



A Comparative Analysis of Legal Recognition of the LGBTQ+ Community Across Different Countries

Ayesha Khanum¹ and Dr. Shobha Yadhav²

¹LLM Student, Amity Law School, Amity University, Bengaluru.

¹ Assistant prof. at Amity Law School, Amity University, Bengaluru.

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ABSTRACT

The legal recognition of the LGBTQ+ community varies significantly across the globe, with countries adopting vastly different approaches to issues such as the decriminalization of homosexuality, marriage equality, anti-discrimination protections, adoption rights, and gender identity recognition. While some nations have made remarkable strides in ensuring equal rights and protections for LGBTQ+ individuals, others maintain regressive laws that criminalize homosexuality and deny basic human rights. This paper aims to provide a comparative analysis of LGBTQ+ legal recognition by exploring the legal landscapes of a diverse range of countries, from those with progressive frameworks to those with restrictive or discriminatory laws. By examining the legal rights of LGBTQ+ individuals in both developed and developing nations, the paper highlights the disparities in policy and protection across different legal systems. In countries with progressive laws, such as Canada and many Western European nations, LGBTQ+ individuals enjoy legal recognition through marriage equality, anti-discrimination protections, and the right to adopt children. These nations provide comprehensive frameworks for safeguarding the rights of LGBTQ+ people in various aspects of life, contributing to societal acceptance and integration. Conversely, in countries like Uganda and Saudi Arabia, LGBTQ+ individuals face severe legal repercussions, including imprisonment and even the death

penalty. These nations continue to uphold discriminatory laws influenced by cultural, religious, or historical factors that stigmatize LGBTQ+ identities. This analysis also considers the impact of political, cultural, and historical contexts on the legal recognition of LGBTQ+ individuals. By examining these factors, the paper sheds light on how legal recognition and protections are shaped by a complex interplay of societal values, historical events, and political power dynamics.

1. Introduction

Meaning of the Term LGBTQ+

The term LGBTQ+ is an acronym that stands for Lesbian, Gay, Bisexual, Transgender, and Queer (or Questioning), with the "+" symbol representing the inclusion of additional identities such as Intersex, Asexual, Pansexual, and other sexual and gender minorities. It is a collective term used to describe a broad spectrum of individuals whose sexual orientations, gender identities, or expressions differ from the societal norms of heterosexuality and cisgender identity. The LGBTQ+ community encompasses a variety of experiences, identities, and challenges, highlighting the importance of recognizing the diverse ways in which individuals understand and express their sexuality and gender.³

Before legal rights of LGBTQ+ individuals have undergone significant changes in recent decades, particularly in more progressive countries, where societal attitudes have shifted towards greater acceptance. However, the degree of legal recognition varies substantially across the world. While some countries have enacted progressive laws protecting LGBTQ+ individuals from discrimination, recognizing same-sex relationships and gender identity rights, others continue to criminalize homosexuality and deny basic human rights to the LGBTQ+ community. This paper will explore key areas of legal recognition: the decriminalization of homosexuality, marriage equality, anti-discrimination laws, adoption rights, and gender identity recognition, with a comparative approach to understand how different countries approach these issues.

2. Challenges Faced by LGBTQ+ Individuals

2.1 Legal Recognition and Protection

The legal recognition of LGBTQ+ rights varies greatly by country. For example, countries like Canada and most Western European nations have comprehensive laws protecting LGBTQ+ individuals, including marriage equality and anti-discrimination protections. According to the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), as of 2021, 30 countries had legalized same-sex marriage, including Argentina, Belgium, Canada, and Spain.⁴ However, many countries still criminalize homosexuality or do not offer marriage equality. A 2020 report from Human Rights Watch noted that over 70 countries worldwide continue to have laws that criminalize same-sex relations, with some countries imposing severe punishments such as imprisonment or even the death penalty. For instance, in Uganda, homosexuality is illegal and punishable by life imprisonment under the Penal Code, and the Ugandan government attempted to introduce a "Kill the Gays" bill in 2009, though it was later overturned.

