

UN HUMAN RIGHTS COUNCIL



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DIRECTOR'S LETTER

Dear Delegates,

Welcome to PACMUN 2019 and the United Nations Human Rights Council (UNHRC)! My name is Elaine Guo and I am delighted to be serving as your Director for this conference. I am currently a senior at Interlake High School and so far, my four years in MUN have been an incredible experience. Assisting me are my Chair, Anshita Saini, and Assistant Director, Kellen Hoard. I am honored to be a part of the dais and hope for a wonderful and productive conference.

This year, UNHRC will be discussing the topics of Protection of LGBTQ+ Rights in Developing Nations and Privacy in the Digital Age. In the past few years, these issues are becoming increasingly prominent throughout several regions of the globe. As they become more and more relevant to multiple societies, they in turn become more intricate and difficult to respond to. Thus it is necessary to discuss them lay down a foundation for guidance when addressing these issues.

The first topic regarding LGBTQ+ Rights is widely seen between several different nations to varying degrees, with the highest degree being in developing nations. Although there are some nations that have since taken action to protect these rights, a number of others still hold harmful and prejudiced policies. The topic's potential to increase in severity warrants the need for the UNHRC to dissect and discuss possible solutions in order to ensure the livelihood of those discriminated against.

The second topic for this committee is Privacy in the Digital Age. The topic of privacy is becoming increasingly pressing to address as technology becomes more entrenched in nearly every aspect of society. It is critical that the UNHRC address this subject matter now to begin laying the framework in how to address and prevent issues before they can arise.

In order to promote fruitful and lively debate, the dais has constructed this background guide to introduce the topics and provide resources to delve deeper into research. I am looking forward to the upcoming conference and wish all delegates the best of luck. Please don't hesitate to send us an email at unhrc@pacificmun.com if you have any questions or concerns. On behalf of the dais, I would like to welcome you to UNHRC of PACMUN 2019!

Sincerely,

Elaine Guo

Director | United Nations Human Rights Council

Pacific Model United Nations 2019



COMMITTEE OVERVIEW

The United Nations Human Rights Committee (UNHRC), as the premier United Nations body for discussing human rights issues globally, is uniquely positioned to allow for fascinating, important, and thought-provoking debate. While it does not have the power to call in peacekeepers or enforce sanctions itself, the resolutions it crafts not only guide the international community's response to urgent existing problems, but also can be useful in disincentivizing nations from attempting to violate human rights in the future.

Before the conference begins, it will be necessary to spend time researching your country's stance on the committee's two topics. It is crucial to have a firm understanding of the nation's policies. After all, during committee session, working with others is nearly impossible without a firm grasp on your government's beliefs. Teamwork is essential in the UNHRC; however, delegates are strongly encouraged to be unwavering in maintaining their country's stance throughout debate. Thus, blocs will be formed of like-minded delegates and myriad solutions to some of the world's most pressing issues will be proposed, adding another fascinating dynamic to the committee.

Position papers are required for this committee, and delegates are ineligible for awards if they fail to turn one in. However, it is worth writing a paper for other reasons as well: they can help in preparation for debate and they can give rise to new ideas and solutions. Each delegate's position paper should cover their country's stance on the topic, the impact of the issue on their nation, past relevant United Nations resolutions, and propositions regarding what might be done to solve the problem. Each topic should be at maximum one page in length. A bibliography should be included and does not count towards the page length. **Position papers are due by November 10th, 2019 at 11:59 PM PST to the committee's email address: unhrc@pacificmun.com.**



TOPIC A

Protection of LGBTQ+ Rights in Developing Nations

TOPIC INTRODUCTION

Approximately 5-8% of the world's population is LGBTQ+, a term that represents those who are lesbian, gay, bisexual, transgender, queer, questioning, intersex, or asexual. Since the late 1900s, the LGBTQ+ community has gained headway around the world in being accepted and protected. Yet, in many nations, governments impose policies discriminating against those that belong to this community and these discriminatory policies are reflected within public attitude towards the LGBTQ+ community as well. Currently, 'homosexuality' is still illegal in over 70 countries; thus, 2.79 billion people or 38% of the world's population still reside in places where being gay can lead to prison or death. Though progress has been made in cases such as the World Health Organization's reclassification of 'gender incongruence' that no longer considers transgender people mentally ill, it is imperative that UN member nations continue to work together towards eliminating danger of harm, punishment by law, and discrimination against the LGBTQ+ community.

HISTORY

Although members of the LGBTQ+ community have existed for centuries, they have been discriminated against in nearly every society. Even today, one's sexual orientation can lead to a variety of punishments, ranging from prison time to capital punishment. However, in recent decades, there have been strides in recognizing and protecting LGBTQ+ rights. These include the passing of anti-discrimination laws that explicitly include sexual orientation as a protected class along with other aspects such as gender or race. However, there are still nations in the world that either criminalize or refuse to recognize the LGBTQ+ community or LGBTQ+ unions, which leads to discrimination against those identifying as LGBTQ+.

Evidence of LGBTQ+ behavior has been seen as early as 8000 BCE, where homosexuality was documented in rock and wall paintings in areas of modern-day Zimbabwe, Egypt, and Italy. Most notably, such behavior was noted in both the Greek and Roman empires, where it was not uncommon for men of high status to take on male lovers from among their slaves. Popular Greek poetry included works by the poet Sappho, who often wrote about her love for both men and women. In



several indigenous cultures in the Americas, fluidity in gender and sexuality was respected and honored through ceremonial rituals. For example, within Navajo culture, the term *Nádleehí* is used to describe those who were born biologically male but expressed themselves as female and married men. Furthermore, a “third sex” was mentioned in the Laws of Manu, a text of Hindu law written as early 200 BCE. A majority of historians agree that there is documented evidence for the existence of LGBTQ+ people in nearly every society throughout history.

