



PORGMUN 2018

Research paper

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***Ensuring Protection of the Rights of LGBTQIA+ Individuals
and Devising Measures by Which to Minimise Sexuality-Based
Discrimination***

Introduction

Since its establishment the United Nations has strived „to reaffirm faith in fundamental human rights, in the dignity and worth of the human person” without distinction as to race, sex, language, or religion.⁽³⁾ ”Considering that the principal mission of the Human Rights Council is to ensure and protect human rights, it is also its mission to protect citizens of the world from being discriminated against because of their sexuality.”⁽¹⁴⁾ Right now there exists “a lack of adequate legal protection against discrimination on grounds of sexual orientation and gender identity.”⁽⁴⁾ “Even though the international community has been making great progress regarding LGBTQIA+ rights in recent years, there are still parts of the world where citizens can be discriminated against, persecuted, or even killed because of their sexuality.”⁽¹⁴⁾

Definition of key terms

Note: Please acknowledge that many of the terms included in this list may be ambiguous as well as bear different meaning from person to person. However, as the aim of the HRC as well as PORGMUN is to debate upon the topic of LGBTQIA+ rights, following are the definitions which will be referred to throughout this year’s debate.

- Lesbian (n.) - “a woman whose primary sexual and affectional orientation is toward people of the same gender.”⁽²⁾
- Gender (n.) - “a social construct used to classify a person as a man, woman, or some other identity. Fundamentally different from the sex one is assigned at birth.”⁽²⁾
- Gay (adj.) - “a sexual and affectional orientation toward people of the same gender.”⁽²⁾
- Gay (n.) - a person who is sexually and affectionately attracted toward people of the same gender. **Note:** For the purpose of smoother discussion, the term shall be used to refer to a man.
- Bisexual (n.) - a person who is sexually or romantically attracted to both men and women.
- Transgender - “of, relating to, or being a person whose gender identity differs from the sex the person had or was identified as having at birth; especially : of, relating to, or being a person whose gender identity is opposite the sex the person had or was identified as having at birth”⁽¹⁾
- Cisgender - “a gender identity, or performance in a gender role, that society deems to match the person’s assigned sex at birth.” A term used to refer to “people who are not transgender.”⁽²⁾

- Queer (adj.) - “One definition of queer is abnormal or strange. Historically, queer has been used as” an insult “against people whose gender, gender expression and/or sexuality do not conform to dominant expectations. Some people have reclaimed the word queer and self identify as such. For some, this reclamation is a celebration of not fitting into norms...” For “some, queer is a radical and anti-assimilationist stance that captures multiple aspects of identities.”⁽²⁾ **Note:** For the purpose of smoother discussion, the Delegates shall refrain from using queer as an umbrella term for any member of the LGBTQIA+ community. Moreover, the term queer shall not be used as an insult during the PORGMUN Conference.
- Intersex (adj.) - Term “used describe the experience of naturally (that is, without any medical intervention) developing primary or secondary sex characteristics that do not fit neatly into society's definitions of male or female. (...)Hermaphrodite is an outdated and inaccurate term”⁽²⁾ that shall not be used during the PORGMUN Conference.
- Asexual - “A sexual orientation generally characterized by not feeling sexual attraction or a desire for partnered sexuality. Asexuality is distinct from celibacy, which is the deliberate abstention from sexual activity.”⁽²⁾
- Heterosexuality (n.) - “A sexual orientation in which a person feels physically and emotionally attracted to people of a gender other than their own.”⁽²⁾
- Heterosexism (n.) - “The assumption that all people are or should be heterosexual. Heterosexism excludes the needs, concerns, and life experiences of lesbian, gay, bisexual and queer people while it gives advantages to heterosexual people. It is often a subtle form of oppression,...”⁽²⁾
- LGBT - “Abbreviation for Lesbian, Gay, Bisexual, and Transgender. An umbrella term that is often used to refer to the community as a whole.”⁽²⁾
- LGBTQIA+ - Intentionally including and raising awareness of Queer, Intersex and Asexual as well as myriad other communities under the umbrella term.⁽²⁾
- Microaggressions - “Brief and commonplace daily verbal, behavioral, or environmental indignities, whether intentional or unintentional, that communicate hostile, derogatory, or negative slights and insults about one’s marginalized identity/identities.”⁽²⁾
- Gender Identity - “A sense of one’s self as trans*, genderqueer, woman, man, or some other identity, which may or may not correspond with the sex and gender one is assigned at birth.”⁽²⁾
- SGBV - Sexual and Gender-Based Violence⁽¹³⁾