2.2 Discrimination and Social Stigma

LGBTQ+ individuals frequently face discrimination in various areas, such as employment, healthcare, and housing. A 2020 survey by the Human Rights Campaign found that 46% of LGBTQ+ Americans reported experiencing discrimination in hiring, promotion, or job retention. Transgender individuals face even higher levels of discrimination, with 47% of transgender people reporting workplace discrimination. This discrimination leads to higher rates of unemployment and economic instability. Furthermore, the stigma surrounding LGBTQ+ identities often results in harassment, exclusion, and violence. The National Coalition of Anti-Violence Programs (NCAVP) reported that in 2020, LGBTQ+ individuals accounted for 16% of all hate crime victims in the U.S., despite representing only about 5% of the population.⁵

2.3 Mental Health and Suicide

The challenges faced by LGBTQ+ individuals are also reflected in mental health disparities. LGBTQ+ people are at significantly higher risk for mental health issues compared to their heterosexual counterparts. The Trevor Project's 2021 National Survey on LGBTQ Youth Mental Health found that 42% of LGBTQ+ youth seriously considered suicide in the past year, with 22% attempting suicide. Additionally, LGBTQ+ individuals are more likely to experience anxiety, depression, and substance abuse.⁶ A study published by the American Journal of Public Health in 2014 revealed that LGBTQ+

individuals were 2-3 times more likely to experience mental health issues such as depression compared to their heterosexual peers. This disparity is often exacerbated by societal rejection, discrimination, and lack of support.⁷

2.4 Transgender Individuals Struggles

Transgender individuals face unique challenges, particularly regarding access to healthcare and legal recognition of their gender identity. A 2016 survey by the National Centre for Transgender Equality revealed that 33% of transgender people had experienced a negative interaction with healthcare providers due to their gender identity.⁸ In many places, the legal process for changing one's gender on official documents is complex and varies by jurisdiction. For example, in the United States, some states require individuals to undergo expensive and often invasive surgeries before recognizing their gender identity on legal documents, creating significant barriers for transgender individuals.⁹

2.5 Violence Against LGBTQ+ People

Violence remains a serious issue for LGBTQ+ individuals. In 2020, the NCAVP reported 52 homicides of LGBTQ+ people in the U.S., a figure that was slightly higher than the previous year. Transgender women of colour are disproportionately affected by violence, with Black transgender women facing a particularly high risk. According to the Human Rights Campaign, at least 44 transgender people were killed in the U.S. in 2020, making it one of the deadliest years for transgender individuals in recent history.¹⁰

Despite these challenges, the global LGBTQ+ rights movement has made significant strides. Legal changes, growing societal acceptance, and increased visibility of LGBTQ+ individuals in politics, media, and other sectors have contributed to improving the lives of many LGBTQ+ individuals. However, the ongoing struggles highlight the need for continued advocacy and reform to ensure full equality and protection for the LGBTQ+ community.

3. Legal Recognition of the LGBTQ+ Community Across Different Countries

3.1. Decriminalization of Homosexuality

The criminalization of same-sex relationships has been a persistent issue historically, with many countries prosecuting individuals for engaging in homosexual acts. In the 20th century, many countries decriminalized homosexuality, but several remain under repressive legal systems.

Progressive Approach: Canada and Western Europe

Canada is often cited as a progressive nation in terms of LGBTQ+ rights. The Criminal Law Amendment Act, 1968-69, also known as Omnibus Bill, decriminalized Homosexuality and consensual same-sex acts between adults.¹¹ In addition to decriminalization, Canada has since passed comprehensive anti-discrimination laws, marriage equality, and gender identity protections. Western European countries, including the United Kingdom, France, and Germany, followed similar paths, decriminalizing homosexuality and ensuring legal protections for LGBTQ+ individuals within their jurisdictions. These nations also provide a broader framework for legal protections in terms of employment, healthcare, and social services for LGBTQ+ individuals, which has contributed to increased societal acceptance and inclusion.¹²¹³

