



Issue: Implementing measures to protect the LGBT+ rights

Forum: Human Rights Council

Position: Chairs

Name: Merle Beerens and Lucas Meyer

Introduction

When trying to further promote human rights in our world, there is still lots to overcome in the issue of protecting LGBT+ rights. Lesbians, gays, bisexuals and transgender people in all member states still face difficulties in the societal attitude towards the LGBT+ community. In this research report, we will dig into the history of LGBT+ rights, focus on the main opponent of LGBT+ rights and take a good look at the current situation of the rights per member state. Afterwards, the Human Rights Council is to set up new measures and guidelines, in order to improve the protection of the LGBT+ rights.

“No person should be afraid to walk down the street holding the hand of the person they love.”

– Barack Obama.

Definition of Key Terms

As defined by the United Nations Fair & Equal: www.unfe.org/definitions/

LGBT

This is the abbreviation for “Lesbian, Gay, Bi-sexual, Transgender”. Sometimes the “I” is added, which stands for “Intersex” or the “Q”, which stands for “Queer”. Different countries and cultures can use different terms to describe same-sex relations or people who show non-binary gender identities.

Transgender

The term “transgender” refers to people who exhibit non-binary gender identities. This includes transsexual people and trans-dressers. Some transgender people choose to change their body to their gender identity via surgery or hormones, others don’t. Transwomen were born classified as men but identify as women, transmen were born classified as women but identify as men.

Intersex

Intersex people are born with physical or biological sex characteristics, such as sexual anatomy, reproductive organs, hormonal patterns and/or chromosomal patterns, which do not fit the typical definitions of male or female. These characteristics may be apparent at birth or emerge later in life, often at puberty. Intersex people can have any sexual orientation and gender identity

Sexual Orientation

This refers to the physical, emotional or romantic attraction a person feels towards others. Gay and lesbian people feel attracted towards people of the same sex – also referred to as homosexuals – while heterosexuals feel attracted towards people from a different sex. Bisexual people feel attracted to either the same or the opposite sex. Sexual orientation is not related to your gender identity.

Gender Identity

This term refers to a deep feeling and experienced sense of one's own gender. This often aligns with the gender assigned by someone when they were born. People however can also identify themselves with the opposite gender than how they were classified at birth or as a third gender (transgender). Cisgender people are people who identify themselves with the gender they were assigned with at birth.

Gender Expression

Gender Expression refers to the way we express our gender in actions and appearance. A lot of people have the feeling that society expects them to behave conform their gender. Therefore sometimes we define certain activities for example as 'masculine' or 'feminine'. People who do not behave conform these society norms can sometimes face severe violence. Gender expression is not directly linked to one's sex, gender identity or sexual orientation.

General Overview

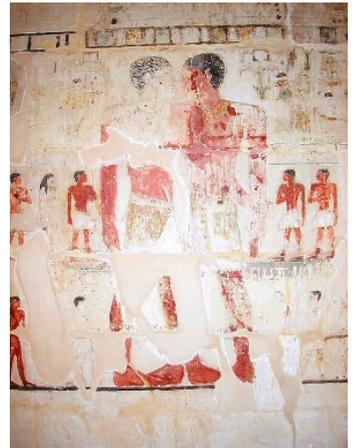
To get a better understanding of the subject, it is essential that we dive into the history of LGBT+ rights and its societal acceptance. We will take a look at the ancient civilizations and the subsequent condemnation by almost all religions. After formulating their main reluctance, we can properly take a look at the modern day situation and, moreover, figure out what can and/or should be done by the United Member states to make sure that valid counter-arguments are heard, but it is still assured that every world citizen is in no way restricted in expressing the human emotion of love.

LGBT in the ancient civilisations

First and foremost, it should be noted that sexual attraction to the same sex is of all times. Thanks to the heritage of ancient civilizations from all over the world, including ancient Egypt and Greece, we can state same-sex intercourse was socially accepted, and in some societies even simply common. The Greek men, for example, did not replace marriage between man and woman, but their same-sex relationships occurred before and beside it.

Famous Greek philosopher Plato published in his in his Symposium that love between males is the highest form, while sex with women is lustful and utilitarian.

