

- Committee:** General Assembly Sixth Assembly - Legal (GA 6)
- Issue:** Setting a legal framework to prevent discrimination and abusive violence based on sexual orientation
- Student Officer:** Zeina Abdeldayem (GA6 President) & Amina Marwan (GA6 Chair)

## I. Introduction

In all regions of the world, homosexuals who are lesbian, gay, bisexual, transgender (LGBT), which are people having sexual orientation differing from the norm, often suffer discrimination, intimidation, harassment and violence. Sexual orientation is a person's physical, romantic and/or emotional attraction towards other people. Homosexual people are attracted to individuals of the same sex as themselves. Heterosexual people are attracted to individuals of a different sex from themselves. Bisexual people may be attracted to individuals of the same or different sex. Sexual orientation is not related to gender identity, as they are two different things. In most regions around the world, homosexuality is often regarded as a taboo topic; as most societies regard the topic as "immoral". Therefore, the LGBT community face extensive discrimination and abusive violence including killings, torture, arbitrary detention and widespread discrimination in access to health care, education, employment and housing.

Nowadays, countries are becoming more open to the notion of homosexuality, as LGBT people have made notable advances since 2011, when the first United Nation's resolution which fully recognizes the rights of homosexuals was passed. 34 countries now legislate marriage or civil unions for same-sex couples.<sup>1</sup> However, these advances have been overshadowed by continuing violence and impunity, criminalization and discrimination in a variety of settings such as legal frameworks, healthcare, housing and education. Moreover, recent estimates suggest around 80 countries have laws that subject their citizens to criminal penalties linked to homosexuality. These laws are stigmatized by religious beliefs and some countries criminalise sex between men due to historic penal codes from British colonial rule which define sex as penile penetration. Such laws not only undermine human rights, they can also fuel discrimination, stigma, and even violence against people based on the basis of their perceived sexual orientation and gender identities.

## II. Focused Overview of the Issue

### 1) Reasons Behind Homosexual Discrimination

By definition, Homophobia is the dislike of or prejudice against homosexual people. It's often based on irrational fear and misunderstanding. Thus, homophobia is what leads to discrimination and abusive violence present in communities against the homosexuals. People may hold homophobic beliefs if their parents and families hold them. Homosexual intolerance roots to several factors according to research that has been conducted on the issue.

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<sup>1</sup> Human Rights Campaign. "UN Human Rights Office Releases Report Detailing Violence and Discrimination Against LGBT People." Human Rights Campaign. Web.

Earlier research has found homophobia to be a complex subject, with some studies suggesting that people with visceral negative reactions to gays and lesbians often harbor same-sex desires themselves. Other studies, though, contest that idea, and suggest that homophobic people are truly averse to same-sex attraction.<sup>2</sup> Furthermore, researchers discovered that people who do not engage in tight relationships with others tend to be more homophobic than those who engage in tight relationships. It was also analyzed that people with higher levels of immature defense mechanisms were more homophobic than those with mature defense mechanisms. Professor of Psychology in University of California Berkeley Gregory M. Herek, identified several characteristics in homophobic people which include: less likely to have had personal contact with homosexuals, likely to be older and less educated more likely to be religious, to attend church frequently, and to subscribe to a conservative religious ideology, and are more likely to manifest high levels of authoritarianism and related personality characteristics.<sup>3</sup>

As stated above, homophobia or homosexual intolerance and religion intertwine immensely, as religion and homosexuality have historically appeared to clash due to the condemnation of the notion in most religions around the world. Therefore, religious people tend to be homophobes in which they participate in the discrimination and violence against homosexuals. There are several doctrines on homosexuality with regards to religion. Rejectionism, being the most extreme doctrine, completely rejects the concept that homosexuals deserve equal rights. This belief is held by Judeo-Christian denomination as well as most Islamic nations; in which they punish homosexuality by sentencing those caught engaging in homosexual practices to death or torture such as in Yemen, Iran, Mauritania, Nigeria and many others. Another doctrine, ““Love the sinner, hate the sin” holds that LGBT people should be regarded with an equal amount of respect; however, homosexual behaviors are not tolerated. This approach believes that people should abstain from acting upon their desires, however should not be penalized for their preference of their sexual orientation.”<sup>4</sup> Third and the most rare type is the Full Acceptance, which is a methodology approach that asserts that homosexuals are entitled to the same civil and social rights as their heterosexual counterparts.