However, many other societies condemned LGBTQ+ persons, either citing religious reasoning or moral reasonings as justification. The Renaissance saw a flurry of nations pass laws that criminalized and persecuted any form of homosexual behavior. In the early 1500s, England passed the Buggery Act, which made homosexual behavior punishable by death for centuries. The later release of highly biased accounts by European travelers about LGBTQ+ people in other cultures led to further stigmatization of such actions, as they were perceived as foreign and uncivilized. Homosexuality was considered a mental illness by several psychologists for centuries. Psychologists such as Benedict Augustin Morel and Richard von Krafft-Ebing popularized the idea that homosexuality was a symptom of heredity that led to degeneracy. Under the context of Darwinist theories during the mid to late 1800s, this theory became widespread and saw itself in several different iterations. Sigmund Freud considered homosexuality a result of conflicts in gender development in the womb, rather than a mental illness. These ideas persisted and the acceptance of such theories were reflected in the prosecution of LGBTQ+ behavior.

In the 1920s, there was a growing global social acceptance of minorities in urban areas, such as Berlin or Amsterdam, which included the LGBTQ+ community. However, this burgeoning subculture was halted as LGBTQ+ persons, particularly gay men, were among those sent to concentration camps during World War II and killed by the Nazi Party of Germany. Other measures were put in place globally to address homosexuality, with its re-classification as a medical disorder rather than as criminal behavior. This was followed by eugenics programs meant to eradicate homosexual persons, with sterilization or castration. The negative perception of LGBTQ+ people continued to a social level, where they were publicly ostracized.

Several decades later came a wave of social movements, including advocating for LGBTQ+ rights. Most notably were the Stonewall Riots in New York City in 1969, often considered the turning point for the modern day gay rights movement. The following years saw the rise of several LGBTQ+ rights organizations as a LGBTQ+ subculture emerged. Over the next few decades, nations such as the US, UK, and others in Europe began to decriminalize homosexuality. The rise of the beginning of

the gay rights movement aligned with the Sexual Revolution and anti-psychiatry movement, which further encouraged the movement. Previous reports that claimed LGBTQ+ persons had inferior genes were disproved, leading to the declassification of homosexuality as any sort of illness in many areas places. The AIDS/HIV crisis in the 1980s impeded the growth of this movement as many LGBTQ+ persons were affected. However, the gradual acceptance of LGBTQ+ persons continued at a global scale.

Although there have been great strides in recent decades, there is still a stigma against the LGBTQ+ community that leads to a lack of necessary legal rights in a majority of nations throughout the globe. Although the majority of the past actions that have addressed LGBTQ+ behavior have centered on homosexuality among men, it doesn't necessarily exclude other members of the community from discrimination and punishment, which should also be considered. It is necessary to understand the past to better assess the current iteration of laws--or lack thereof--regarding LGBTQ+ people.

PAST UN ACTION

For decades, the LGBTQ+ community remained largely unaddressed by the UN due to social stigma surrounding them. However, following the AIDS crisis, which illustrated how expansive and drastically affected the community was, discussion regarding LGBTQ+ persons and rights began to be discussed more frequently and openly. The primary UN bodies that have approached the issue are the General Assembly and UNHRC, with varying levels of results. Over the past couple decades, there has been a growing recognition and support for LGBTQ+ rights.

Although LGBTQ+ rights were not mentioned for decades, they have increasingly become more commonly discussed in the past few years. The result of the 1994 case *Toonen v. Australia* by the United Nations Human Rights Committee was one of the first proclamations of combating homophobic policies. The case determined that within the International Covenant on Civil and Political Rights, Article 17 protects the right to privacy in consensual adult activity. Thus, any laws infringing on this right, such as laws against "homosexual acts", as such are considered void and a violation of individual rights.

Later in the mid-2000's, a number of statements were released by numerous nations in support of the LGBTQ+ community and their rights. One such statement was made to the Commission of Human Rights, the UNHRC's predecessor. Norway, on behalf of 54 other nations, called for the Special Procedures to incorporate violence due to sexual orientation or gender identity as a human rights violation, and



treat such violence with the relevant mandates. Most notably was the joint statement made in 2008 between France and the Netherlands, where 67 nations condemned laws and violence that discriminated against those simply based on their sexual orientation or gender identity. The statement urged the General Assembly to continue discussing LGBTQ+ rights and welcome such issues into the Universal Periodic Review.

There was more progress within UNHRC in more recent years. In the Vienna Declaration and Programme of Action in 2011, South Africa requested that a study be done on discrimination due to sexual orientation. By passing the resolution, it was an affirmation by the Council of the rights of LGBTQ+ people, a historic note within the UN. The aforementioned study, conducted by the United Nations High Commissioner for Human Rights (UNCHR), reported that such discrimination resulted from the social practice of perceiving those a part of the LGBTQ+ community as a second-rate citizen, thus legitimizing such violence. The in-depth information from the report led to a call for an updated version in resolution 27/32 in 2014, which passed and was presented the following year. An independent expert was then appointed in 2016 following the adoption of resolution 32/2. This rapporteur would research the causes behind violence and discrimination due to gender identity or sexual orientation, and then provide advice to member states on how to prevent such actions in the future. This was a notable move to continue to try and suppress prejudiced behavior in the future on a global scale.

CURRENT SITUATION

While there have been advancements in LGBTQ+ rights in the past few years, this has predominantly occurred in developed nations. The state of protection and existence of LGBTQ+ rights within developing nations may not be as prominent, and therefore members of the community could still be suffering from prejudice and discrimination. In over 70 nations, homosexuality is still illegal, and in 8 of these nations, homosexual relations could lead to the death penalty. Although bleak, there has still been progress in securing the rights for LGBTQ+ persons.

