



# THESSISMUN



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## **Social, Humanitarian and Cultural Committee (SOCHUM)**

**Third Committee of the General Assembly**

Topic Area B

Defending the rights of the LGBTQI+ community



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### **Third Committee of the General Assembly**

### **Study Guide**

### **Topic Area B:**

*“Defending the rights of the LGBTQI+ community”*



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## 1. Welcoming Letter

Dear Delegates,

It is our pleasure to welcome you to ThessISMUN 2023. This year the conference marks its 20th edition and is ready for each and every one of you. That said, we would also like to welcome you to this year's edition of the Social, Cultural and Humanitarian Council. As members of the board, we are committed to guiding you through this fascinating experience. Be sure to reach out to us, should you have any questions or troubles during your research or your days at the conference. We are certain that your contribution to the council will be significant and we look forward to hearing all your ideas on how to proceed with the problems at hand. Our goal is to ensure a friendly and productive working environment for every delegate, therefore we highly urge you to cooperate in a respectful manner with every participant, not only in our committee but at the conference in general.

This year, the matters at hand are once again challenging and require quality research and a plethora of arguments to be made. We are sure you are going to live up to our expectations. There are two topics that you will discuss with your equals. The first one is titled **“Trafficking of women and girls in vulnerable countries”** and the second one is **“Defending the rights of the LGBTIQ+ community”**.

Be sure to come prepared for some heated debates, in order to come to an agreement on the best approach for each topic. For a better understanding of each topic, we have taken the time to conduct this study guide in order to help you through the wide variety of subtopics each title has. We will also be monitoring you closely during the council days.

We would once again like to welcome you to ThessISMUN 2023 and we hope you have as good of a time as we are sure we will have. We hope we make your experience as smooth and joyful as we can and we hope you socialize and make as many new friends as possible.



Best regards,

**Aris Aigyptiadis**, Chair

**Evdoxia Rarri**, Vice Chair

**Georgios Lymperis**, Vice Chair



## 2. Introduction to the Committee

The General Assembly is the main policy-making body of the United Nations (UN) during which all 193 UN member states participate and retain one vote each. The General Assembly has six main Committees that were all created as a part of the UNGA in 1945, under the Charter of the United Nations.<sup>1</sup>

The Third Committee of the GA, also known as the Social, Humanitarian and Cultural Committee (SOCHUM) or C3, is handling issues ranging around social and humanitarian affairs, human rights and social development questions. The Committee's mandate specifically focuses on matters regarding the advancement of women, the protection of children, the advancement of women, refugees and indigenous population, the promotion of the right to self-determination and the prevention of all forms of racism and crime. Additionally, it focuses on issues relating to youth, family and ageing, people with disabilities, crime prevention and criminal justice, the international drug trade, and related issues. At this moment, among other issues, there have been allocated in the Committee's Agenda the promotion of human rights and the elimination of racism and discrimination, which constitute the basis for further protecting the rights of LGBTQI+ communities.<sup>2</sup>

Ultimately, SOCHUM provides its members states with recommendations on the issues of its mandate, as well as initiates studies with other UN bodies and external partners in the fields of human rights, education, economy and society.<sup>3</sup> This means that the Committee does not produce legally binding decisions and States have the discretionary power to follow the indications of the recommendations.

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<sup>1</sup> (United Nations 2018)

<sup>2</sup> ("A/C.3/77/1" n.d.)

<sup>3</sup> ("UN General Assembly - Third Committee - Social, Humanitarian & Cultural" 2019)



### 3. Introduction to the Topic

Discrimination<sup>4</sup> against people who belong to certain minorities has proven to be a timeless phenomenon in the history of human society. As a result, they are excluded from parts of social life and also have to cope with stigmatization, which is also a heavy burden to bear. International Human Rights Law<sup>5</sup> stands as a tool against any discrimination<sup>6</sup> and inequality, therefore, any hostility against LGBTQI+ people is also prohibited as they are considered citizens who possess equal rights and dignity as everyone else. However, even though they are equal and accepted under International Law, some states still continue to repress their freedom making them victims of social norms and discrimination, which affect both their social and private life. Even though, people that identify as part of the LGBTQI+ community have always been present in human history regardless of their geographical location and cultural background, they have been deemed multiple times outcasts and have faced great prejudice and even violence under the guise that their sexualities did not coalign with biological or social rules<sup>7</sup>.

Religion<sup>8</sup> also played a pivotal role in the demonization of those communities. Especially in earlier times, religion used to be the driving wheel of the establishment and function of many societies, which gave to religion a central role in the formation of human culture and certain societal norms. Even today, religion can still strongly influence many societies and individuals, keeping the pressure against many groups that stand against their traditional values and created norms. Thus, discrimination and criminalization against those groups are still standard practices in many nations. That has resulted in their marginalization and the continuous

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<sup>4</sup> (Armbrecht 2016)

<sup>5</sup> (OHCHR 2012)

<sup>6</sup> (Ibid 4)

<sup>7</sup> (Crompton 2003)

<sup>8</sup> (Pallotta-Chiarolli and Rajkhowa 2017)





discrimination against them in the workplace, in the education system, in social life, and of course in the political scene.

Inaction and maintenance of such conditions will only enhance discriminatory behavior and leave LGBTIQ+ communities vulnerable to societal pressure and hate crimes, costing the lives of many people who identify as part of this community, while further enhancing disorder in societies, to an uncontrollable point. For that reason, individual LGBTIQ+ groups and even the United Nations as a whole, have taken matters into their own hands.