Regressive Approach: Uganda and Russia

In stark contrast, Uganda and Russia represent countries where homosexual acts remain illegal and severely punishable. Uganda has some of the most punitive anti-LGBTQ+ laws, with homosexuality criminalized under sections of the Penal Code. The country's infamous "Anti-Homosexuality Act," passed in 2014, proposed the death penalty for certain homosexual acts, although it was later overturned due to procedural issues. Similarly, Russia has become notorious for its regressive stance on LGBTQ+ rights, passing a "gay propaganda" law in 2013 that criminalizes the promotion of LGBTQ+ rights, including public expression of support for LGBTQ+ causes. Homosexuality remains legal in Russia, but the laws actively discourage public displays of LGBTQ+ identity.¹⁴¹⁵

3.2. Marriage Equality

Marriage equality has been a central issue in the fight for LGBTQ+ rights. Many countries have legalized same-sex marriage, granting same-sex couples the same legal rights and protections as heterosexual couples.¹⁶

Progressive Approach by Netherlands and Argentina

The Netherlands was the first country to legalize same-sex marriage in 2001, setting a global precedent. This landmark ruling was a significant step forward for the LGBTQ+ community, enabling same-sex couples to marry and adopt children. Following the Netherlands, Argentina became the first country in Latin America to legalize same-sex marriage in 2010, reflecting a growing shift towards recognizing

LGBTQ+ rights in the region. These countries have demonstrated the possibility of social and legal transformation, with comprehensive policies that not only allow marriage equality but also support the full legal integration of LGBTQ+ individuals.

Moderate Approach by United States

In the United States, marriage equality became a legal reality in 2015 with the Supreme Court ruling in *Obergefell v. Hodges*.¹⁷ The decision mandated that same-sex marriage be recognized nationwide. However, the legal and social landscape for LGBTQ+ individuals remains fragmented, with state-level variations in LGBTQ+ rights, such as the possibility of religious exemptions that allow businesses or individuals to refuse services based on religious beliefs. These inconsistencies highlight ongoing tensions between legal protections and social acceptance.¹⁸

Regressive Approach by India and Many African Countries

India's legal recognition of homosexuality has progressed, with the 2018 Supreme Court decision decriminalizing Section 377 of the Indian Penal Code, which criminalized consensual same-sex relations¹⁹. However, marriage equality has not been recognized, and same-sex couples still face legal and societal challenges. Many African nations, such as Nigeria, Uganda, and Kenya, maintain laws that prohibit same-sex marriage and relationships. These laws are often informed by both religious and colonial legacies that stigmatize homosexuality.

3.3. Anti-Discrimination Laws

Anti-discrimination laws are critical in protecting LGBTQ+ individuals from discrimination in various aspects of life, including employment, housing, and public services. These laws help ensure that LGBTQ+ people are not unfairly treated based on their sexual orientation or gender identity.

Progressive approach by New Zealand and Canada

New Zealand and Canada stand out for their comprehensive anti-discrimination legislation. In New Zealand, the Human Rights Act of 1993 prohibits discrimination based on sexual orientation and gender identity, covering areas like employment, education, and housing.²⁰ Canada's legal framework similarly prohibits discrimination under the Canadian Human Rights Act.²¹ These laws are not only symbolic but also enforceable, providing avenues for LGBTQ+ individuals to seek legal redress in cases of discrimination.

Moderate approach: South Africa

South Africa stands as one of the few African nations with progressive LGBTQ+ rights. The Constitution of South Africa, adopted in 1996, explicitly prohibits discrimination on the basis of sexual orientation.²² This is a historic achievement, especially in the African context. However, despite legal protections, LGBTQ+ individuals in South Africa still face significant challenges, particularly in rural areas and in terms of violence and societal discrimination.