General overview

THE ISSUE IN DETAIL

Members of the LGBTQIA+ community “are discriminated against in the labour market, in schools and in hospitals, mistreated and disowned by their own families. They are singled out for physical attack – beaten, sexually assaulted, tortured and killed. In several countries, laws against cross dressing are used to punish transgender people on the basis of their gender identity and expression. And in some 77 countries, discriminatory laws criminalize private, consensual same-sex relationships – exposing individuals to the risk of arrest, prosecution, imprisonment — even, in at least five countries, the death penalty.”⁽⁴⁾ Moreover, “many visibly Intersex people are mutilated in infancy and early childhood by doctors to make the individual’s sex characteristics conform to society’s idea of what normal bodies should look like. Intersex people are relatively common, although society’s denial of their existence has allowed very little room for intersex issues to be discussed publicly.”⁽²⁾

„Protecting LGBT people from violence and discrimination does not require the creation of a new set of LGBT-specific rights, nor does it require the establishment of new international human rights standards. The legal obligations of States to safeguard the human rights of LGBT people are well established in international human rights law on the basis of the Universal Declaration of Human Rights and subsequently agreed international human rights treaties. All people, irrespective of sex, sexual orientation or gender identity, are entitled to enjoy the protections provided for by international human rights law, including in respect of rights to life, security of person and privacy, the right to be free from torture, arbitrary arrest and detention, the right to be free from discrimination and the right to freedom of expression, association and peaceful assembly.

The core legal obligations of States with respect to protecting the human rights of LGBT people include obligations to:

- *Protect* individuals from homophobic and transphobic violence.
- *Prevent* torture and cruel, inhuman and degrading treatment.
- *Repeal* laws criminalizing homosexuality and transgender people.
- *Prohibit* discrimination based on sexual orientation and gender identity.
- *Safeguard* freedom of expression, association and peaceful assembly for all LGBT people.”⁽⁴⁾

ORIGIN AND HISTORY OF THE ISSUE

“Most historians agree that there is evidence of homosexual activity and same-sex love, whether such relationships were accepted or persecuted, in every documented culture.”⁽⁶⁾

Evidence suggests that homosexuality existed in Israel (it is prohibited in the Bible) and flourished in Ancient Greece while the Native American idea of “Two-Spirit” describing a third-gender role. The flowering of LGBT acceptance in indigenous societies was opposed by European and Christian colonizers. European dress was enforced in some places as Biblical interpretation made crossdressing illegal. ⁽⁶⁾

THE CURRENT SITUATION

What has been done up to this point?

Early efforts to understand the range of human sexual behavior came from European doctors and scientists” in the late 19th century. Some acknowledged the natural occurrence of a “third sex” others labeled it “degenerate.” Between WWI and WWII Berlin’s Institute for Sexual Science, including books on gay cultural history, thrived with gay bar scene under Germany’s more liberal laws until it was destroyed by the Nazis. Gay men and lesbians were targeted as Holocaust victims. Inspired by the African American Civil Rights movement, the LGBT community in the US began organizing itself and fighting for equality.⁽⁸⁾ “The gay liberation movement of the 1970s saw myriad political organizations spring up,...” as well as “expanding religious acceptance (...)The LGBT rights movement suffered a setback during the 1980s, as the gay male community was decimated by the AIDS epidemic” but „enormous marches on Washington drew as many as one million gay rights supporters in 1987 and again in 1993.”⁽⁶⁾

The United Nations expressed multiple human rights mechanisms since “the early 1990s” to protect LGBT rights. “These mechanisms include the treaty bodies established to monitor States’ compliance with international human rights treaties, as well as the special rapporteurs and other independent experts appointed by the Human Rights Council to investigate and report on pressing human rights challenges.”⁽⁴⁾