The general attitudes towards the LGBTQ+ community has become increasingly more favorable recently. In the last year, both Austria and Ecuador legalized same-sex marriage, leading to a total of 28 nations that allow same-sex marriage.

The greater advancement for the community came with India's recognition of transgender people following a decision made by the Supreme Court. In late 2018, the World Health Organization (WHO) announced that transgendered people will no



longer be considered to have a mental illness. This change was done in order to destigmatize transgender people, an effort that is further heightened with Denmark allowing people to have their gender identity reflected on official documents without a diagnosis or needing to go under surgery. Such advances help propel the effort to protect the rights of LGBTQ+ people internationally.

However, despite the recent growth, there is still a plethora of violent attacks against the LGBTQ+ community. An investigative expert appointed by the UNHRC, looking specifically into violence due to sexual orientation and gender identity, stated that many policymakers are inexperienced and unknowledgeable about the state of their LGBTQ+ community. Rather than educate themselves and propose appropriate legislation, these lawmakers instead respond based on their own preconceptions. Such actions further criminalize and stigmatize the LGBTQ+ community as they are left unrecognized, which heavily contributes to the violence they experience.

Furthermore, Amnesty International notes several incidences where LGBTQ+ persons are attacked, and yet local law enforcement doesn't properly investigate them as hate crimes, such as a recent incident in Greece. Certain anti-LGBTQ+ laws can further fuel such violence as they reaffirm the demonization of such persons. Last year in Gambia, intelligence agents used beatings and sensory deprivation, among other harmful means, to better extract information from a suspect following the passage of such a law. Other nations have less drastic policies but are still painful--lack of protection against discrimination in work, homes, and public spaces, as in Jamaica due to older laws that have yet to be abolished. Even though there have been great strides in recognizing the importance of LGBTQ+ rights, there is still far more work to ensure that all LGBTQ+ persons globally can exercise the same rights. There is still discrimination and ignorance towards this community regardless of location, and further action must be taken to better combat such actions and ensure their individual liberties.

CASE STUDIES

CASE STUDY 1 - BRAZIL

Despite a lacking history of LGBTQ+ rights protections, many Latin American countries today are pushing forward with new policies designed to protect the minority community. No country better demonstrates the progressive push than Brazil. The history of homosexual rights in Brazil begins negatively when it was under the control of Portugal; in 1553, the Portuguese Office of the Holy Inquisition declared sodomy an offense worthy of being burned at the stake. It was not until



eight years after Brazil's independence, in 1830, that the law was abandoned and consensual relations between same-sex adults was permitted.

However, despite there being legal grounds for homosexual relationships, they were still strongly disapproved of and couples were able to be arrested through "Public Affront to Decency" laws. Brazilian LGBTQ+ rights continued in this state relatively unchanged for over a century until the military's coup d'état in 1964. Throughout the following 21 years of a military dictatorship, those who identified as homosexual were generally tolerated by the government as long as they stayed relatively private about it. However, an increased acceptance of homosexuality among many civilians and businesses led to the formation of several LGBTQ+ publications and activist organizations. The government quickly censored the former and disbanded the latter.

Since the end of military rule in 1985, legal and popular support has grown for the community in Brazil. Commercial products aimed at the homosexual and transgender community have become widespread. In 2006, the first male gay couple adopted a child. In 2013, gay marriage was legalized nationwide. Earlier this year, Brazil's Supreme Court ruled that discrimination on the basis of sexual orientation and gender identity is illegal. These are all positive steps towards protecting human rights in the country.

However, there are causes for concern at the moment as well. Brazil has the most transgender homicides in the world; 171 were committed in 2017 alone. In 2018, a total of 420 LGBTQ+ people were killed. Despite laws protecting LGBTQ+ citizens from discrimination, it is still rampant. Matters have been worsened, according to some, because of newly elected Brazilian President Jair Bolsonaro. President Bolsonaro has promoted a decidedly anti-LGBTQ+ agenda, once saying that if he learned one of his sons was homosexual, he would rather be dead. Despite positive steps in the right direction and the formation of several new LGBTQ+ activist groups and agendas, it is important to make sure that rights are maintained in this South American country, especially considering recent politics.

CASE STUDY 2 - PHILLIPPINES

The Philippines has a history rooted in both LGBTQ+ acceptance and, while under control by other nations, crackdowns. Reports regarding the country's approval of certain practices extend back several centuries. For example, before the arrival of the Spanish, spiritual leaders were allowed to break gender norms, wherein men would be recognized as women and wear women's clothing. These men also married and had intimate relations with other men.

Once the Spanish assumed control of the nation, however, homosexuality and gender fluidity became regarded as immoral and illegal. This disapproval and suppression continued through American rule as well. In fact, modern historians say that it was not until the 1960s that an LGBTQ+ movement formed. This movement had many parts that all contributed to acceptance for the minority community, including the publication of numerous books through the 1990s that brought awareness to much of the country about gay life there. At the same time, an LGBTQ+ slang formed out of several languages and solidified the community. The 1990s saw the formation of several rights groups and the first Pride parade in Asia. In fact, the movement grew so large that in 2013 it was estimated there were 100 LGBTQ+ organizations across the nation. Members of the community have been able to serve in the military since 2009, and people who identify as transgender can change their legal gender.

These are all positive steps in the right direction, but Filipinos who identify as LGBTQ+ still face numerous challenges. Gay marriage is illegal, and same-sex couples cannot adopt children. No anti-discrimination laws are in place, and this has resulted in multitudinous reports of bullying, sexual harassment, and workplace mistreatment. Much of the bigotry has been attributed to the Roman Catholic church's strong influence in the country, but a study in 2013 indicted that 73% of Filipinos are in favor of accepting homosexuality. Many bills intended to curb the discrimination have been introduced over the past decade but have been repeatedly shot down by conservative members of the legislative branch. The country's current President Rodrigo Duterte has changed sides several times within the last few years, so it is difficult to tell if he would sign any anti-discrimination bills that passed the House of Representatives and Senate. Many LGBTQ+ activists from around the world have said that activist organizations in the Philippines must create a more united front in pushing for their rights on a national level. It is crucial that the human rights of all in the country are withheld.

