Indian court's decision to acknowledge different types of families comes just a few years after it repealed Section 377 of its Penal Code in 2018, which, like Singapore's Section 377A, outlawed sex between men.

"Our courts have traditionally eschewed such an approach, and have said that these matters should be dealt with in Parliament. The constitutional amendments will seek to ensure that," Shanmugam



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declared, alluding to the Indian Supreme Court case.

If such a proposed constitutional amendment does not happen, there could be possible disputes on the definition of marriage on the premise of a breach of Article 12 of the Constitution, which accords equal protection under Singaporean law.

However, Shanmugam admitted that any political party that wants to contest the traditional definition of marriage and lobby for same-sex marriage can do so.

“They will have to put that in their manifesto, fight elections, get a majority and then change the definition of marriage.”

Shanmugam’s comments echoed that of Prime Minister Lee Hsien Loong, who in his National Day Rally speech in August mentioned that as the Singaporean law stands, the traditional definition of marriage, just like Section 377A, is contestable on constitutional grounds in the courts.

“I do not think that for Singapore, the courts are the right forum to decide such issues,” Lee opined.

### **Implications**

The Singaporean government’s decision to amend the Constitution after decriminalizing homosexual sex merely protects the definition of marriage from court challenges.

Parliament is expected to insert a clause to ensure that the current definition of marriage in the Women’s Charter and Interpretation Act is immune to court challenges.

Upon closer scrutiny, such an amendment fails to actively promote natural law, enhance the value of marriage, and prevent its redefinition via the Parliament. Also, implications of this amendment include empowering the Parliament rather than safeguarding the institution of marriage.

For instance, the Singaporean Parliament would have the absolute prerogative to amend the definition of marriage in the future if a new definition can simply pass a simple majority vote among the elected members of Parliament (MPs).

The empowering of Parliament could embolden left-leaning political parties or individuals to politicize the LGBTQ+ cause and make homosexual unions an election promise.

Thus to safeguard marriage and to make it almost impossible for woke leftists to redefine this institution, conservatives in the island-nation have urged the government to enshrine the traditional definition of marriage in the Constitution.

This is because if marriage were to be enshrined in the Constitution, two-thirds of Parliament (a supermajority) would be needed to redefine marriage, rather than a simple majority of Parliament. Consequently, it would be more challenging for leftist groups to redefine marriage and alter societal dynamics.

Besides, conservatives have lamented that Prime Minister Lee’s sudden announcement of the repeal of 377A was premature and unwarranted. Despite already ongoing closed-door discussions between the government and various conservative as well as pro-LGBTQ+ groups, members of the wider Singaporean public have not heard any nationwide discussions about the advantages and disadvantages of retaining or repealing 377A, both in the Singaporean Parliament and beyond.

Due to the ruling party’s decision to determine the outcome of such a controversial ruling without giving the public ample time for their voices to be robustly represented through elected members of



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Parliament, some of these conservatives have called the significance of citizens speaking with these representatives or MPs into question.

While the government has tried to reassure conservatives that societal dynamics would remain unchanged, [Regardless SG](#), a Singapore-based conservative platform, sounded the alarm in the face of proactive LGBTQ+ or woke activism influencing various strata of society, on the basis that such activism on the grassroots level cannot be accounted for by all dimensions of law and policy.

Rather, these spillover effects of the repeal should be comprehensively evaluated and debated in Parliament prior to a definitive conclusion on 377A, as an article at [Regardless SG](#) indicated.



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