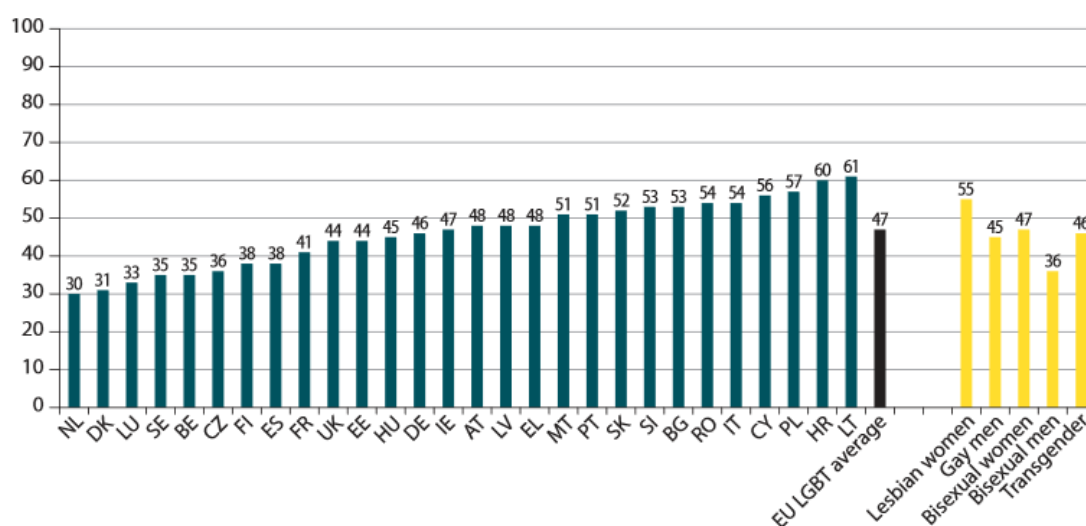
““As men and women of conscience, we reject discrimination in general, and in particular discrimination based on sexual orientation and gender identity. Where there is a tension between cultural attitudes and universal human rights, rights must carry the day,”” are the words of Secretary-General Ban Ki-moon on Human Rights Day (10 December) 2010 in “the first of several major policy speeches on

the quest for LGBT equality, calling for the worldwide decriminalization of homosexuality and for other measures to tackle violence and discrimination against LGBT people.”⁽⁴⁾

Is the situation worsening or improving? In which regions is the issue still prominent?

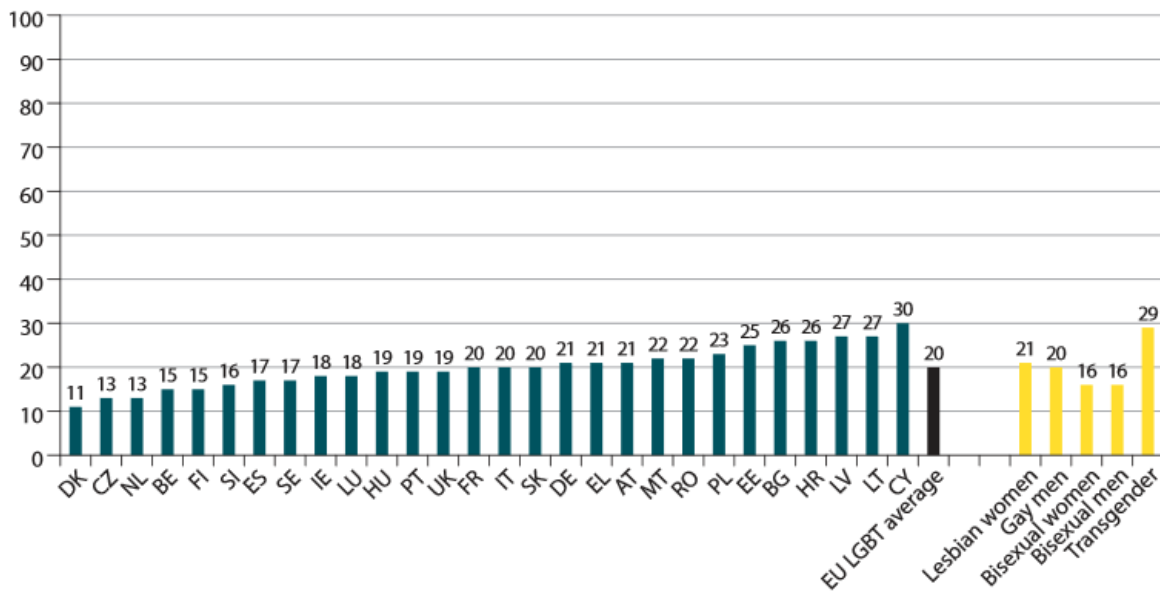
“The immediate, caring response from mayors, police and FBI authorities, local and national politicians, and the President of the United States, who reached out to express outrage and concern,” after mass shooting at a gay club in 2016 “demonstrates the enormous shift toward acceptance and public support for the LGBT community.”⁽⁶⁾ Even though major progress has been done in Western countries (see the second picture on page 7) it is important to bear in mind that the fight for LGBT rights is not finished. For example, ““One operation in Europe noted that LGBTI persons reported insecurity and isolation resulting from fear of the risk of sexual abuse.”⁽¹³⁾ Furthermore, “a 2012 report from the European Union Agency for Fundamental Rights showed that 47% of LGBT people had reported being the victims of harassment. Lesbian women in particular were targets (55%) as were people in lower income (52%) brackets.”