In conclusion, despite the progress humanity has managed to reach in many aspects of our society, racism, bigotry and violence are still phenomena that infest the life of many people who are deemed unacceptable due to their different way of life, sexuality etc.. Movements and numerous actions have managed to improve the life of communities such as the LGBTIQ+ community, but their efforts, although great, still have a long way to go until they finally put an end to the issues and difficulties the LGBTIQ+ people are forced to tolerate. This situation manifests the significant need for an even more collective and urgent response that will tear down harmful behaviours towards people that belong in LGBTIQ+ community as every person is free and equal. Therefore, it is vital to promote effective solutions that will act as a protection wall against any form of discrimination towards people with different sexual orientation.

## 4. Definitions

### 4.1. LGBTIQ+ community

LGBTIQ+<sup>9</sup> is an abbreviation that stands for “Lesbian, Gay, Bisexual, Transgender, Intersex, Queer and More (+)” and is used to describe a person’s sexual orientation or gender identity. In the sociopolitical field, this abbreviation describes a specific group of people with its own features and political agenda items. This group, through the years, is said to be criminalized and that their (human) rights are being trampled because of their nature. Such communities

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<sup>9</sup> (FREE & EQUAL, n.d.)





exist everywhere in the world and they advocate for equality and social acceptance, especially in various countries, where they are being silenced and punished because of who they are.

## 4.2. Discrimination

Discrimination<sup>10</sup> is the false treatment of individuals or groups of people, due to their difference usually in race, gender or sexuality. For the LGBTIQ+ community in particular, discrimination has been historically a standard practice against them. Usually, the results are sexism, homophobia and criminalization of such people and, at the end, the violation of human rights in an effort to silence them. Due to that fact, repression and criminal action against them both by individuals and by states have been noted and their participation in the political scene is still limited and, in many cases, non-existent.

## 4.3. Hate crime

Any crime committed with prejudice against the victim because of their race, sexuality, gender, religion etc. and motivated by hostility towards such groups is considered a hate crime<sup>11</sup>. There are three different types of hate crime: physical assault, verbal abuse and incitement to hatred. Such crimes<sup>12</sup> exist because certain social norms that are against specific groups are being executed by individuals motivated by feelings of hostility, possession and control. Crime plus motivation for committing the crime based on bias equals a hate crime.

## 4.4. Repressive tolerance

Repressive tolerance<sup>13</sup> appears when a society becomes more accepting of certain groups and communities, such as the LGBTIQ+ community, but full equality has not been achieved yet. For example, although homosexuality is recognized as legitimate, it is still met with the

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<sup>10</sup> (Amnesty International 2014)

<sup>11</sup> (Metropolitan Police 2019)

<sup>12</sup> (The United States Department of Justice 2018)

<sup>13</sup> (Ries, Brett 2020)



argument that it remains immoral. So, it appears that it is the phenomenon when the people in the dominant culture allow the representation of minority or marginalized groups, but those groups are still being stigmatized and stereotyped.

## 5. Legal Framework

For several centuries until the late 2000's, the provision of a standard legal framework, which embodies or, at least, attempts to secure the position of the LBGTQI+ community has been fade or inexistent. Even today, passing through the second decade of the 21<sup>st</sup> century, such legal protection is, in most cases worldwide, the exception. The United Nations, as well as a number of states, have set the agenda to promote the initiative of each country to take action and proceed with the legal recognition of their status, as well as their private and social rights.

### 5.1. Initiatives of the United Nations

In terms of international law, human rights fall under the scope of the Universal Declaration of Human Rights, which was adopted by the United Nations, in 1948. Article II of the Declaration recognizes that 'everyone' is entitled to the enjoyment of the rights enumerated therein and goes on to list certain traditional categories of discrimination: "race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth"<sup>14</sup>. The phrase of Article II concludes by pointing out that the people of any other status are included in its protective body. The choice of a sexual partner, no matter the sex, age or preferences of this partner, is included in the freedom of act and thought, as a more specific aspect of it. Thus, any form of discrimination based upon sexual orientation is contradicted, as it violates Article II of the Declaration and limits the self-definition and personal choices of an individual.

This right can be further explained as an expression of the equality of human beings, as indicated by the opening words of the Universal Declaration of Human Rights: "All human beings are born free and equal in dignity and rights." There is no fine print, no hidden

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<sup>14</sup>(United Nations 1948)



exemption clause, in any of the human rights treaties that might allow a State to guarantee full rights to some but withhold them from others purely on the basis of sexual orientation and gender identity. Thus, the interpretation of sexual preferences as an aspect of human right sets sexual orientation under the umbrella of the Universal Declaration of Human Rights<sup>15</sup>.

This position has been confirmed repeatedly in decisions and general guidance issued by several treaty bodies, such as the United Nations Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee on the Rights of the Child, the Committee against Torture, and the Committee on the Elimination of Discrimination against Women. More specifically, Resolution 17/19, signed by the United Nations Human Rights Council, in June 10, 2011, expressed the Council's "grave concern" at violence and discrimination against individuals based on their sexual orientation and gender identity, and commissioned a study on the scope and extent of these violations and the measures needed to address these situations<sup>16</sup>. This initiative has been the first ever taken by an international organization, which targets a more solid legal framework upon LGBTQI+ freedoms.