Besides this culture of the classical times, sans rock paintings in Zimbabwe of even earlier times depict homosexuality. *Khnumhotep* and *Niankhkhnum*, two royal Egyptian servants, are believed to be the first same-sex couple in documented history.



Khnumhotep and Niankhkhnum

However, violence against same-sex love was already soon committed, making a steep rise when various religions obtained more and more influence in the structuring of society. Attitudes towards homosexual behaviour changed when states fell under the rule of religions. For the yet instable civilizations it was clearly critical that there was an assurance of lots of offspring, and same-sex relationships do not provide the society with children. The ancient acceptance disappeared and in the religious texts, such as the bible, the quran and the vedas their condemnation was clearly stated.

The influence of religion on the current status

Recent events have again shown how religion deeply influences the position of LGBTs in society. On August 30th 2017, the Nashville Statement was published and signed by around 150 conservative Christian leaders as well as members of the Trump administration. Currently the statement has been signed by around 22000 Christian leaders in the United States and only a few days ago by 250 Dutch Christian leaders, including the leader of the Christian party SGP. It is to be further investigated if the Statement is illegal, as it is yet not determined whether it goes against the ban on discrimination of the constitution. Although the western world can be seen as quite progressive, the Catholic church and the Christian background in these countries cause quite the conflict in the issue of the protection of LGBT rights. In the bible multiple verses refer to homosexual activity and chapter 20 of Leviticus literally states:

"If a man lies with a male as with a woman, both of them have committed an abomination; they shall surely be put to death; their blood is upon them."

-Chapter 20 verse 13, book of Leviticus

These kinds of passages have been many times interpreted as the rejection of homosexual activities. Marriage is one of the seven sacraments and one of the most holy activities in the church, being rather a covenant made before God than a human contract. According to the bible and to conservative Evangelic Christians, all sexual activities outside marriage are strictly sinful, including for example polygamy, adultery, but also homosexual activities.



"We also know that the law is made not for the righteous but for lawbreakers and rebels, the ungodly and sinful, the unholy and irreligious, for those who kill their fathers or mothers, for

murderers, for the sexually immoral, for those practicing homosexuality, for slave traders and liars and perjurers—and for whatever else is contrary to the sound doctrine”

-Chapter 1 verse 9, book of Timothy

However what the bible, and religion in general, fails to acknowledge, is that throughout time our needs, perspectives and values change. Religion, with its long history, is a pure form of expressing human needs, beliefs and value systems. However there is one concept that religion does not excel in, namely moving along with the rapidly changing world. In the most wealthy nations, people tend to leave the church and put their trust in the newest world ‘religion’: science. The old beliefs have started to lose their applicability in these member states. To illustrate, in present time someone who cheats on his wife or her husband is also not convicted to death, while the bible clearly states adultery is a deathly sin, too:

“If a man is found lying with the wife of another man, both of them shall die, the man who lay with the woman, and the woman. So you shall purge the evil from Israel.”

-Chapter 20 verse 22, book of Deuteronomy

In the Quran, homosexuality is also condemned. Although in the early years of the Islam the stance towards homosexuality quite resembled the antique Greek-Roman stance and thus was more relaxed and tolerant, currently that is definitely not the case. In the Quran, homosexual activity is also condemned by “the story of Lot”. Surprisingly, this story is the only story in the Quran stating anything about homosexuality explicitly and in the Hadith, no clear guidelines on punishment on homosexual activities in particular are outlined. Moreover, several passages in the Hadith show that homosexuality was not unknown in Arabia in the seventh century – the period around which the Hadith was written. Therefore, Islamic law schools can hold different opinions on how to interpret the texts.