Figure 1: Respondents who felt discriminated against or harassed in the last 12 months on the grounds of sexual orientation, by country and by LGBT subgroup (%)



Moreover, a fifth of the asked LGBT members “reported being discriminated against in the workplace in 2012, while one in eight said that it had an impact on their seeking employment.”⁽⁹⁾

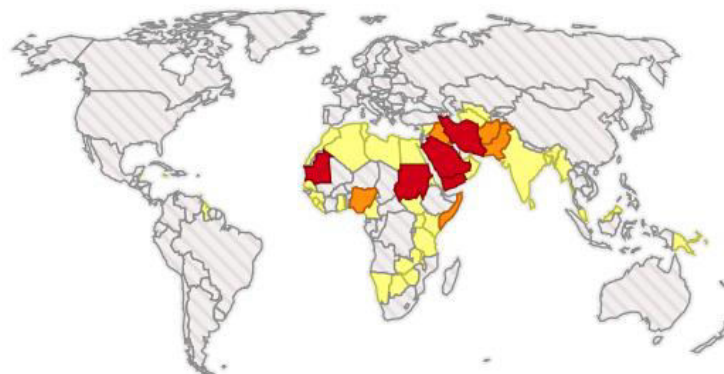
Figure 2: Respondents who felt discriminated against in the last 12 months when looking for a job and/or at work because of being LGBT, by country and LGBT subgroup (%)



The issue is still prominent in most of the rest of the world. For example, “two (...)operations, one in Africa and another in the MENA region, reported LGBTI refugees and asylum-seekers in urban areas were forced to engage in sex work, that often exposed them to SGBV risks, as they were unable to get jobs because of factors such as discrimination and a lack of official documentation.”⁽¹³⁾ In many countries, mostly in the MENA region, homosexuality is illegal and in some cases (Mauritania, Sudan, Saudi Arabia, Iran and Afghanistan) is punishable by death.⁽¹⁰⁾

LGBT rights globally

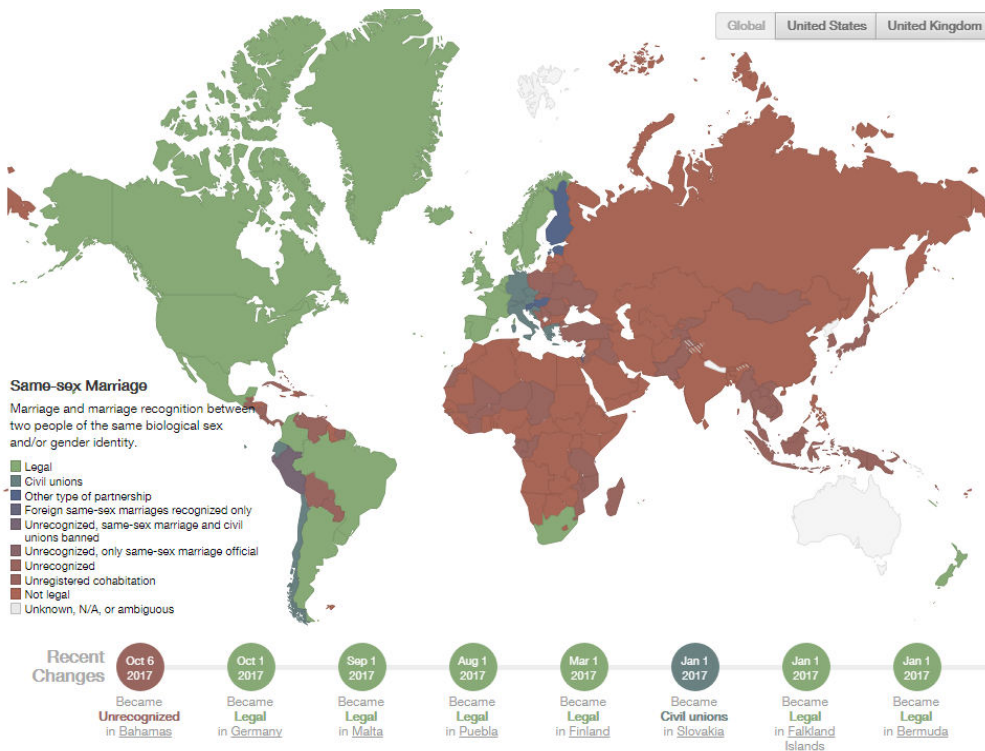
Yellow: illegal / Orange: parts of country operate death penalty / Red: Death penalty state sanctioned