Regressive approach: Middle Eastern Countries

In many Middle Eastern nations, such as Saudi Arabia, Iran, and the UAE, anti-LGBTQ+ discrimination is codified into law. Homosexual acts are punishable by death in some of these countries, and individuals face severe persecution based on their sexual orientation or gender identity. These laws are often justified by strict interpretations of religious texts, and there are no legal provisions for LGBTQ+ individuals to protect them from discrimination.²³

4. Recommendation

Implementing laws for LGBTQ+ individuals is essential for creating an inclusive, equitable, and progressive society. Legal reforms alone, however, are not enough. Cultural shifts, education, and systemic changes are also critical to ensuring meaningful progress. Below are several recommendations for implementing laws that support the rights of LGBTQ+ people and contribute to the development of a more progressive nation:

4.1. Decriminalization of Homosexuality and Gender Non-Conformity

The first and most fundamental step is to decriminalize homosexuality and gender non-conformity. Countries that still have laws criminalizing same-sex relationships or transgender identities must prioritize the repeal of such discriminatory laws. The decriminalization process should be accompanied by public education campaigns to raise awareness and reduce stigma around LGBTQ+ issues.

Example: In 2018, India decriminalized homosexuality by striking down Section 377 of the Indian Penal Code, which had previously criminalized same-sex relations. This was a landmark victory for LGBTQ+ rights in the country.²⁴

4.2. Marriage Equality

Laws that recognize same-sex marriage are crucial for ensuring that LGBTQ+ individuals enjoy the same legal rights and social recognition as heterosexual couples. This includes the right to inheritance, joint property ownership, adoption, and healthcare decision-making. Marriage equality should be enshrined in the constitution or a separate legislative act to ensure protection for LGBTQ+ couples.

Example: In 2015, the United States legalized same-sex marriage nationwide through the Supreme Court decision in *Obergefell v. Hodges*, affirming the constitutional right of same-sex couples to marry.²⁵

4.3. Anti-Discrimination Laws

Implement comprehensive anti-discrimination laws that protect LGBTQ+ individuals in areas such as employment, housing, education, healthcare, and public services. These laws should make it illegal for individuals or organizations to discriminate based on sexual orientation, gender identity, or gender expression.

Example: The Equality Act in the United States, if passed, would extend anti-discrimination protections to LGBTQ+ individuals in public accommodations, education, and federally funded programs.²⁶

4.4. Legal Recognition of Gender Identity

Laws should allow transgender individuals to change their gender markers on official documents (e.g., birth certificates, passports, driver's licenses) without unnecessary hurdles, such as forced surgeries or psychiatric evaluations. Access to gender-affirming care should also be guaranteed, including hormone therapy and surgeries, when desired.

Example: In Argentina, the Gender Identity Law (2012) allows individuals to change their gender identity on legal documents by simply requesting it, without requiring surgery or judicial approval. This model has been praised for its progressive approach.²⁷

4.5. Inclusive Education

Implement comprehensive sexual orientation and gender identity education in schools to promote understanding and acceptance from an early age. This should include lessons about the diversity of human sexuality and gender, the importance of consent, and respect for all people regardless of their sexual orientation or gender identity. Schools should also provide a safe space for LGBTQ+ students, with support services and policies in place to address bullying or harassment.

Example: In 2013, the state of California passed the FAIR Education Act, which requires public schools to teach about the contributions of LGBTQ+ individuals and to integrate LGBTQ+ issues into the broader curriculum.²⁸

4.6. Mental Health Support and Awareness

LGBTQ+ individuals, especially youth and transgender individuals, are disproportionately affected by mental health issues, including depression, anxiety, and suicide. Governments should allocate resources to ensure access to affordable, LGBTQ+ affirming mental health services. Mental health professionals should receive specialized training to understand the unique needs and challenges of the LGBTQ+ community.

Example: The Trevor Project provides resources and crisis intervention services for LGBTQ+ youth, offering a 24/7 suicide prevention hotline and online counselling. Governments can collaborate with such organizations to improve support networks.

4.7. LGBTQ+ Representation in Political and Public Life

Representation in political and leadership positions is crucial to advocating for the rights and welfare of the LGBTQ+ community. Encouraging and supporting LGBTQ+ candidates in elections and ensuring that LGBTQ+ voices are heard in public debates will help pass laws that protect and empower LGBTQ+ individuals. This also fosters a more inclusive environment where LGBTQ+ individuals can freely contribute to societal development.