## 5.2. Initiatives of other intergovernmental organizations

Other intergovernmental associations and committees have also taken serious efforts towards this direction. The European Union is one the most significant innovators towards this subject. Article 21 of the EU Charter of Fundamental Rights explicitly prohibits discrimination based on sexual orientation<sup>17</sup>. Moreover, Article 19 of the Treaty on the Functioning of the European Union allows for taking action to combat this type of discrimination. More specific statutes of the EU emphasize in the protection of the LGBTQI+ people in their workplace, education and social life (ex. Directive 2000/78/EC)<sup>18</sup>.

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<sup>15</sup>(United Nations 1948)

<sup>16</sup>(Human Rights Council 2011)

<sup>17</sup>("Charter of Fundamental Rights of the European Union" 2012)

<sup>18</sup>("CONSOLIDATED VERSION of the TREATY on the FUNCTIONING of the EUROPEAN UNION" 2008)



Moreover, the Council of Europe has proceeded to the publication of a factsheet that summarizes several measures reported by 18 member states of the European Union. The goal of those measures is to ensure the strength and consistency of the LGBTQI+ rights in the continent, as posed by 33 different judgments of the European Court of Human Rights (ECHR). They include a variety of issues centralized in the decriminalization of homosexual relationships, the battle against hate crimes, parenting rights and obstacles as well as the status of the community in the armed forces<sup>19</sup>.

Similar acts have been taken by the African Union. In May 2014, the African Union granted acknowledgement all over the continent about the current social position of the LGBTQI+ community, by passing a resolution which condemns any form of violence, rape, murder and hate crime, biased by the sexual orientation. Despite the fact that this movement is considered a small victory for Africa, the situation remains legally controversial all around the world<sup>20</sup>.

### **5.3. Initiatives of Human Rights Associations**

International associations and organizations have played a vital role regarding the position of the LGBTQI+ community in the globe. First comes Amnesty International. By consistently pressurizing the political systems of many countries around the world, it has achieved to affect the opinions of political leaders and the decisions of parliaments and courts. For example, after a fruitful campaign in Taiwan, this organization has managed to lead the highest national court to legalize same-sex marriage, making Taiwan the first state in Asia with such innovative statute. It has also influenced many more legal initiatives, such as in Greece, Norway and Denmark, that allow the governments to officially recognize the gender of each individual.

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<sup>19</sup>(ECHR 2021)

<sup>20</sup>(Project IAD)



Moreover, it spreads awareness of the situation with campaigns in Sub-saharan Africa and with their humanitarian magazines (ex. Body Politics)<sup>21</sup>.

Furthermore, other non-profitable associations, such the Doctors Without Borders and UNICEF, are officially stating their support towards LGBTQI+ people. They claim the equality of every human being, that has the right to be treated respectfully and receive medical care and access to education, without any prohibition or limitation because of its gender identity<sup>22</sup>.

## 5.4. The legal status of the LGBTQI+ rights throughout the world

The legal framework followed by each state as regards the sexual orientation of its citizens, is highly associated with the origin of its legal system. In order to examine the general picture of this specific framework, it is important to divide those legal systems in four categories: Common, Civil, Customary (traditional) and Muslim Law. According to the data selected by national human rights institutions (such as Amnesty International, ILGA, Human Rights Watch and the International Gay and Lesbian Human Rights Commission), the current legal status upon homosexuality may be prohibitive, neutral or protective, as a result of the combination of those systems and their characteristics, implemented differently in every state<sup>23</sup>.

It is generally noticeable that the combination of any system with Muslim law has played a vital role in the establishment of a prohibitive status, either highly or moderately. The Islamic law, imposed by Sharia, considers any form of homosexual act as an expression of sanity that should be avoided. Religious doctrines have been the source of the construction of legal systems for a vast number of states around the world. Thus, the prohibitive frameworks for LGBTQI+ people exist in most countries of African and Sub-Saharan region (Gambia, Ethiopia, Egypt etc), Middle East (Saudi Arabia, Iran, Iraq etc) and South-East Asia

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<sup>21</sup>(Amnesty International, n.d.)

<sup>22</sup>(Doctors Without Borders 2018)

<sup>23</sup> (Amnesty International 2021)



(Cambodia, Indonesia etc), which are fully or partially adopting Islam. The aforementioned states, until today, ban, prosecute or criminalize same-sex intercourse relationships or acts, by imposing either imprisonments and death penalties (highly prohibitive) or fines and sanctions (moderately prohibitive)<sup>24</sup>.

The same conclusions are also found in cases of Common Law legal systems. Common Law describes an amount of unscripted laws and traditions, gradually developed by courts, judicial interpretations and decisions. It is mostly implemented in the United Kingdom, Ireland, Canada and the USA, but its influence spreads across the Caribbean, Latin American States and many more across the world<sup>25</sup>. It is considered to express a more conservative and old-fashioned opinion on LGBTQI+ people. Despite the fact that the countries that have set the foundations of common law have proceeded in terms of gay rights protective statutes, the majority of the influenced by this system states possess prohibitive systems, no matter if they are combined with Civil or with Customary Law characteristics. Therefore, states such as El Salvador, Guatemala, Bolivia, etc, remain more conservative as regards the LGBTQI+ community.