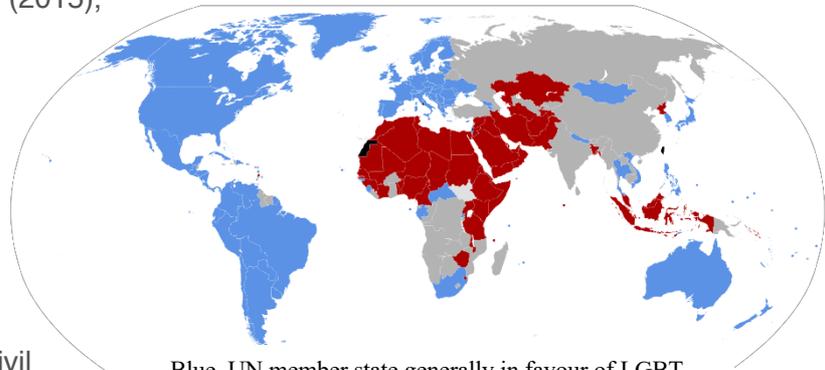
What is striking, is that these religious texts as well as the present discussion, are mostly focussed on males. In some countries even, same-sex sexual activity is allowed for women although punished by long imprisonment or even death for men (for example Ghana, Uzbekistan and Sierra Leone). Why this is the case is not really clear, although it might have something to do with the fact that men still are seen as more important, as they are the ones working and providing for their families. Women are therefore generally overlooked in the entire situation.

The status of transgenders

Most countries legalise a change of gender on a birth certificate. In some countries however there are no specific rights granted to transgenders. Furthermore, in a significant amount of countries, such as Africa and Iran, there are no laws concerning the subject so it is not actually clear whether it is possible or not. The legislation differs a lot per country: in some cases sexual reassignment surgery is needed to change sex on the birth certificate, and in some countries you can only change after a certain age. You can look at the list of LGBT+ rights per country at the end of the report for more information.

Current situation in worldwide homosexuality rights

After the Netherlands were the first to enforce same-sex marriage in 2001, after which the following countries followed in the chronological order: Belgium (2003), Canada (2003-2005), Spain (2005), South Africa (2006), Norway (2009), Sweden (2009), Iceland (2010), Argentina (2010), Denmark (2012-2017), Brazil (2012-2013), France (2013), Uruguay (2013), New Zealand (2013), Luxembourg (2015), United States of America (2015), Ireland (2015), Colombia (2016), Finland (2017), Malta (2017), Germany (2017), Australia (2017), Austria (2019), making a total of 24 countries. This year Taiwan will be the twenty-fifth added to the list and Costa Rica will join the rest in 2020.



Blue, UN member state generally in favour of LGBT rights. Red, UN member state opposing LGBT rights.

In 16 countries a *civil union* is enforced. Civil unions grant most or all of the rights of marriage, except the title itself. These unions are viewed by LGBT rights campaigners as a first step towards establishing same-sex marriage, as civil unions are viewed by supporters of LGBT rights as a ‘separate but equal’ or ‘second class’ status.

On the third step of same-sex acceptance we find a number of countries that entertain limited or partial recognition. The fourth level are the countries that completely ignore the issue or enforce laws that restrict the freedom of LGBT. Then we move on to the fifth step, the member states that entertain ‘light’ penalties, take for example some fines. Sixthly the imprisonments and other heavier penalties. It can get even worse, number seven is the life imprisonment, and finally, ten countries are categorised under number eight, those nations that enforce the death penalty. These are Afghanistan, Brunei, Iran, Mauritania, Nigeria, Saudi-Arabia, Sudan, Somalia, Qatar, Yemen.

- | | | | |
|------|--------------------------------|-------|------------------------------|
| I. | Gay marriage | V. | Penalty |
| II. | Civil union | VI. | Imprisonment / heavy penalty |
| III. | Limited or partial recognition | VII. | Life imprisonment |
| IV. | Restricting laws / negation | VIII. | Death penalty |

Major Parties Involved

United Nations LGBTI Core Group

In 2008 the UN LGBTI Core Group was established by the UN, focusing on LGBTI rights internationally. The body is co-chaired by Argentina and the Netherlands and consists of multiple states as well as the UN High Commissioner for Human Rights and is supported by Human Rights Watch and Outright Action International.



On November 1st 2018 the UNLGBTI Core Group stated at the Human Rights General Discussion: “Our overarching goal is to work within the United Nations framework on ensuring universal respect for the human rights and fundamental freedoms of all individuals without distinction, including lesbian, gay bisexual, trans and intersex (LGBTI) persons. Our particular focus is on protecting LGBTI persons from violence.”