BLOC POSITIONS

Punishment for Identifying as LGBTQ+

Nations, largely in the Middle East, Africa, and Southern Asia, have passed legislation punishing citizens who identify as LGBTQ+. Out of these countries, some have further allowed capital punishment for members of the LGBTQ+ community based upon certain actions, such as Saudi Arabia. On the other hand, countries like Egypt and India ban homosexual acts under the law. These laws are largely based



upon religious and cultural beliefs in these nations. In some countries with strong religious beliefs such as Islam and Hinduism, LGBTQ+ citizens are often persecuted in these countries and face extensive violations of their basic rights, making these nations places where the UNHRC must become involved.

Neutral towards LGBTQ+ Community

A significant part of the world has not acted towards the LGBTQ+ community at all. These nations include China and Australia, where homosexual acts are legal. Though these nations do not necessarily protect LGBTQ+ rights, they do not persecute members of the LGBTQ+ community. However, these nations have seen significant improvements in the treatment of the LGBTQ+ community. An example of this is Chile, where an anti-discrimination law was passed in 2012, including sexual orientation and gender identity as protected categories. Overall, these countries continue to progress towards better protection of LGBTQ+ citizens' rights, though some countries require further legislation before their LGBTQ+ communities are fully protected.

Recognition and Protection of the LGBTQ+ Community

Many countries in the Western Hemisphere and some parts of Europe have specifically passed legislation protecting LGBTQ+ rights, often in reaction to discrimination and/or persecution of members of this community. LGBTQ+ rights in these countries are among the most advanced in the world, such as in Brazil. This nation allows nationwide marriage rights for LGBTQ+ citizens since 2013. Yet, LGBTQ+ people still face social challenges, including discrimination in the workplace in these nations.

GUIDING QUESTIONS

1. What are the most important policy changes to protect those identifying as LGBTQ+ in developing countries?
2. To what extent can the United Nations Human Rights Council change the way LGBTQ+ citizens are treated without infringing upon a nation's sovereignty?
3. How should the attitude of the United Nations change towards LGBTQ+ rights to prepare for future social changes?
4. How has the United Nations previously protected LGBTQ+ citizens and how can this be developed further?

FURTHER RESEARCH

1. The Council on Foreign Relations details the current state of LGBTQ+ rights on the international scale. By noting between recent developments in various regions, the article summarizes some of the more notable advancements made in these nations in the past few years.

[HTTPS://WWW.CFR.ORG/BACKGROUNDER/SAME-SEX-MARRIAGE-GLOBAL-COMPARISONS](https://www.cfr.org/backgrounder/same-sex-marriage-global-comparisons)

2. This article provides a clear outline for the history of LGBTQ+ rights in the past two centuries, clearly delineating between the various developments made by different nations at various points in time.

<https://www.washingtonpost.com/graphics/world/gay-rights-history/?noredirect=on>

3. The American Psychological Association discusses the history of LGBTQ+ people, noting their presence in some cultures and outlining the possible reasonings for their stigmatization in society. Furthermore, the article analyzes the importance of the social movements that have advocated for the LGBTQ+ community and their rights.

[HTTPS://WWW.APA.ORG/PI/LGBT/RESOURCES/HISTORY](https://www.apa.org/pi/lgbt/resources/history)

4. Although from earlier in the 2010's, this article details some of the early significant actions taken by a few UN bodies in acknowledging and addressing the current state of LGBTQ+ affairs throughout the world. The actions taken here have been used to model further action in protecting LGBTQ+ persons.

[HTTPS://WWW.APA.ORG/INTERNATIONAL/PI/2012/06/UN-MATTERS](https://www.apa.org/international/pi/2012/06/un-matters)

5. This article not only discusses the actions taken by the UN, but also the significant action taken by nations themselves, as it discusses the emergence of recognizing LGBTQ+ rights. Furthermore, the sources themselves referenced in the article can be used to better understand more focused areas of LGBTQ+ rights.

<https://fcslis.wordpress.com/2017/09/26/the-emergence-of-lgbt-rights-in-international-human-rights-law-a-historical-inquiry/>



TOPIC B

Privacy in the Digital Age

TOPIC INTRODUCTION

According to a study done by the Pew Research Center in 2016, only a little over 9 percent of social media users report a “very high level of confidence” that government and technology companies can keep their personal information safe and secure. Though the advent of communication technologies have immensely increased access to information and the ability to connect with people around the world, recent events have proven that these technologies are highly susceptible to extensive surveillance. At many times, governments and private companies have utilized information technologies outside of legal frameworks. Such monitoring threatens the basic human rights of privacy and freedom of expression. Beyond encroaching upon private video calls, messages, or posts, the development of processes such as e-commerce provide further potential for privacy to be compromised. Surveys have proven time and time again that the potential loss of privacy ranks as a major concern among an overwhelming majority of citizens; yet, for individual citizens, protecting their privacy can be an often costly and ineffective venture. Thus, it is up to nations to protect privacy in online environments and adapt international privacy laws in response to the rapid development of communication and information technologies.

HISTORY

The growth of technology in recent decades has brought along both advantages and issues with it, such as questions regarding the extent of its use. Most recently, there has been debate regarding the issue of privacy, as technology becomes more intertwined into various areas of everyday life. Controlling how information can be used and recorded, either by other parties or by certain bodies of people, comes into question, particularly when assessing how this information is used. Although the general issue of privacy has been around for far longer, it has become more complex with the introduction of new technology and the internet.