## 2) Examples of Discrimination and Abusive Violence Against Homosexuals

Discrimination of homosexual can take various forms. The United Nations Human Rights Office summarized a list of examples of discrimination and abusive violence against homosexuals which include: Violent attacks, ranging from aggressive verbal abuse and psychological bullying to physical assault, torture, kidnapping and targeted killings. Moreover, discriminatory treatment takes place in a range of everyday settings, including workplaces, schools, family homes and hospitals. Without national laws prohibiting discrimination by third parties on grounds of sexual orientation and gender identity, such

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<sup>2</sup> Pappas, Stephanie. "Homophobic People Often Have Psychological Issues." *LiveScience*. Purch, 11 Sept. 2015. Web

<sup>3</sup> "The Science of Homophobia and How to Cure It." *SBS PopAsia*. SBS News. Web.

<sup>4</sup> "Homosexuality and Religion | SexInfo Online." *Sex Education within Schools | SexInfo Online*. Web.

discriminatory treatment continues unchecked, leaving little recourse to those affected. “In this context, lack of legal recognition of same-sex relationships or of a person’s gender identity can also have a discriminatory impact on many LGBT individuals.”<sup>5</sup> Nonetheless, some member states adopt discriminatory laws that prohibits the practice of same sex relationships; often used to harass and punish LGBT people, including laws criminalizing consensual same-sex relationships, which violate rights to privacy and to freedom from discrimination. Down below is a figure portraying nation states and their policies towards LGBT.