Organisation of Islamic cooperation

The Organisation of Islamic Cooperation (OIC) is the second-largest intergovernmental organisation, after the United Nations. The organisation was founded in 1969 and currently consists of 57 states, mostly north-African and middle-east states. The OIC is “the collective voice of the Muslim world”. x In addition, in 1990 the OIC took up the “Cairo Declaration on Human Rights in Islam”, which outlines human rights with the limitations of the Sharia, the Islamic law mostly based on the Quran. This Islamic version of the UN Declaration of Human Rights in a way follows the UNDHR, however with big exceptional groups such as women and non-religious people. Furthermore, the declaration allows freedom of expression if it is but in lines of Sharia. In 2008, the OIC opposed LGBT rights in a statement reacting on the statement of Argentina, which was supported by 66 other member states. The Argentina statement entailed reaffirmations of articles of UNDHR, such as article 1: “all human beings are born free and equal in rights” and condemned violent actions based on sexual orientation based on the principle of non-discrimination.

United States of America

For long the USA has been one of the leading countries in the world regarding equal rights for all people, regardless of origin, race, colour, religion, sex or sexual orientation. Since 2003, homosexual relationships have been recognised an legalised worldwide, however not in all states laws explicitly forbid discrimination on for example work and housing for LGBT-people. In September 2017, a resolution condemning the death penalty for consensual gay relationships passed in the General Assembly, but surprisingly the US voted against. In a statement explaining their vote that followed the load of critical notes from the media, the Trump administration explained: "We voted against that resolution because of broader concerns with the resolution’s approach in condemning the death penalty in all circumstances." What is more, in July 2017, Trump aimed to ban all transgenders from the US army. Controversely, during his campaign he stated that he would fight for LGBT-rights and claimed he would do a better job doing so than Hillary Clinton.



What is more, in July 2017, Trump aimed to ban all transgenders from the US army. Controversely, during his campaign he stated that he would fight for LGBT-rights and claimed he would do a better job doing so than Hillary Clinton.

The Netherlands

The Netherlands was the first country in the world to legalise gay marriage in 2001. Ever since 2005, gay couples are also allowed to adopt from overseas. Although, the Christian political parties, covering 5%, are still against same-sex marriage. They however do not aim

to reverse the law, as it is a “given fact” due to the large social basis. In addition, the Netherlands co-chair the UN LGBTI Core Group.

Iran

Iran is one of the countries in which sexual activity with people from the same sex is punished with 74 whip lashes for men and 50 for women. The fourth time, it is punished by death. Iran is one of the last five countries that legalise death penalty against homosexual activity. Other countries are Saudi Arabia, Afghanistan, Brunei, Mauritania, Iran, Sudan, Nigeria, Yemen, Qatar and Somalia.

Timeline of Key Events

1994	The UN declared all criminalisation of LGBT people a violation of international law
1995	First debate on “sexual orientation”
2001	The Netherlands was the first country to legalise gay marriage
2003	Brazil proposed a resolution condemning discrimination based on sexual orientation
2006	Norway made a statement on sexual orientation and gender identity
2008	Argentina made a joint statement on sexual orientation and gender identity
2008	The Organisation of Islamic Cooperation made a statement disapproving of LGBT rights
2008	The UN LGBTI Core Group was established
2011	The first resolution on the issue was adopted: A/HRC/RES/17/19
2014	The second resolution on the issue was adopted: A/HRC/RES/27/32
2016	The third resolution on the issue was adopted: A/HRC/RES/32/2
2016	The horrible event of the Orlando shooting was condemned by the UN Security Council
2017	The Nashville statement was drawn up

Previous attempts to resolve the issue

The global discussion on LGBT rights started already some time ago. In 1994, the UN decided that all criminalisation against same-sex relationships between adults are in violation with the international Human Rights law. The next year, “sexual orientation” firstly became a topic on the UN agenda at the 4th World Conference on Women. In 2003, Brazil proposed a resolution which condemned discrimination based on sexual orientation, however discussions on the resolution were postponed to 2004.