Example: In 2012, Tammy Baldwin became the first openly gay U.S. Senator, demonstrating how LGBTQ+ representation in government can positively influence policy decisions and social change.

4.8. Public Awareness Campaigns

Governments should invest in nationwide public awareness campaigns to reduce prejudice and discrimination against LGBTQ+ individuals. These campaigns can highlight the importance of acceptance, respect, and equality, helping to shift societal attitudes toward greater inclusivity. Media and celebrity endorsement of LGBTQ+ rights can also play a crucial role in changing public perceptions.

Example: The *It Gets Better* campaign, launched in 2010, aimed to provide hope and support to LGBTQ+ youth facing bullying and discrimination. Public campaigns such as these help normalize LGBTQ+ identities and combat societal stigma.

4.9. Strengthening International Human Rights

Governments should commit to upholding international human rights standards by supporting LGBTQ+ rights on a global scale. This includes joining international agreements that protect LGBTQ+ individuals from violence, discrimination, and persecution, as well as providing refuge for those fleeing countries where LGBTQ+ individuals face severe consequences for their identities.

Example: In 2016, the United Nations adopted a resolution condemning violence against LGBTQ+ individuals and called for stronger protections of LGBTQ+ rights globally.

4.10. Ending Violence Against LGBTQ+ Individuals

Laws should be enacted and strictly enforced to combat violence against LGBTQ+ individuals. This includes hate crimes legislation specifically addressing crimes motivated by sexual orientation or gender identity. Additionally, training law enforcement officers and the judiciary to handle LGBTQ+ cases with sensitivity and respect is essential to ensuring that LGBTQ+ victims of violence have access to justice.

Example: In 2016, the Pulse nightclub shooting in Orlando, Florida, tragically highlighted the violence faced by the LGBTQ+ community. In response, the U.S. government took steps to increase funding for LGBTQ+ anti-violence initiatives.

Conclusion

The legal recognition of LGBTQ+ rights remains a global issue shaped by a variety of political, cultural, and historical factors. While significant progress has been made in many countries, with legal reforms ensuring greater protection and recognition for LGBTQ+ individuals, there remains a stark disparity in the legal landscapes of different nations. Progressive countries such as Canada, Western European nations, and Argentina have set strong examples of inclusion through comprehensive legal frameworks. In contrast, countries like Uganda, Saudi Arabia, and Russia continue to uphold regressive laws that deny LGBTQ+ individuals their basic human rights, subjecting them to criminalization, discrimination, and violence.

This comparative analysis highlights the need for a nuanced understanding of how legal recognition is influenced by diverse sociopolitical contexts. It also underscores the importance of international collaboration and human rights advocacy in bridging the gap between progressive and regressive legal systems. While legal reform is essential, it must be coupled with broader cultural and societal changes to foster genuine inclusion and acceptance. Education, mental health support, representation, and public awareness are crucial components of this transformation.

In light of these findings, it is imperative that the global community continues to press for universal recognition of LGBTQ+ rights. The international human rights framework, including the United Nations and regional bodies like the European Court of Human Rights, must play an active role in promoting and enforcing legal protections for LGBTQ+ individuals worldwide. Countries that continue to criminalize or discriminate against LGBTQ+ individuals should be held accountable through diplomatic pressure, sanctions, and support for local LGBTQ+ advocacy groups.

Ultimately, the fight for LGBTQ+ rights is far from over, and it is critical that legal recognition is viewed not as a single event but as part of a broader, ongoing movement toward equality. By expanding legal protections, enhancing social acceptance, and ensuring that LGBTQ+ voices are heard, we can move closer to a world where all individuals, regardless of sexual orientation or gender identity, can enjoy equal rights, dignity, and opportunities.

Endnotes

¹LLM Student, Amity Law School, Amity University, Bengaluru.

² Assistant prof. at Amity Law School, Amity University, Bengaluru.

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