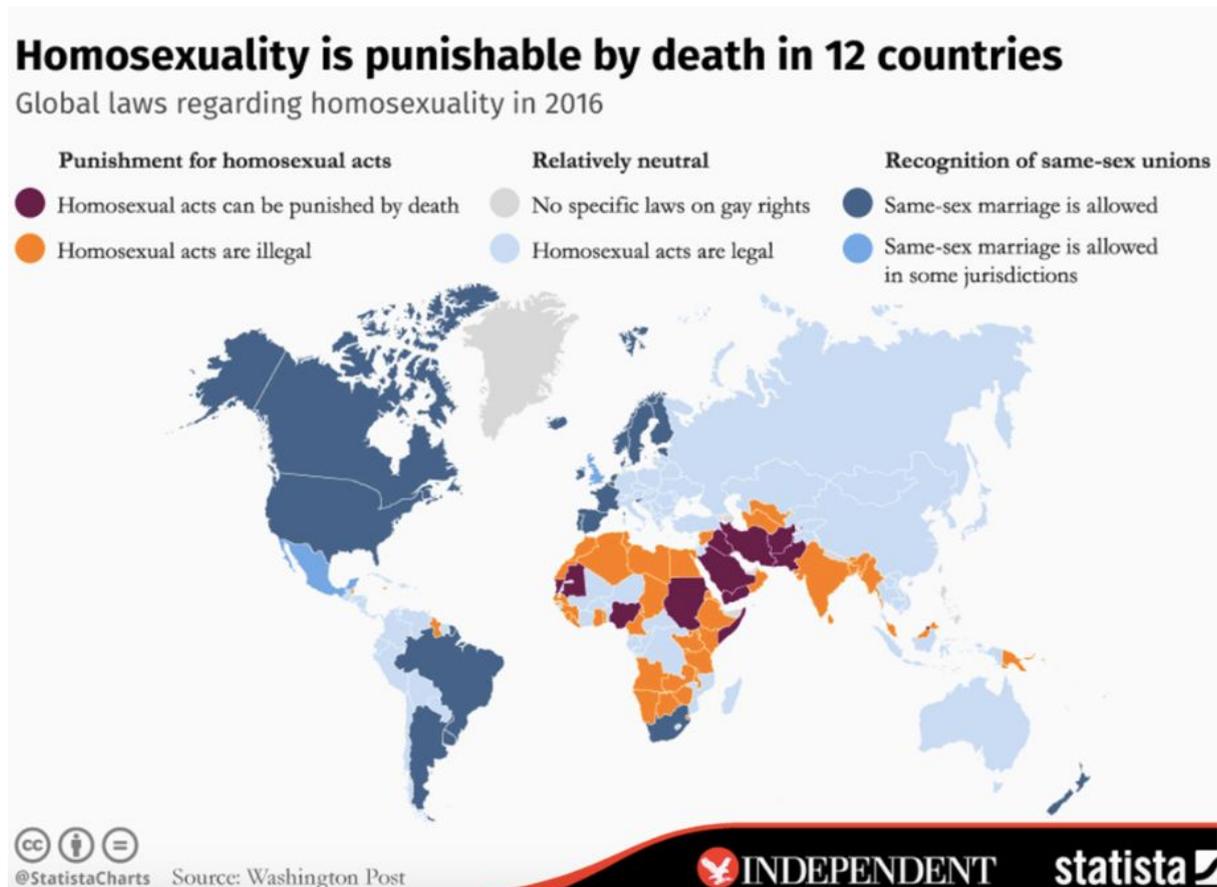


Fig. 1: Global Laws Regarding Homosexuality in 2016 <sup>6</sup>

### 3) Rights of Homosexuals Under International Law

The right to equality and non-discrimination are core principles of human rights, which are clearly mentioned the United Nations Charter, The Universal Declaration of Human Rights (UDHR) and human rights treaties. This notion of equality and the concept of non-discrimination applies to people with same-sex sexual orientation. No circumstance exists, whether it is a treaty or a mere clause, which permits member states to guarantee full rights to some but withhold them from others purely on the basis of sexual orientation. Furthermore, United Nations committees and bodies such as United Nations Human Rights

<sup>5</sup> "International Human Rights Law and Sexual Orientation & Gender Identity ." *United Nations Free and Equal*. United Nations Human Rights Office Of The High Commissioner, n.d. Web. 31 July 2018.

<sup>6</sup> "LGBT relationships are illegal in 74 countries, research finds." *Independent.co.uk*. Independent, 2016. Web.

Committee, the Committee on Economic, Social and Cultural Rights, the Committee on the Rights of the Child, the Committee against Torture have all established and agreed that sexual orientation and gender identity are included among prohibited grounds of discrimination under international human rights law.<sup>7</sup>

### III. Involved Countries and Organizations

#### 1) Ghana

According to the Human Rights Watch, Ghanaians who are lesbian, gay, bisexual, or transgender suffer widespread discrimination and abuse both in public and in family settings.<sup>8</sup> The main reason behind their discrimination because homosexuality goes against their religion. According to Human Rights Watch, 98 percent of Ghanaians perceive that homosexuality is morally wrong, therefore, homosexuality is not accepted. The LGBT community suffer from being threatened, beaten, and driven from their homes after family members learned of their sexual orientation. One woman said that when her family heard that she was associating with LGBT people; the family kicked her out and she was not permitted to come back. According to the research conducted by The Human Rights Watch, they found out that LGBT people fear that the law could be used against them if they called for their rights, which therefore serves as a barrier to seeking justice.

In Ghana, the practice of homosexuality is considered a criminal act. It is, therefore, punishable by law. "Having a law on the books that criminalizes adult consensual same-sex conduct contributes to a climate in which LGBT people are frequently victims of violence and discrimination," said Wendy Isaack, LGBT rights researcher at Human Rights Watch. "Homophobic statements by local and national government officials, traditional elders, and senior religious leaders foment discrimination and in some cases, incite violence."<sup>9</sup> Furthermore, Mike Ocquaye, the parliament speaker, referred to homosexuality as an "abomination" and called for stricter laws against same-sex conduct. His comments have heightened tensions for LGBT people and contributed to an increase in calls by some opinion leaders, including other members of parliament, to further criminalize same-sex activity.

#### 2) Canada

In Canada, the lesbian, gay, bisexual and transgender (LGBT) community in Canada has seen steady gains in rights since the 1960's. Canada is internationally regarded as a leader in advocating human rights and equality to the LGBT community. Recent years have seen steady progress on everything from health care to the right to adopt. In the year of 1992 the LGBT community were accepted in rolling in the army. Nonetheless, in 1994 the Supreme Court ruled that gays and lesbians could apply for refugee status on the basis of facing persecution in their countries of origin; and announced a 1995 ruling in Ontario that allowed

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<sup>7</sup> "International Human Rights Law and Sexual Orientation & Gender Identity ." *United Nations Free and Equal*. United Nations Human Rights Office Of The High Commissioner, n.d. Web. 31 July 2018.

<sup>8</sup> "Ghana: Discrimination, Violence against LGBT People." *Human Rights Watch*. 08 Jan. 2018. Web.