Neutrality upon this topic is mostly approached by states that adopt Civil Law traditions and practices. This type of legal construction derives from Roman law and applies to the majority of European countries and several African, sub-saharan, East Asian, Pacific, Caribbean and Central Asian states. Thus, it can be seen that states such as Chad, Mongolia, Micronesia and Turkmenistan are not adopting any measures towards the security of this minority, but they have not criminalized such acts. Even in states where common law is combined with civil systems (such as Vanuatu) neutrality remains a fact. Civil law is also connected to progressive and protective initiatives especially from developed countries. The majority of the European states that follow civil law acts, have proceeded to significant innovation in terms of human rights by either protecting or recognizing the status of the community. Such measures can be

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<sup>24</sup> (Cáceres et al. 2009)

<sup>25</sup>(U.S. Supreme Court 1917)



found in a few Balkan states (Serbia, Montenegro, Croatia etc), but also in several others that adopt this type of values, such Korea, Brazil, Argentina and Fiji<sup>26</sup>.

Last but not least, many modern state constructions consist of a customary law system that describes an amount of traditional values thriving in everyday life and governmental behavior. Most African countries still adopt those practices. In such cases, customary traditions are often combined with either a Common or a Civil law system. Therefore, the result is either prohibition or neutrality upon the rights of LGBTQI+ individuals<sup>27</sup>.

Unfortunately, the bottom-line remains the fact that same-sex activities are not only criminalized in several nations, but cruel institutions, such as death penalties are still holding strongly against this minority group. Specifically, eight countries across the world impose this type of punishment, whereas others allow the local authorities or prison inmates of gay individuals to exercise unofficially extremely violent behaviors, which may result in their death<sup>28</sup>. Initiatives towards a more promising future for the community are constantly taken at a governmental and legal level. However, violence and discrimination in any aspect of social and professional life due to gender identity poses the importance of the intimidate action by all states.

## 6. Discrimination of LGBTQI+ people in the workplace

### 6.1. Forms of discriminations globally

The LGBTQI+ community receives discriminatory behaviors in their workplace, often on a daily basis. This is a phenomenon observed not only in developing states, where the legal framework towards this direction is considered more conservative, but also in developed

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<sup>26</sup> (Cáceres et al. 2009)

<sup>27</sup>(“Customary Laws Definition” n.d.)

<sup>28</sup>(Milton 2022)





western nations with progressive statutes and laws. In that last case, it is more often presented with the form of judgmental or derisive attitudes from colleagues, employers, or supervisors.

Particularly, discriminations against LGBTQI+ individuals may occur with a variety of manners. One of them can be found in job interviews, where employers prefer to choose straight people over homosexuals and queers. Similar phenomena have been observed in cases of job promotion or bonus tips, privileges that are often denied for homosexual people with equal job position, duties and experience, because of their gender identity.

However, the most common incident would be the unwelcoming or uncomfortable workplace environment for LGBTQI+ people, created by colleagues and supervisors in everyday interactions. According to several analyses, such as the one held by Williams Institute, “over 40% of LGBTQI+ workers (45.5%) reported experiencing unfair treatment at work, including being fired, not hired, or harassed because of their sexual orientation or gender identity at some point in their lives”<sup>29</sup>. This harassment may include undermining comments, jokes or critics about the employee or the community, in general. It may also include psychological, physical or verbal violence against the individual. In any case, the consequences of severe mental and psychological trauma to the worker’s personality might lead him to resign from their job or in worst case scenario, harm themselves or commit suicide.

Of course, the employers tend to hide or avoid expressing the actual motives behind a gay person’s dismissal from their job. The same analysis indicates that over half (57.0%) of LGBTQI+ employees who experienced discrimination or harassment at work reported that their employer or co-workers did or said something to indicate that the unfair treatment that they experienced was motivated by religious beliefs<sup>30</sup>.

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<sup>29</sup>(Williams Institute 2021)

<sup>30</sup>(Williams Institute 2021)



Moreover, it has also been observed that, in all countries, the unease felt by having a transgender colleague is even stronger than in the case of gay men, lesbians or bisexuals. Transphobia remains a powerful stereotype for the majority of employers -and co-workers- and may lead to a total restriction and exclusion of transgender people job interviews and applications. They are mostly attached to illegal or stigmatized activities, such as street sex work, human trafficking or drug deals<sup>31</sup>.

This behavior shows exactly the social stigma that those individuals need to face, even nowadays. Many LGBTQI+ people avoid discrimination and harassment in the workplace by not being out to their supervisor and co-workers and by hiding their sexual preferences from everyone. Bullying in the workplace is an ongoing situation, no matter the progress made by nations towards a future of equality.

## 6.2. Progress and initiatives

Promising initiatives for providing to LGBTQI+ employees a much safer and comfortable workplace environment and career future have been taken by many states, on a national or intergovernmental level.

From a national perspective, it is worth mentioning some examples indicating progress as regards the legal status of equality in the workplace. In South-East Asia, some states have limited the possibilities of discrimination in the workplace environment. For example, the government of Singapore eliminated the ban on homosexuals in ‘sensitive government positions’ in 2003<sup>32</sup>. Taiwan, also, banned workplace discrimination based on sexual orientation in 2007<sup>33</sup>. In Africa, Namibia’s labor code includes a provision against discrimination based on sexual orientation although homosexual acts between men remain illegal in that country. Furthermore, in the European Union, the Employment Equality

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<sup>31</sup>(Wareham 2020)

<sup>32</sup> (Cáceres et al. 2009)

<sup>33</sup>(Hsiao 2021)



Directive (2000/78/EC) and Employment and Social Security Directive (2006/54/EC) forbid discrimination in employment based on – among other grounds – sexual orientation and sexual identity<sup>34</sup>.