In 2006, gender identity became topic of discussion due to a statement of Norway. Two years later, a statement by Argentina in support of 66 other member states pledged for LGBT rights and non-discrimination. The fight however was not over, as the Organisation of Islamic Cooperation followed immediately with a statement strongly disapproving of LGBT rights.

The first resolution on the issue that was actually to pass was a resolution submitted in 2011 and eventually implemented as “the Vienna Declaration and Programme of Action”. This resolution called for a report to be drawn up that would investigate the current status of LGBT rights, focusing on violence and criminalising laws based on gender identity and sexual orientation. In 2014, the second resolution was adopted, further aiming to decrease violence and overcoming discrimination. Two years later, the UNHRC called for an “Independent Expert” that would research the reasons for violence against the LGBT community and further strive for the protection of LGBT’s.

Possible Solutions

The Human Rights Council is to ensure that all world citizens are treated with the same universal rights, in this case the freedom of expressing love or gender, no matter what sex or sexual orientation. It has become clear that it is not realistic to just enforce a resolution that declares that gay marriage is legal in all member states, effective immediately. All member states are somewhere on the track to gay marriage and LGBT+ acceptance, however some still at the very beginning. This issue will require a method per country / or area.

We should be reminded that all people against LGBT+ are not just evil and therefore want all the LGBT+ killed, it is their underlying fear for something that is unknown and, moreover, condemned by their state’s religion, that has hold of the general societal attitude, despite the fact that it comprises of several points that are simply outdated. Therefore, the separation between church and state is also in this case favourable.

The delegates of the HRC could think of a lobbyist group that would be installed in every member state, working under the UN flag. This group of lobbyists and human rights advocates are to unite the LGBT+ movement in every nation, start the talks with the political powers and educate the people on the scientific proof that refutes the believes of homosexuality being a choice or disease or anything else but natural. Even in the countries where gay marriage is already accepted, there is still much to win for this UN lobbyist group, noting that the societal attitude towards LGBT+ is not yet shared by all.

Step by step these groups can achieve little successes. Take for example a growth in the societal acceptance, or more LGBT+ people that dare to express their sexuality and/or sexual orientation. Especially when celebrities do so, things can suddenly change strikingly fast.

Furthermore, in order to maintain the universal human rights, it should be, first and foremost, top priority to condemn the death penalty for expressing something as human as love. Extremely precarious intercultural discussions with the political powers and should be undertaken.

More information on the status quo is always welcome, especially in issues as significant as this one. A yearly report by the UN on the status of LGBT+ could contribute to more realisation of the current situation in the world politics. On the subject of transgenders in particular is yet so little researched or known that extra data and attention would be very much helpful. The yearly report can simultaneously review how much the efforts by the UNHRC have helped up till then, after which the UNHRC can keep adapting their policies, in order to ensure all world citizens to be able to love the person they love.

“As long there’s a single child that’s afraid they won’t be accepted for who they are, we’ve got more work to do.” – Barack Obama

Appendix/Appendices

TED talk on hiding yourself

https://www.ted.com/talks/morgana_bailey_the_danger_of_hiding_who_you_are/discussion?referrer=playlist-on_coming_out&language=en

TED talk on being queer in a rural village

https://www.ted.com/talks/katlego_kolanyane_kesupile_how_i_m_bringing_queer_pride_to_my_rural_village?referrer=playlist-on_coming_out#t-337271

The three resolutions adopted by UNHRC on the issue can be found here

<https://www.ohchr.org/en/issues/discrimination/pages/lgbtunresolutions.aspx>

Bibliography

http://www.egyptology.com/niankhkhnum_khnumhotep/dallas.html

<https://www.hrc.org/blog/evangelical-leaders-aligned-with-trump-pence-launch-vicious-attack-on-lgbtq>

<https://cbmw.org/nashville-statement>

https://en.wikipedia.org/wiki/LGBT_in_Islam

https://en.wikipedia.org/wiki/LGBT_in_Islam#In_the_Quran

https://en.wikipedia.org/wiki/LGBT_rights_by_country_or_territory

<https://www.unfe.org/definitions/>