<sup>9</sup> Ibid.

same-sex couples to adopt. In 2005, Canada became the fourth country worldwide to legalize same-sex marriage.

Now in recent years, addressing bullying in schools became a major issue for gays and lesbians in Canada. Numerous provinces passed anti-bullying legislation, in which laws were passed in 2012 and 2013; requiring that all publicly-funded schools, including religious ones, accept student-organized gay-straight alliances. However, discrimination against LGBT people persists in many places, but national efforts such as the ones mentioned above continue to emphasize on the rights and the equality of its LGBT community.<sup>10</sup>

### 3) OHCHR

OHCHR is a sub organization under the United Nations that aims to monitor human rights violations and bring an end to them. In particular efforts with the issue of discrimination against LGBT, the OHCHR works with states' national human rights institutions and civil societies to achieve progress towards the worldwide repeal of laws criminalizing LGBT persons and further measures to protect people from violence and discrimination on grounds of their sexual orientation or gender identity. Efforts of the OHCHR include: "Monitoring, reporting and bringing attention of human rights violations affecting LGBT persons, engaging in public advocacy of decriminalization and other measures necessary to strengthen human rights protection for LGBT persons, including through speeches and statements, newspaper articles, video messages, fact sheets and distribution of various other materials and working with UN partners to implement various activities intended to counter discrimination and violence motivated by animosity towards LGBT persons."<sup>11</sup> On 26 July 2013, former High Commissioner Navi Pillay launched a public information campaign designed to raise awareness of homophobic and transphobic violence and discrimination and promote greater respect for the rights of LGBT people everywhere.

## IV. Key Vocabulary

**Homosexuality:** Sexual attraction to people of one's own sex.

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<sup>10</sup> Rau, Krishna. "Lesbian, Gay, Bisexual and Transgender Rights in Canada." *The Canadian Encyclopedia*. Web.

<sup>11</sup> "OHCHR | Combating Discrimination Based on Sexual Orientation and Gender Identity." *OHCHR | Convention on the Rights of the Child*. Web.

**LGBTQA+:** An initialism that stands for Lesbian, Gay, Bisexual, Transgender, Queer, Asexual and further sexual and gender orientations.

**Queer:** An umbrella term for sexual and gender minorities who are not heterosexual or cisgender.

**Transgender:** Denoting or relating to a person whose sense of personal identity and gender does not correspond with their birth sex.

**Asexual:** A person who has no sexual feelings or desires.

**Extrajudicial:** Illegal; not legally authorised.

**Homophobia:** Dislike of or prejudice against homosexuals.

## V. Important Events & Chronology

Date (Day/Month/Year)	Event
28 June 1969	The Stonewall riots took place on 28 June 1969 in Manhattan, New York, USA. Members of the LGBTQA+ community began riots against the police after a raid. The Stonewall riots is said to be the most monumental event leading up to the liberation and the modern movement of the fight for LGBTQA+ rights in the United States.
September 1995	The discussion and fight for LGBTQA+ rights is acknowledged in the United Nations for the first time during the draft of the Beijing Platform for Action during the fourth World Conference on Women.
2005	The Simpsons was the first cartoon series to screen an episode completely dedicated to the LGBTQA+ community. As a pop culture phenomenon and one of the most popular shows on television at the time, it proved to be an important milestone in the LGBTQA+ community's history.
3 October 2017	The US votes against a UN resolution that condemns gay sex death penalty, alongside theocracies Iran and Saudi Arabia. The actions of the US come as a shock to the

	international world as the US is portrayed to be one of the more tolerant countries of the LGBTQA+ community.
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## VI. Past Resolutions and Treaties

- [A/RES/62/182](#) This resolution was passed by the General Assembly on the 30th of January 2015 and it discusses and condemns executions as the act disrespects human rights. This falls under this topic as the resolution firmly attempts to drive the fact that “Extrajudicial, summary or arbitrary executions” should not occur under any circumstances.
- [A/HRC/RES/32/2](#) This resolution was adopted by the Human Rights Council on the 30th of June 2016 and it discusses the “Protection against violence and discrimination based on sexual orientation or gender”. The resolution brings into focus the Declaration of Human Rights and the fact that by not following the aforementioned resolution, member states would be disregarding the declaration as a whole. It was adopted by a recorded vote of 23 to 18, with 6 abstentions.