As regards the workplace conditions for this minority, progress is also present. In many cases during the last few years, for example, across the USA and Europe, it has been observed that salary raises tend to be more favorable for workers belonging to this minority rather than straight and heterosexual individuals, while multinational companies are heading towards creating a more equal, safe, and harmonious and descent environment for their LGBTQ+ employees<sup>35</sup>.

Moreover, initiatives from individual companies and associations aiming to spread awareness and improve the workplace environment are highly important. Recently (2021) in Botswana, an innovative LGBTQI+ business exchange programme was hosted by Workers Associations, where individuals included in this minority participated from Angola, Zimbabwe, South Africa, Botswana, Zambia, and Eswatini<sup>36</sup>. Its goal was to unite those individuals and provide opportunities for fruitful conversations and suggestions upon their empowerment in their workplace.

Last but not least, it is worth mentioning the creation of national “Chambers of Commerce ”<sup>37</sup>. These formations are newly formed models of cooperation, created by LGBTQI+ employees and associated at a national level, in order to solve everyday issues and discriminations that they have to deal with in their workplace, because of their gender identity. Some of those already exist in Brazil, Colombia, Canada and other states. They have developed innovative seminars, workshops, educational programs, interactive activities in order to exchange ideas

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<sup>34</sup>(“Council Directive 2000/78/EC of 27 November 2000 Establishing a General Framework for Equal Treatment in Employment and Occupation” 2022)

<sup>35</sup>(Hayes 2021)

<sup>36</sup>(Mambaonline.com 2023)

<sup>37</sup> (Hayes 2021)



and implement practices towards one common objective: promote the LGBTQI+ people as equal in every aspect of social and professional life<sup>38</sup>.

## 7. Discrimination of the LGBTQI+ community in education

Gender identity can also be a factor of discrimination in terms of education. This condition may appear for people belonging to the LGBTQI+ community under two main forms: a) lack of accessibility or prohibition from educational foundations, insertion competitions and universities and b) maltreatment and harassment in schools and colleges, because of their identity.

### 7.1. Prohibition / lack of accessibility in education for LGBTQI+ individuals by states

The umbrella of the Universal Declaration of Human Rights praises the right of education as a primary and significant privilege, which all people and especially children should have access to. Nevertheless, some nations endorse or permit expulsion of LGBTQI+ persons from schools and universities. These are the states that adopt prohibitive or anti-gay policies and limit basic freedoms, such as the right of free gathering, education, and speech. The same nations fail to protect LGBTQI+ persons from school-based persecution or harassment, and they might prohibit LGBTQI+ organizations in school setting<sup>39</sup>. The most common occasions can be found to nations that adopt Customary, Common, Muslim or mixed law systems (ex. Sub-Saharan region, Middle East, Southeastern Asia, the Caribbean etc.). For example, in Nigeria anti-gay laws exclude homosexuals not only from education but also from their right to live freely, as same-sex intercours are currently punished with up to 14 years of imprisonment<sup>40</sup>. In general,

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<sup>38</sup>(Network 2021)

<sup>39</sup>(Cáceres et al. 2009)

<sup>40</sup>(BBC News 2014)



homosexuality is more likely -if not sure- to lead in complete exclusion of an individual from education and any other form of expression of personal freedom, when referring to these states.

## 7.2 Harassment in schools

### 7.2.1. Forms of harassment

The most common form of discrimination would be bullying of young students in schools. Almost three out of four gay, lesbian or transsexual pupils have faced a type of insult, verbal or physical<sup>41</sup>. According to Victor Madrigal-Borloz, UN Independent Expert on Protection against violence and discrimination based on sexual orientation and gender identity, “LGBTQI+ students face teasing, name calling and public ridicule, rumors, intimidation, pushing and hitting, stealing, or damaging belongings, obscene notes and graffiti, social isolation, cyber bullying, physical and sexual assault, and even death threats. This occurs in classes, playgrounds, toilets and changing rooms, on the way to and from school, as well as online”<sup>42</sup>.

The harassment extends further when referring to transgender people. Transphobia is the main reason that those people face everyday violence, exclusion, and racism. They, also, have to adjust to gendered uniforms that do not express their characteristics, while official documents and records don't reflect their gender identity, and single sex facilities such as toilets and changing rooms in educational institutions worsen their insecurity.

### 7.2.2. Reasons behind harassment

The main reasons for harassment against homosexuals, lesbians and queers are more profound and complex than they seem to be. Their origin derives from historical and social factors. Maltreatment and violence against this minority has historically been a fact, as such phenomena as well as acts of persecution and hate crimes had been executed since the Middle Age. Back

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<sup>41</sup>(“LGBTQ Discrimination in Schools | Justia” 2022)

<sup>42</sup>(“LGBTQ Discrimination in Schools | Justia” 2022)



then, religion had been the main motive that pushed people to commit crimes against homosexuals, in empires and states, no matter if the dominant religion was Christianity or Islam<sup>43</sup>. Homosexual acts were always considered an expression of sanity from religion and, gradually, LGBTQI+ individuals became a stigmatized and marginalized minority.

The social stigma follows those people until today and can be further detected inside the educational environment. Parents and teachers in several states and especially in rural regions of developed and developing countries, perpetuate stereotypes against this minority and promote gender division, in any form of school activity. For example, football and rugby are considered to be more appropriate for boys while dancing and ballet remain a more “feminine” sport for students during gymnastics lessons. Pupils that participate in activities that do not “match” their gender, according to the dominant mentality, are often criticized or bullied.