The discussion defining privacy has been debated for centuries, being the separation between what could be considered one's social life and personal life. The establishment of privacy as a human right was first determined in the 1300s in England following the arrest and trial of eavesdroppers. Several centuries later, other



European nations followed suit and began to establish other forms of privacy laws. In the mid-1800s, France passed an act that prohibited the publication of personal information without consent, implementing stiff fines for those who disobeyed. France then prohibited and placed fines on the publishing of private facts. The topic of personal privacy continued with the release of a law review article in 1890 entitled “The Right to Privacy”. The article was one of the first to advocate against the invasion of privacy, framed as the right to be alone, helping build modern privacy law. Soon, several laws dictating the extent to which one’s privacy could be manipulated were passed, further outlining and defining the right to privacy.

Privacy law came into question with the introduction of technology, such as the printing press. When it first came into fashion, it was criticized similarly to modern technology, as it allowed for the quick production and release of information. Privacy law was better established to lay down the foundation for more specific boundaries regarding other legal disputes, such as libel and slander. Similarly, in the mid-20th century, a number of other policies were set in place following the development of new information technology, notably surveillance cameras. This response was the first iteration of gaining such a copious amount of personal information, and a number of new laws and constitutional clauses that addressed data collection laws and protection was passed in the United States. Furthermore, the 1983 census ruling by Germany’s highest court ruled self-determination over their personal data as a basic right, being one of the first nations to do so. Data protection legislation, which defined how certain information could be collected and used by the government, was soon implemented in other national constitutions or as national laws following these actions.

Currently, most nations in the world have some form of recognition to the right of privacy after a string of actions to create a broad and general framework in the 1970s and ‘80s. With the growth of more technology that can mass-collect personal information, some nations have since passed other laws to address other areas, such as in Japan, where employees have their personal information protected from the businesses that hold them. However, others have yet to pass such legislation, due to a greater issue of a digital divide and lack of relevancy for many developing nations. Although the technological gap between developed and developing nations is closing due to the increasing introduction of modern technology, regulations need to follow in order to protect the right to privacy.



PAST ACTION

Protecting the right to privacy, while evident in the UN's efforts throughout the decades, hasn't been a primary focus until recent years. With rapid introduction of new technology, the need for international attention increased in order to better ensure this individual right. A number of UN bodies, including the UNHRC, have undertaken different measures to address the rising concerns of surveillance issues and heavy data collection. These actions were further enforced by other UN appointed bodies, NGO's, and domestic governments to better internationally combat potential problems.

The right to privacy itself, while originally had controversy over being a human right, was later well-defined as such by the UN. A right to privacy is explicitly stated under Article 12 of the 1948 Universal Declaration of Human Rights, a foundational document passed by the UN that proclaimed the individual rights for each person. In the following decades, this document has influenced the format and direction of laws when working with privacy. Furthermore, Article 17 of the International Covenant on Civil and Political Rights, another keystone treaty from 1966, claims the right to privacy among individual liberties. The enforcement of these rights outlined in this document, including that of privacy, are overseen by the United Nations Human Rights Committee, reviewing reports to ensure that they were implemented.

However, while it was among those fundamental rights, privacy was discussed far less frequently than others listed as the general definition appeared to be explanatory and broad enough. The early 1980s saw the Organization for Economic Co-operation and Development (OECD) adopt the Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data in an early response to new technology that was crafted that could now store such copious amounts of information. Another notable instance was the Guidelines for the Regulation of Computerized Personal Data Files, adopted from General Assembly Resolution 45/95 in 1990. The document stated that nations must assess various data processing security measures and take necessary precautions. However, instances of addressing such concerns and expanding the range of privacy law were quite sporadic for much of the 20th century.

The topic became more prominent in the 21st century. The reveal of several nations planning to implement a global surveillance system in the 2010s revealed the extent to which technology could be manipulated for wider usage. The United Nations General Assembly then adopted resolution 68/167, which recognized how such surveillance could be detrimental to a person's rights and stated that said



rights were applicable both online and offline. This document urged other nations to review and revise their current policies regarding data collection and communication surveillance.

Later in 2015, the UNHRC adopted resolution 28/16, which appointed a new position that would specifically look into protecting the right to privacy. The rapporteur would specialize in investigating alleged violations of the right of privacy in regard to new technology. This action was in response to prompting from other nations, namely Germany and Brazil, who emphasized how complex the topic has become as technology becomes more multifaceted and intricate. The UNHRC reaffirmed their commitment to protect the right to privacy in the digital age in 2017, with the passing of Article 19. This resolution states that surveillance of citizens by domestic governments and corporations must be justified, or otherwise will be in violation of the international human rights laws. Furthermore, the recent declaration of the Principles of Personal Data Protection and Privacy for the UN System in 2018 was another attempt to better regulate the processing of personal information, outlining a framework in line with their goals to better understand technology's role in the current day. While there wasn't much response in earlier decades, the recent revelation of the power technology wields has led to a stronger response to ensure the right of privacy for individuals.

CURRENT SITUATION

In recent years, technological booms in certain nations have brought up the imperative question of data protection and privacy. With each year that passes, it becomes more and more imperative for nations to address how their citizens will be able to maintain the basic right of privacy with technology becoming more and more advanced. The internet has made many things easier for consumers, yet they are often unaware of the potential hazards of using company services. Beyond a consumer's name and address, browsing behavior and location can be tracked and this data may be stored by many different parties. However, breaches of privacy are increasingly publicized by the media and consumers have increased concerns regarding their data. Over 100 nations have passed legislation particularly addressing data protection and privacy. However, much of the world still has not addressed the topic of privacy in this digital age or does not have the resources necessary to enforce passed legislation.