illegal

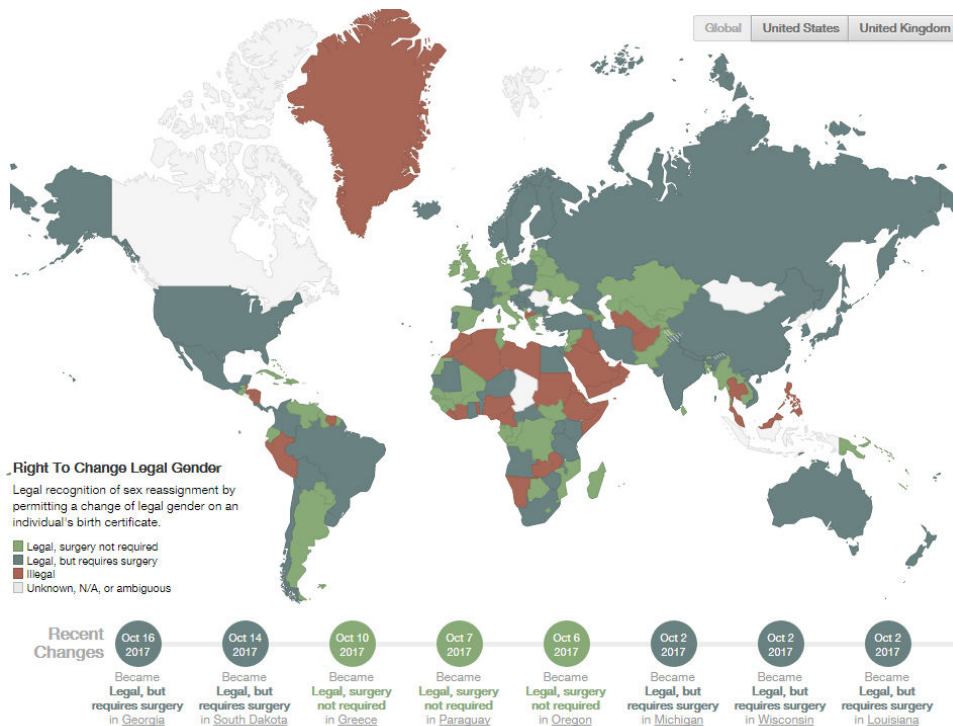


Source: [International Lesbian, Gay, Bisexual, Trans and Intersex Association](#) [Get the data](#)