At the same time, a constant anti-gay propaganda that impacts seriously education can be found in several states. For instance, in Hungary, the parliament has recently passed a law banning gay people from featuring in school educational materials or TV shows for under-18s<sup>44</sup>. Such government policies openly promote division and exclusion of LGBTQI+ people and limit the chance of students to express their gender identity freely.

Last but not least, the lack of proper sex education from school curriculum remains a negative factor for these ongoing conditions. This is the main reason why young aged individuals - including LGBTQI+ people- are exposed to dangerous sexual intercourses, as they lack basic knowledge of self-protection, both physically and psychologically.

### 7.2.3. Consequences of harassment

Marginalization and stigmatization of this student minority might lead to serious issues in their adolescence and adult life. Adolescents with psychological issues may be less likely to use

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<sup>43</sup>(Adams, Maurianne, Bell, Lee Anne, Griffin, Pat 2007)

<sup>44</sup>(Rankin 2021)



cognitive restructuring of homophobic experiences against their parents or themselves, and homophobic stigmatization in general can lead to more psychological problems. It was then found for adolescents who did experience homophobic stigmatization, “their ratings for meaning in life was lower and their internalizing problems were increased”<sup>45</sup>. In terms of their social status, many of them fail to even accept their identity and may often lead themselves to isolation and depression, as local communities restrain and criticize their profile and image. Therefore, suicide attempts are a common phenomenon, as according to U.S. Department of Health and Human Services as cited in “Today’s Gay Youth” (1989), “gay and lesbian youths are 2 to 6 times more likely to attempt suicide than heterosexual youth and over 30% of all reported teen suicides each year are committed by gay and lesbian youths”.

### 7.3. Progress and solutions

In order to collectively face the challenges of society’s attitude against them, LGBTQI+ people get organized in “Gay-Straight Alliances” (GSAs)<sup>46</sup>. These are structured to represent requests by LGBTQI+ and straight ally students on campus to the administration and faculty and encourage a safer environment for students. Their main goal is to create a comfortable spot of discussion between homosexual and heterosexual students, without any fear of exposure or criticism. LGBTQI+ students that participate in these activities and experts that have examined the social impact of these models have observed a decrease in homophobic remarks and targeted victimization, when compared to educational settings that do not have safe spaces for this minority into their school structure. Furthermore, sociologists and psychologists have found a significant decrease in student body cohesiveness and intolerance for displays of homophobia<sup>47</sup>. Literature revolving around the inclusion of GSAs within educational settings

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<sup>45</sup>(Fitzgerald, Kathleen; Grossman, Kandice 2018)

<sup>46</sup>(Fitzgerald, Kathleen; Grossman, Kandice 2018)

<sup>47</sup>(Fitzgerald, Kathleen; Grossman, Kandice 2018)





has shown to increase the quality of student life<sup>48</sup>. These types of clubs already exist in the USA, the UK, Canada and several European states. They do not, however, exist in the majority of the countries globally.

Sex education has provided fruitful results in several states. In some countries in Eastern Europe and Central Asia (EECA) one in five boys and one in ten girls get their first sexual experience before the age of 15<sup>49</sup>. Furthermore, infections by HIV/AIDS remain existent among homosexual and heterosexual people<sup>50</sup>. The importance of acquiring basic knowledge upon ways of self-protection is vast and could help not only the LGBTQI+ people to accept their identity but also every young man and woman in the world to enjoy intercourse relationships safely.

In terms of public international law, it is important to highlight the words of Koumbou Bolly-Barry, the United Nations Special Rapporteur on the right to education since 2016: “UN human rights mechanisms have raised concern about violence and discrimination based on sexual orientation and gender identity in education and have called on states to take measures prohibit, prevent and punish the harassment, bullying, and expulsion from schools of LGBTQI+ children, including by raising public awareness and implementing safety and support measures. States should also conduct studies, collect statistical data on education, disaggregated by sexual orientation and gender identity, to inform policy development. Finally, States should develop sex education programs that provide students with comprehensive, accurate and age-appropriate information regarding sexuality and diverse gender identities”<sup>51</sup>. This statement indicates the support and great concern that the UN shows towards the empowerment of LGBTQI+ people’s position in society and education. Therefore, in line with international

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<sup>48</sup>(Hubbard 2022)

<sup>49</sup>(United Nations Human Rights Office of High Commissioner 2019)

<sup>50</sup>(UNESCO 2018)

<sup>51</sup>(United Nations Human Rights Office of High Commissioner 2019)



human rights law, LGBTQI+ students have the right to an education free from violence and discrimination that promotes respect for human rights and fundamental freedoms.

## 8. Barriers to LGBTQI+ parenting

### 8.1. Legal recognition between LGBTQI+ parents and children

The LGBTQI+ community often faces discrimination when forming a family. LGBTQI+ partners encounter obstacles in legalizing their family relationships with children. Legal recognition of family ties between LGBTQI+ parents and children is fundamental in order for the parents to be eligible to make decisions about their children's lives, such as education and health care. Furthermore, they can gain many benefits and privileges that are only accessible to legally recognized families by the States.<sup>52</sup> All legal parents are obligated to financially support their children and have an equal right to seek custody and make decisions for their children. A biological parent does not have any more rights than an adoptive parent or other person who is a legal parent.

There are a number of ways by which LGBTQI+ non-biological parents can establish a legal relationship with their children. The most common one is adoption. This can be done either by a joint adoption of a non-biological related child or by second parent adoption. A second parent adoption is the legal procedure by which a co-parent adopts his or her partner's biological child without terminating the partner's parental rights, regardless of marital status. As a consequence, the child has two legal parents, and both partners have equal legal status in terms of their relationship to the child.