Currently, the most advanced data protection legislation around the world lies in the European Union. In May 2018, the European Union passed the General Data Protection Regulation (GDPR), replacing the previous Data Protection Directive of

1995. The GDPR aims to empower citizens by requiring companies to have records of how data is being used or allowing individuals to have their personal data erased.

However, despite this recent emphasis on data protection, concern about how much data is collected, loss of privacy, security risks and other consequences is growing. In 2016, 57% of consumers worldwide reported that they were more concerned about their online privacy than they were in 2014. These concerns exist in both countries with data protection legislation and those without. In light of the GDPR, countries around the world have attempted to pass legislation that will bring their data protection to the same level of these European Union nations. Yet, many such countries struggle with proper enforcement of the legislation they have passed or find a lack of resources necessary to implement these plans. On the other hand, consumers are further concerned about their data even in countries that properly implement data protection due to the presence of spyware implemented by governments and/or companies.

CASE STUDIES

CASE STUDY 1 - SWITZERLAND

Switzerland is often looked to as the paragon of data privacy internationally. Since 1992, when the Federal Act on Data Protection (FADP) was passed, Swiss citizens have benefited from numerous protections, including but not limited to specific requirements for consent, strict provisions to prevent physical endangerment, and the ability to find out which data is being used and where. In addition to the many safeguards put in place through the FADP, in 1993 the office of the Federal Data Protection and Information Commissioner was established as a supervisor and liaison of and between the government, private entities, and citizens. Beyond data privacy as a whole, internet privacy specifically has also been well upheld and enforced. No illegal government monitoring of private communications has been found, and in 2010, Switzerland's Supreme Court importantly ruled that privacy laws applied to IP addresses, thereby prohibiting the government from tracking what citizens do online without their explicit consent. In fact, Swiss internet privacy is so solid that a 2012 UNESCO Commission ruled that it was one of the few countries to provide adequate protection and that it exceeded the European Union data protection system standards.

CASE STUDY 2 - CHINA

China has received much international outcry due to its essentially complete lack of privacy. There are zero constitutional protections in place and zero laws

passed for either data protection or privacy as a whole. This lack of legally backed safety in the country has led to abuses by both the private sector and government. The former has been criticized for invasive marketing practices using private data, and Chinese companies like WeChat are widely known to use and share messages sent on the app. In fact, many of these messages have appeared in court without user consent, indicating that the company may be sharing the information with the Chinese government. Plus, much information theft and internet fraud have been traced back to data shared with these companies. In response to private sector abuses of privacy, in recent years there has been a public movement in favor of increased protections. China in turn has begun forming a nationwide data policy intended to protect users. However, despite this positive move, the legislature is noticeably excluding the government from any restrictions. At this moment, the Chinese government is ramping up citizen facial recognition efforts on a massive scale, has given law enforcement access to essentially any data they desire, is tracking citizen communications online, is creating social-credit system based on private information, and is even in some areas testing brain-scanning technology. This lack of privacy is further exacerbated by heavy and widely maligned internet censorship, but that is outside the purview of this case study.

BLOC POSITIONS

Privacy Violations: Bangladesh, China, Cuba, Qatar, Pakistan, United Kingdom

Though some nations have implemented data protection laws, limited enforcement and limited freedom of the press in these same countries violates citizens' right to privacy. An example of this lies in the United Kingdom, where privacy enforcement agencies are often unable to audit data and therefore cannot take action until complaints come directly from citizens. Moreover, governments such as that of China and Cuba implement extremely restrictive cybersecurity laws, where the government can enforce censorship, considered unacceptable in many other nations. Moreover, though countries such as Bangladesh, Qatar, and Pakistan have data protection laws in place, these countries have been found to use monitoring or surveillance software breaching the privacy of their citizens. It is imperative that citizens' freedoms and rights are upheld in these nations and beyond.

No Privacy Protection: Cameroon, Eritrea, Fiji, Iraq, Somalia, Togo

Low-income nations often struggle with implementing proper data protection due to limited resources in their countries. This issue particularly



manifests itself in African nations like Cameroon and Eritrea, where the technology industry has not expanded enough to make privacy and data protection a particularly significant problem. On the other hand, countries like Iraq face conflict that draws resources and attention away from data protection and towards other, more pressing issues. However, as these nations continue to expand and technology becomes more ubiquitous, they will require support in developing and enforcing proper privacy security to protect the rights of their citizens and bring them on par with the rest of the world's legislation.

Implementing Privacy Laws: Afghanistan, Democratic Republic of the Congo, Egypt, Nepal, Nigeria, Saudi Arabia

A number of African, Middle Eastern, and South Asian nations have recently implemented privacy protection in their nations. Nations like Afghanistan have attempted to pass legislation that mirrors that of European countries, demonstrating a clear intention to protect citizens' privacy rights. Yet, like many other nations, Afghanistan does not necessarily have the resources or enforcement techniques to make this legislation effective. Many of these nations need time to further grow economically and technologically before data protection is truly effective or becomes an applicable need for most of the population.

Average Data Protection: Angola, Bahamas, Bahrain, Brazil, Burkina Faso, Chile, Croatia, Czech Republic, India, Italy, Japan, Mexico, Peru, Philippines, Rwanda, Senegal, Slovakia, South Africa, Tunisia, Ukraine, Uruguay

A large portion of the UNHRC member states have passed legislation that keeps their citizens largely safe from privacy breaches. Nations like Japan have attempted to pass legislation similar to the European Union's General Data Protection Regulation, which increases the requirements to protect citizens' data. These countries differ from European nations in that enforcement is not as effective as possible either due to lack of technological advancement or other shortcomings in privacy law, yet citizens are not subject to total violations of privacy as in lower-income nations.