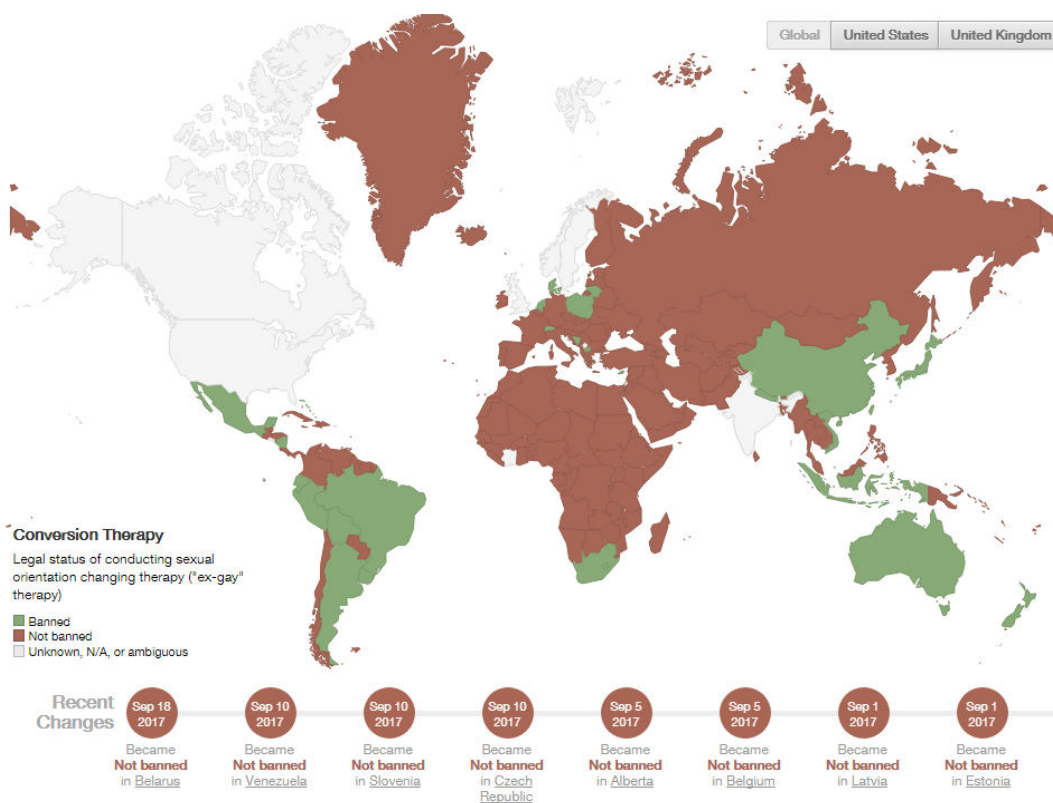
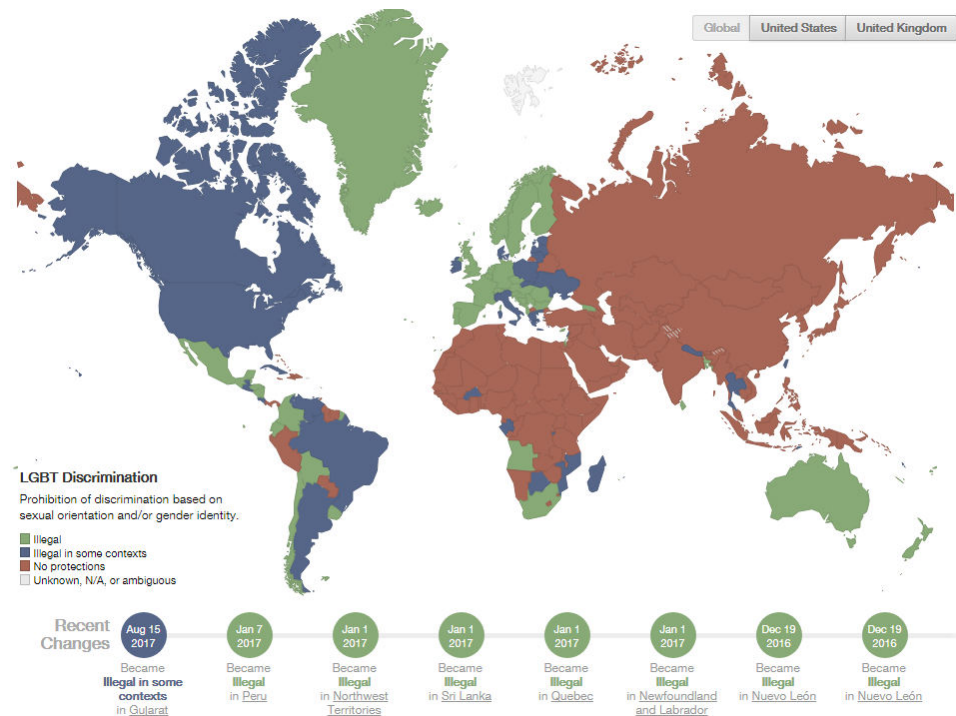
This and all of the subsequent maps' source: <http://www.equaldex.com/>

Moreover, same-sex marriages are illegal in most of the Eastern countries.⁽¹⁰⁾



“Changing gender is legal throughout most of the world, but in most places only after surgery. It is still illegal in around 20 countries.”⁽¹⁰⁾

“Banning discrimination on the basis of a person’s sexual orientation and/or gender identity is illegal in only a handful of countries. Much of the world offers no protection at all.” (10)



“Many places in the world continue to allow conversion therapy, which attempts to change a person’s sexual orientation.” (10)

Major parties involved

USA Even though homosexuality and same-sex marriage and military enrollment are legal across the United States, the right to change gender is illegal in Montana and requires surgery in most states. Moreover, there is no legal protection against LGBT discrimination and employment discrimination in more than half of the states.