LGBTQI+ couples can become *de facto* joint parents also through donor insemination (known or anonymous), assisted reproductive technologies or surrogacy. In these cases one of the

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<sup>52</sup> (Unicef, 2014)



members of the couple will be biologically connected to the child. The other partner then will be registered as the other parent, or can be legalized through second parent adoption<sup>53</sup>

In some States, there are also parentage judgments which can be obtained when a child is born to a married couple or registered partners. LGBTQI+ parents who are not biological parents can also obtain parentage judgments for children born to them and their spouse or partner if they are legally married or in a civil union or comprehensive domestic partnership.

Lastly, when a same-sex partner has taken care of the child and has maintained a parent-like relationship with the child, he or she has the right to ask a court for visitation or custody. These parents can be called “equitable parent,” “parent by estoppel,” “de facto parent,” “psychological parent”.<sup>54</sup>

## 8.2. Restrictions in LGBTQI+ parenting

The legal recognition of LGBTQI+ relationships is one of the most prominent issues discussed in societies, lawmaking bodies, courts and in the media around the world in the last decades. A much more controversial issue, nonetheless, is parenting by LGBTQI+ couples. As of 2023 there is much controversy in the legal systems regarding LGBTQI+ couples, their legal recognition as joint parents of a child or the adoption policy. Generally, in many countries the law tends to treat marriage favorably and only grant married people parental rights. Nontraditional families, including LGBTQI+ couples and their children, lack legal security due to the denial of marriage to these groups. As a result these couples face many problems if they want to legalize their relationship with their children through the aforementioned ways and especially in child custody issues as a result of separation.

Nations all around the world may allow joint adoption by same-gender couples, step-parent adoption (of their same-gender partner’s biological child), adoption by a single gay or lesbian

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<sup>53</sup> (Tryfonidou 2020)

<sup>54</sup> (National Center for Lesbian Rights 2019)



individual, neither of them or all of them according to their policy. In the last decades more and more countries are approving same sex adoption in all its forms. However, these nations remain the minority.<sup>55</sup>

Historically, the first country to approve same-gender adoption without restrictions was Canada in 1999. This was followed by the Netherlands (2001), South Africa (2002), and Sweden (2002). Most recently, in 2013, France approved same-gender marriage and adoption, despite the country's long religious tradition of opposition to this policy. In 2011 the United Nations Human Rights Council passed its first resolution recognizing lesbian, gay, bisexual, and transgender (LGBTQI+) rights, urging all countries to enact laws protecting their rights and basic liberties.<sup>56</sup> However, there is no legislation that obliges member-states of the United Nations to recognize same-sex unions nor same-sex parenting rights. Similarly, in other unions, such as Council of Europe, the States are not obliged to regulate family life of LGBTQI+ couples, as long as they are treated equally with heterosexual couples. However, marriage is not considered equal to a same-sex registered partnership.<sup>57</sup>

Furthermore, even in cases where public and faith-based adoption agencies are required by law to comply with same-gender adoption statutes, there are numerous documented examples where agencies have chosen to disregard these laws.<sup>58</sup> The main reason behind the countries' reluctance to legalize same sex adoptions is the issue as to whether LGBTQI+ parents can offer the same quality of parenting as heterosexual parents. Indeed there are many critics that are against same-sex parents as they believe it is not in the children's best interest. After all, according to them, in the heart of the definition of family is the concept of marriage between a man and a woman. It is in the children's best interest to have both a parental and maternal

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<sup>55</sup> ("Same-Sex Adoption by Country" 2022)

<sup>56</sup> (Montero 2014)

<sup>57</sup> (Tryfonidou 2020)

<sup>58</sup> (Montero 2014)



figure in their lives. Thus, the uncertainty about gay parenting and its long-term effects will persist for years.<sup>59</sup>

However, according to other studies, there is substantial evidence that underscores the successes found in LGBTQI+ parenting. Some researchers have come to the conclusion that the well-being of children with same-gender parents does not vary from that of children with heterosexual parents. There are no consistent differences between the mental health and social personality of children raised by same-gender or heterosexual parents. same-gender parenting and their children's outcomes are likely to be at least as favorable as those in families of heterosexual parents.<sup>60</sup>

Even more, it has been showcased by other studies that same sex couples coparented more equally and compatibly than the averages observed in different sex parenting couples. Housework and childcare is shared and divided more fairly in the LGBTQI+ couples. This has been described as “degendered parenting” because personal choice and aptitude rather than gender guide the division of labor in LGBTQI+ parenting families.<sup>61</sup> Moreover, it has been observed that some LGBTQI+ parents, especially lesbian co-parents, tend to spend time, show warmth and affection to their children on an equal or higher level than heterosexual married couples. In the meanwhile, same sex couples, especially gay male couples have the highest levels of use of positive discipline techniques. The relative parenting strengths of LGBTQI+ partners are not surprising given the fact that these are couples willing to persevere through the many challenges, obstacles, and expenses to have a very wanted child together.<sup>62</sup>

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<sup>59</sup> (Dent 2011)

<sup>60</sup> (Montero 2014)

<sup>61</sup>(Biblarz and Savci 2010)

<sup>62</sup> (Schumm 2011)