## VII. Failed Solution Attempts

Failed solution attempts are previously mentioned in the section above. While the UN has previously passed resolutions in attempt to stop the extrajudicial executions of the LGBTQA+ community as well as in general, and further protect the LGBTQA+ from further violence, many member states continue to disregard the resolutions. Countries like Saudi Arabia, Indonesia, and many other governments or governorates influenced by religious law like that of Islam, punish civilians and discriminate against them if they are a part of the LGBTQA+ community. Countries like this prevent an international legal framework from being achieved.

The errors of the past attempts prevail in the fact that the matter is not taken as seriously as it should be. While the resolutions are accepted by the General Assembly and adopted by it, consequences for disobeying the resolution are not enforced and therefore violence and discrimination based on sexual orientation still occur in numerous member states. Another issue that prevents solutions is the fact that the General Assembly cannot enforce laws and bills upon countries due to the fact that it would infringe upon sovereignty, and therefore countries do not feel it is important to adopt the resolutions into their governing systems.

## VIII. Guiding Questions

- What is your country’s general stance towards members of the LGBTQA+ community? Is it more tolerant towards the LGBs than it is to transgenders?

- Does your country have any laws in places that may cause violence and discriminatory attitudes towards people based on their sexual orientation?
- Is your country influenced by any religious law ( i.e. Islamic, Hindu, etc.), and if so, how does this impact your country’s manner towards civilians based on their sexual orientation?
- What countries provide members of the LGBTQA+ community with the most rights? Why?
- What countries provide members of the LGBTQA+ community with the least rights? Why?
- What discrimination and abusive violence have members of the LGBTQA+ community faced in your country? Has your country made any steps to improve the levels of violence that members of the LGBTQA+ face?
- Does the government laws of your country abide by the previous resolutions passed by the UN with regards to the question at hand?

## IX. Possible Solutions

While the General Assembly cannot enforce laws or requests, it can provide guidelines and solutions that may be adopted by member states. There are many possible solutions to the issue at hand. One of the solutions to the question could be to provide a legal framework adopted by all members at the request of the General Assembly, however, in order for this to be a sufficient solution, member states must be held accountable. One of the issues that was faced with previous resolutions was the problem of no accountability; so while resolutions were passed by the General Assembly, many member states did not abide by them. For example, many governments or specific governorates that are influenced by religion may not abide by the clauses set forth in a resolution, and because the governments face no consequences by doing so, discrimination and abusive violence based on sexual orientation is still a prevailing issue all around the world.

Not only do members of the LGBTQA+ community face discrimination by government laws and bills, they also encounter it from their fellow civilians. The government should take it upon themselves to educate the civilians of their country and to change their mindsets in order to make civilians more tolerant to members of the LGBTQA+ community. Through the public school system, governments could decrease the levels of violence towards people based on their sexual orientation by education others.

## X. Useful Links

- Banning-Lover, Rachel, and Joe Sandler Clarke. “Six Countries Making Progress on LGBT Rights.” *The Guardian*, Guardian News and Media, 10 Feb. 2016, [www.theguardian.com/global-development-professionals-network/2016/feb/10/lgbt-rights-six-countries-progress](http://www.theguardian.com/global-development-professionals-network/2016/feb/10/lgbt-rights-six-countries-progress).

While discrimination and abusive violence towards people based on their sexual orientation has always been an issue around the world. Due to the age of technology and the methods in which information is shared globally, many countries have progressed in order to prevent violence. Due to the fact that people share opinions and thoughts with others from across the world, those who live in the age of technology tend to be tolerant and more accepting to other ideas and beliefs. The link above provides a comprehensive list of countries that are making significant efforts and progress in increasing LGBTQA+ rights as well as decreasing discrimination and abusive violence.

- “The Global Divide on Homosexuality.” *Pew Research Center's Global Attitudes Project*, Pew Research Center's Global Attitudes Project, 1 June 2015, [www.pewglobal.org/2013/06/04/the-global-divide-on-homosexuality/](http://www.pewglobal.org/2013/06/04/the-global-divide-on-homosexuality/).

This website analyzes the global divide on homosexuality and provides relevant statistics.

- “UN Free & Equal.” *UN Free & Equal*, [www.unfe.org/](http://www.unfe.org/).

UN Free & Equal is an interesting site as it is a UN body that supports rights of Lesbian, Gay, Bisexual and Intersexual people all around the world. It will be useful as it can be used as a vault of credible information and to support stances for the LGBTQA+ community.

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