High Emphasis on Data Privacy: Argentina, Australia, Austria, Bulgaria, Denmark, Hungary, Iceland, Spain

Many developed countries have implemented data privacy laws early on and have strengthened these throughout the years or have chosen to recently introduce strong data protection in their nation. A few of these countries, such as Bulgaria, guarantee citizens the right to privacy in their constitutions. Though other countries



do not explicitly state this right in their constitution, they have passed Data Protection Acts to implement the European Union's General Data Protection Regulation (GDPR), considered one of the strongest and most important changes in data privacy regulation in 20 years. This regulation protects citizens of the European Union and governs personal data outside the area as well. A few countries in the European Union have chosen to implement further regulation on data while simultaneously meeting GDPR requirements. Outside of the European Union, countries such as Argentina have passed bills bringing data protection on par with that of the European Union. These countries' economic status and long-standing presence of technology in their industries have led them to form the strongest privacy laws around the world.

GUIDING QUESTIONS

1. How do citizens' beliefs about their right to privacy conflict or agree with those of the government?
2. What obligation does the government have to protect the privacy of its citizens and how much of this responsibility should fall upon the citizens themselves?
3. What role do businesses play in data protection?
4. How might growing technological industries aggrandize the issue of data protection?
5. How might higher-income nations be able to support low-income countries with resources to improve privacy?
6. How might a country's religion or culture influence notions regarding privacy?
7. How can the conflict between 'necessary monitoring for safety' and privacy be resolved?

FURTHER RESEARCH

1. The American Civil Liberties Union (ACLU) discusses how the description for Right to Privacy in the International Covenant on Civil and Political Rights (ICCPR) is obsolete in being able to protect citizens with the development of technology. This report both analyzes the specific issues with Article 17 in the ICCPR and proposes ways that it can be altered to be more appropriate for the modern day.
[HTTPS://WWW.ACLU.ORG/OTHER/HUMAN-RIGHT-PRIVACY-DIGITAL-AGE](https://www.aclu.org/other/human-right-privacy-digital-age)
2. Researchers at the University of Washington's Department of Computer Science have released a report which summarized the findings of 114 publications regarding Human-Computer interactions with online security.



The main points shared among these publications are then used to propose possible recommendations for developing nations to employ to better strengthen online security policies.

[HTTP://ICTD.CS.WASHINGTON.EDU/DOCS/PAPERS/2018/VASHISTHA_COMPASS2018.PDF](http://ictd.cs.washington.edu/docs/papers/2018/vashistha_compass2018.pdf)

3. This article from The Guardian looks into the importance of data privacy laws when looking at the divide between developing and developed nations. Although published earlier in this decade, the points made here can still be applicable when considering possible solutions when focusing on developing nations.
[HTTPS://WWW.THEGUARDIAN.COM/GLOBAL-DEVELOPMENT/2013/DEC/04/POORER-COUNTRIES-PRIVACY-LAWS-NEW-TECHNOLOGY](https://www.theguardian.com/global-development/2013/dec/04/poorer-countries-privacy-laws-new-technology)
4. This site offers a nice brief and clearly outlined timeline of the major points in the history and development of data protection. This timeline provides an orderly illustration of the international effort to protect personal privacy.
[HTTPS://CLOUDPRIVACYCHECK.EU/LATEST-NEWS/ARTICLE/A-BRIEF-HISTORY-OF-DATA-PROTECTION-HOW-DID-IT-ALL-START/](https://cloudprivacycheck.eu/latest-news/article/a-brief-history-of-data-protection-how-did-it-all-start/)
5. A paper by researchers at Taita Taveta University in Kenya analyze the issues that are present in both developed and developing nations in regard to data protection. Their findings lead them to better understand how some of the same issues differ between nations, and some important areas to focus on to better mend them.
[HTTPS://PDFS.SEMANTICSCHOLAR.ORG/2676/C67874076A9951EA4246741A58855A43F681.PDF](https://pdfs.semanticscholar.org/2676/c67874076a9951ea4246741a58855a43f681.pdf)

CITATIONS

TOPIC A

- <http://www.brazzil.com/blamar00.htm>
- <https://www.apnews.com/31de1cb8536a4aea9cc0b09b64f5dc5e>
- <https://library.brown.edu/create/beyondcarnival/chapter-6/homosexuality-under-the-dictatorship/>
- https://www.washingtonpost.com/world/brazils-highest-court-makes-it-a-crime-to-attack-a-person-based-on-sexual-orientation-gender-identity/2019/05/23/cc28fcce-7cc8-11e9-b1f3-b233fe5811ef_story.html?utm_term=.4c4e629af246
- <https://www.bbc.com/news/world-latin-america-48391926>
- <https://www.pewresearch.org/global/2013/06/04/the-global-divide-on-homosexuality/>
- <https://www.gsafewi.org/wp-content/uploads/US-LGBT-Timeline-UPDATED.pdf>
- <https://www.glaad.org/vote/topics/global-lgbt-rights>
- <https://www.amnestyusa.org/the-state-of-lgbt-rights-worldwide/>