### 8.3. Discrimination to LGBTQI+ parents

Despite the progress and the number of countries that allow legal recognition of LGBTQI+ relationships, homophobia and discrimination are still prevalent. LGBTQI+ partners who decide to become parents simultaneously challenge conventional definitions of masculinity/femininity and particularly paternity/maternity and even dominant gender and sexual norms of gay culture itself. Another major form of discrimination is presented through second parent adoption. Many couples in one study found that their cases were treated like a stranger adoption and stated that the experience was difficult and sometimes humiliating. Some couples even end up postponing their parenting related case when they encountered an unsympathetic judge (with the law).<sup>63</sup>

Furthermore, in most cases the LGBTQ+ couples deal with homophobia when they are facing the public's opinion of traditional families. According to the majority of some societies, heterosexual parents are crucial for the child to learn the symbolic order because they provide both a male and a female referent. They often face barriers to having children due to the discrimination, intimidation, harassment and violence their children might face. Research seems to suggest that students with an LGBTQI+ parent do experience more hostile and uninviting environments than students with heterosexual parents. Patterns of human rights abuses can be found against children whose parents are just perceived to be LGBTQI+.<sup>64</sup> Too often, when real or perceived sexual orientation or gender identity does not conform to social norms, vulnerabilities increase. These include being exposed to discrimination at school, in hospitals, in sporting teams and in many other settings.

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<sup>63</sup> (Biblarz and Savci 2010)

<sup>64</sup> (Peter, Taylor, and Edkins 2016)



## 9. Presence of LGBTIQ+ in the political stage

When analyzing the presence of LGBTIQ+ in the political stage<sup>65</sup> It is important to distinguish two separate topics. First of all, “presence” refers to the existence of political debates concerning matters that are directly and indirectly connected with LGBTIQ+ communities. Secondly, it refers to the overall participation of LGBTIQ+ people in the political scene. It is essential to understand the distinction between the two. This is because, goals such as non-discrimination, decriminalization etc. can only be achieved when both political debates about the matter and actual political participation of LGBTIQ+ people co-exist. More LGBTIQ+ people as political representatives combined with the expansion of the political agendas concerning the issues that these communities face will provide the ground for the mitigation of the prejudice and the unfairness they deal with.

Historically, matters that had to do with marginalized groups of people were widely overlooked and LGBTIQ+ communities are no different. Not even were they not accepted by their communities, but they were also silenced, most of the time in brutal ways, in order to not make any progress with their own agendas. However, nowadays there is a shift in political ideologies and certain cultures around the world that have allowed such groups to arise, gain power and overcome, to a certain level, repression and marginalization. That does not mean they are considered or treated in an equal manner by others. A problem that has to be dealt with, in an effective manner, is for each society to outgrow this transitory condition that can only be characterized as “repressive tolerance”<sup>66</sup> towards LGBTIQ+ communities. Effective tackling of the problem will result in true equality and representation of LGBTIQ+ people in the political scene.

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<sup>65</sup> (Semaan 2021)

<sup>66</sup> *ibid* 9





When it comes to presence<sup>67</sup> in the political scene, people of this community have been more active than ever before. From a historical point of view, marginalized communities in general were always under-represented in politics. Such norms are difficult to overcome. However, nowadays more and more people of that specific group have occupied positions of power, resulting in higher rates of representation and further promotion of their agenda. Even though their numbers are increasing, there still seems to be a portion of people who do not accept them and many societies that are completely against giving a chance to LGBTQI+ people to represent their communities and to promote their rights and interests. It is essential to find ways in order to further strengthen their representation and effective strategies to expand their agenda, resulting in a gradually positive attitude from every society towards them.

## 10. Conclusion

Since ancient times, the LGBTQI+ community has suffered many discriminations in key areas of everyday life. Although, there are some developments in the legal systems regarding the rights of the community, the situation is not the same all around the world. Even to this day, LGBTQI+ people face direct discriminations in some countries, while in almost all of them they have to deal with indirect discriminations. In some cases, the homophobia can lead even to excessive racism and hate crime.

The LGBTQI+ still experience a differential treatment in many aspects, such as the workplace, the education systems, parenting, the political stages and others. The discrimination can be caused by homophobic societal views, lack of proper education on these issues, the deficiency in legal systems, even the human tendency to despise anything different which has not been tamed when some people are raised. However, States need to find solutions to counteract the problem from its root causes. Otherwise, more and more people from the LGBTQI+

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<sup>67</sup> (afujii 2022)



community will have to face stigmatization, criminal attacks, and the overall violation of their human rights.

## 11. Points to be addressed

- 1) How can the LGBTQI+ community expand their agenda?
- 2) Ways to combat social exclusion of the LGBTQI+ people.
- 3) Ways to ensure further LGBTQI+ representation in the political scene.
- 4) How can repressive tolerance of LGBTQI+ groups be minimized?
- 5) Under which forms does discrimination for the LGBTQI+ individuals in the workplace environment appear?
- 6) Ways to achieve equal working conditions and terms for LGBTQI+ employees (salaries, healthcare, rights etc)
- 7) Ways to combat discriminatory behavior by colleagues and employers against LGBTQI+ employees.
- 8) How can LGBTQI+ people be excluded from education?
- 9) Is harassment against LGBTQI+ students still existent in schools? Under which forms?
- 10) Ways to combat violence, discrimination and homophobia in school curriculum, nationally and internationally.
- 11) How LGBTQI+ community affected by family law regarding parenthood?
- 12) How LGBTQI+ partners discriminated against when deciding to become parents?



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