European Union strongly promotes the advance of LGBTI equality through the list of actions by the European Commission. It promotes (among others) the actions of non-discrimination, education, employment and health and proposes concrete steps to achieve these. The objectives are to be fulfilled by 2019.

Organizations like the International Lesbian, Gay, Bisexual, Trans and Intersex Association (or ilga) which represents around 1300 member organizations from 132 countries support members of the LGBT society and promote and protect human rights as well as raise awareness (not only) by conducting annual reports.⁽¹¹⁾

Timeline of key events and previous attempts to solve the issue

- | | |
|------|--|
| 1919 | Magnus Hirschfeld opens Berlin's Institute of Sexual Science - 1 st in the world ⁽⁵⁾ |
| 1924 | The Society for Human Rights founded in Chicago - 1 st documented gay rights organization ⁽⁷⁾ |
| 1947 | Kinsey Report suggesting a wider range of "homosexual identities than previously understood" ⁽⁶⁾ |
| 1955 | Daughters of Bilitis forms in San Francisco - 1 st known lesbian rights organization in the US ⁽⁷⁾ |

- 1961 Illinois decriminalizes homosexuality as the 1st US state⁽⁷⁾
- 1969 Police raid on a mafia-owned gay bar in Stonewall Inn, NYC inspires massive protests, inspires the “first gay parade” march a year later⁽⁷⁾
- 1979 The first US National March on Washington for Lesbian and Gay Rights takes place. It draws an estimated 75,000 to 125,000 individuals marching for LGBT rights.⁽⁷⁾
- 1982 Wisconsin is the 1st US state to outlaw discrimination based on sexual orientation.⁽⁷⁾
- 1996 Hawaii becomes the 1st US state “to recognize that same-sex couples are entitled to the same privileges as heterosexual married couples.”⁽⁷⁾
- 2008 Same-sex marriage legal in California.⁽⁷⁾
- 2011 Ending a ban on gay men and women to serve in the US military.⁽⁷⁾
- 2012 “Born Free and Equal booklet” published by HRC⁽⁴⁾
- 2016 Ending a ban on transgender people serving in US military.⁽⁷⁾

Barack Obama announces the 1st official US national monument designated to LGBT rights, in Stonewall.⁽⁷⁾
- 2017 The 7th Circuit Court of Appeals rules that the Civil Rights Act prohibits workplace discrimination against LGBT employees.

President Donald Trump announces that transgender individuals will not be allowed to serve in the US military.

A second federal judge rules against Trump's prohibition on transgender individuals serving in the military. The Pentagon announces it will begin to accept transgender applicants to the military on January first.⁽⁷⁾

Appendix

Some documents which may be of help for future actions in this area.

- For enhanced understanding of the terms connected to the issue:
<https://lgbtqia.ucdavis.edu/educated/glossary.html>
- To understand what are the core legal obligations of States to protect members of the LGBTQIA+ community:
<http://www.ohchr.org/EN/Issues/Discrimination/Pages/BornFreeEqualBooklet.aspx>
- To explore how all countries in the world protect or do not protect LGBT rights visit: <https://www.weforum.org/agenda/2017/03/what-you-need-to-know-about-lgbt-rights-in-11-maps/>
- Other useful documents: [A World Survey of Sexual Orientation Laws](#); [European Commission: List of actions to advance LGBTI equality](#); [UNHCR Age Gender Diversity Accountability Report](#); [list of actions by the European Commission](#)
- Useful websites: <http://ilga.org/>; <https://www.hrw.org/topic/lgbt-rights>; <https://www.aclu.org/issues/lgbt-rights>
- Useful articles: <https://www.huffingtonpost.com/kurina-baksh/workplace-discrimination-b-10606030.html>; <http://www.catalyst.org/knowledge/lesbian-gay-bisexual-transgender-workplace-issues>
- Useful maps: [Sexual orientation laws in the world - overview by ilga](#); <http://www.equaldex.com/>

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