- <http://www2.hu-berlin.de/sexology/GESUND/ARCHIV/SWAST.HTM#A7>
- <https://www.britannica.com/topic/homosexuality>
- <https://www.history.com/topics/gay-rights/history-of-gay-rights>
- <https://www.apa.org/pi/lgbt/resources/history>
- <https://www.unfe.org/about/>
- <https://www.odi.org/blogs/10732-prospects-lgbtqi-rights-worldwide-2019>
- <https://www.weforum.org/agenda/2018/06/lgbti-rights-around-the-world-in-2018/>
- <https://news.un.org/en/story/2019/06/1040381>
- <https://2009-2017.state.gov/r/pa/prs/ps/2011/03/158847.htm>
- <https://www.thetaskforce.org/un-adopts-groundbreaking-resolution-affirming-lgbt-rights-are-human-rights/>
- <https://www.hrw.org/news/2016/06/30/un-makes-history-sexual-orientation-gender-identity>
- <https://www.apa.org/international/pi/2012/06/un-matters>
- <https://www.outrightinternational.org/region/united-nations>
- <https://fcilsis.wordpress.com/2017/09/26/the-emergence-of-lgbt-rights-in-international-human-rights-law-a-historical-inquiry/>
- <https://www.hrc.org/blog/ten-ways-the-united-nations-has-protected-lgbtq-human-rights>
- <http://arc-international.net/global-advocacy/sogi-statements/2006-joint-statement/>
- <https://arc-international.net/global-advocacy/sogi-statements/2008-joint-statement/>
- <https://www.ohchr.org/EN/Issues/Discrimination/Pages/LGBTUNResolutions.aspx>
- <https://medium.com/lgbtq-american-history-for-the-people/native-americans-views-on-gender-vs-those-of-the-united-states-today-d080dc31258c>
- <https://www.britannica.com/topic/gay-rights-movement>
- <https://www.cnn.com/2015/06/19/us/lgbt-rights-milestones-fast-facts/index.html>
- <https://hilo.hawaii.edu/campuscenter/hohonu/volumes/documents/Vol09x08WarmBrothersintheBoomtownsofHell.pdf>
- <http://www.crd.york.ac.uk/CRDWeb/ShowRecord.asp?ID=32011000103>
- <https://www.theatlantic.com/ideas/archive/2019/06/before-stonewall-biggest-threat-was-entrapment/590536/>
- <https://www.jstor.org/stable/j.ctt6wrkgb>
- <https://www.hrc.org/blog/ten-ways-the-united-nations-has-protected-lgbtq-human-rights>
- <https://www.unfe.org/wp-content/uploads/2017/05/LGBT-Rights-FAQs.pdf>
- <https://www.independent.co.uk/news/world/gay-lesbian-bisexual-relationships-illegal-in-74-countries-a7033666.html>

TOPIC B

- <https://secureswissdata.com/switzerland-privacy-data-protection-laws/>
- <https://www.admin.ch/opc/en/classified-compilation/19920153/index.html>



- <https://2009-2017.state.gov/j/drl/rls/hrrpt/2012humanrightsreport/index.htm?year=2012&dlid=204346#wrapper>
- <https://unesdoc.unesco.org/ark:/48223/pf0000218273/PDF/218273eng.pdf.multi>
- <https://slate.com/technology/2019/02/china-consumer-data-protection-privacy-surveillance.html>
- <https://www.csis.org/analysis/what-facebook-scandal-means-land-without-facebook-look-chinas-burgeoning-data-protection>
- <https://www.theguardian.com/world/2011/jul/26/china-boosts-internet-surveillance>
- <https://unesdoc.unesco.org/ark:/48223/pf0000218273/PDF/218273eng.pdf.multi>
- <https://www.nytimes.com/2018/01/04/business/china-alibaba-privacy.html>
- <https://www.washingtonpost.com/news/theworldpost/wp/2018/08/07/china-privacy/>
- <https://www.technologyreview.com/f/611052/with-brain-scanning-hats-china-signals-it-has-no-interest-in-workers-privacy/>
- <https://thelivinglib.org/the-un-principles-on-personal-data-protection-and-privacy/>
- <https://www.unicc.org/in-focus/2019/02/11/icc-helps-with-un-principles-on-personal-data-protection-and-privacy/>
- <https://medium.com/privacy-international/a-collection-of-reports-on-privacy-from-the-un-human-rights-councils-34th-session-a02e41cd4035>
- https://privacyinternational.org/sites/default/files/2017-12/UN_Guide_Final.pdf
- <https://www.unsystem.org/personal-data-protection-and-privacy-principles>
- <https://policyreview.info/articles/news/new-un-resolution-right-privacy-digital-age-crucial-and-timely/436>
- https://scholarship.law.gwu.edu/cgi/viewcontent.cgi?article=2076&context=faculty_publications
- <http://law.scu.edu/wp-content/uploads/Privacy.pdf>
- <https://www.enisa.europa.eu/topics/threat-risk-management/risk-management/current-risk/laws-regulation/data-protection-privacy/un-guidelines>
- <https://www.unglobalpulse.org/privacy-and-data-protection-principles>
- <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf>
- <https://privacyinternational.org/impact/united-nations-recognition-privacy>
- <https://www.ohchr.org/EN/Issues/Privacy/SR/Pages/SRPrivacyIndex.aspx>
- <https://www.article19.org/resources/un-resolution-affirms-surveillance-that-is-not-necessary-or-proportionate-is-against-the-right-to-privacy/>
- <https://www.hrw.org/news/2015/03/26/un-major-step-internet-privacy>
- <https://www.sciencedirect.com/science/article/pii/B9780444516084500286>
- <http://www.nbcnews.com/id/3078854/t/privacy-possible-digital-age/#.XW2ebuhKgWW>
- https://www.ifla.org/files/assets/faife/ochr_privacy_ifla.pdf
- <https://www.eff.org/issues/privacy>
- <https://www.aclu.org/issues/privacy-technology>
- <http://gilc.org/privacy/survey/intro.html>



- https://www.priv.gc.ca/en/opc-actions-and-decisions/research/explore-privacy-research/2011/hosein_201109/
- <https://pdfs.semanticscholar.org/ae95/5ceae73996d0d59ba1a55afaad101405744b.pdf>
- <https://www.aclu.org/issues/privacy-technology/internet-privacy>
- <https://www.bfna.org/research/echos-of-history-understanding-german-data-protection/>
- <https://www.bbc.com/worklife/article/20130625-your-private-data-is-showing>
- <https://bestvpn.org/countries-ranked-by-privacy/>
- <https://www.privacypolicies.com/blog/privacy-law-by-country/>
- <https://privacyinternational.org/explainer/41/101-data-protection>